

Hon. Sir Francis Bell.

PUBLIC TRUST OFFICE AMENDMENT.

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### A BILL INTITULED

AN ACT to amend the Public Trust Office Act, 1908.

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 Public Trust Office Amendment Act, 1921, and shall be read with and be deemed to form part of the Public Trust Office Act, 1908 (hereinafter referred to as the principal Act).

*District Public Trustees.*

2. (1.) The Public Trustee may, by notice in the *Gazette*, from time to time establish and define, abolish, alter, or reconstitute local districts for the purposes of this Act.

Public Trustee may define local districts in charge of District Public Trustees.

5 (2.) There shall be an officer of the Public Trust Office in control of each such district, who shall be appointed by the Governor-General in Council, and shall hold office during the pleasure of the Governor-General in Council.

10 (3.) Each such officer shall be called "The District Public Trustee for [*Name of district*]."

3. (1.) The Public Trustee may, by warrant under his hand and seal, appoint a deputy to act in the place of any District Public Trustee during the absence of such District Public Trustee from his headquarters from any cause or during any vacancy of any office of District Public Trustee by death or otherwise; and such deputy during the subsistence of his warrant shall have all the powers, duties, and responsibilities of the District Public Trustee for whom he acts.

Public Trustee may appoint Deputy District Public Trustee.

20 (2.) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorizing any person appointed as the Deputy of a District Public Trustee to act as such deputy, or as to the necessity or propriety of such appointment, and all acts and things done or omitted by such deputy shall be as valid and effectual and shall have the same consequences as if the same had been done or omitted by the District Public Trustee.

25 (3.) The fact that any person acts as deputy of a District Public Trustee under an unrevoked warrant of the Public Trustee shall be conclusive evidence of his authority so to act, and no such warrant shall be questioned on the ground that the reason for its issue had not arisen or had ceased.

4. Every District Public Trustee shall have and use a seal of office which shall have the same force and effect as the Public Trustee's seal, but shall be distinguished therefrom by the addition of the words "District Public Trustee for [*Name of district*]."

Seal of District Public Trustee.

35 5. All deeds and instruments which, if executed by the Public Trustee, would be signed by him and sealed with his seal of office shall, when executed by a District Public Trustee, be signed by him in his official capacity as such District Public Trustee for his district, and such execution shall be attested in the following words or words to a like effect: "Signed by the Public Trustee (by the District Public Trustee for [*Name of district*]), and sealed with the latter's seal of office in the presence of."

Execution of documents by District Public Trustee.

40 6. The appointment of any District Public Trustee and of any deputy of a District Public Trustee, and the seal of a District Public Trustee, and the signature of the person for the time being holding the office of District Public Trustee or of a deputy of a District Public Trustee shall be judicially taken notice of without any further proof.

Judicial notice to be taken of appointment of District Public Trustee.

50 7. The office of Local Deputy Public Trustee constituted by section two of the Public Trust Office Amendment Act, 1912, is hereby abolished.

Office of Local Deputy Public Trustee abolished.

Powers of District  
Public Trustee.

8. (1.) Each District Public Trustee shall have such of the functions and powers and shall perform such of the duties of the Public Trustee as are delegated to him by writing under the hand of the Public Trustee.

(2.) Such delegation may be either particular or general.

(3.) No person, Court, or Judge shall be concerned to inquire whether or not occasion has arisen requiring or authorizing a District Public Trustee to act in that capacity, and all things done or omitted by him shall have the same consequences and effect as if the same had been done or omitted by the Public Trustee.

(4.) Notwithstanding any such delegation, the District Public Trustee shall in respect of all matters delegated continue to be under the direction, control, supervision, and inspection of the Public Trustee.

(5.) Every such delegation may be revoked or suspended in whole or in part by the Public Trustee.

District Public  
Trustee may be  
empowered to make  
advances.

9. The Public Trust Office Investment Board may, within such limits, and subject to such restrictions and conditions as it thinks fit, delegate to a District Public Trustee power to make advances to estates or to beneficiaries therein.

One District Public  
Trustee may act  
under control of  
another.

10. (1.) The Public Trustee may direct that any District Public Trustee shall, to such extent as the Public Trustee may decide, act under the direction, control, inspection, and supervision of any other District Public Trustee.

(2.) Where the administration of any estate or property has been delegated to a District Public Trustee he may, within the limits of the delegation, take steps to deal with and dispose of the assets thereof in accordance with the terms of the trust, notwithstanding that such assets are within the district of another District Public Trustee.

Section 2 of the  
Public Trust Office  
Amendment Act,  
1912, repealed.

11. (1.) Section two of the Public Trust Office Amendment Act, 1912, and section two of the Public Trust Office Amendment Act, 1919, are hereby repealed.

Saving clause.

(2.) All persons who on the coming into operation of this Act hold office as Local Deputy Public Trustees shall be deemed to have been appointed under this Act as District Public Trustees; and shall continue to have such of the functions and powers and to perform such of the duties of the Public Trustee as have already been delegated to them as if such delegation had been made under the provisions of this Act.

(3.) All references in any Act or regulations which have been made under the principal Act or any amendment thereof shall be read and construed as if the words "District Public Trustee" had been substituted for the words "Local Deputy Public Trustee."

Date of coming into  
operation of sections  
2 to 11 to be fixed  
by Governor-General  
in Council.

12. (1.) The provisions of sections two to eleven of this Act shall come into operation on a day to be named by the Governor-General in Council.

(2.) The Governor-General in Council may make such regulations as he considers necessary and proper for carrying into effect the purposes of the foregoing sections two to eleven of this Act.

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13. (1.) Notwithstanding anything to the contrary expressed or implied in the principal Act or any amendment thereof, any election to administer the estate of any person dying testate or intestate in any district, or of any person the administration of whose estate has been delegated to any District Public Trustee under this Act, may be filed by the District Public Trustee in such office or offices of the Supreme Court as may be directed by the Public Trustee.

District Public Trustee may file elections in district office.

(2.) A District Public Trustee may, in respect of the estates of persons who die in his district, or in respect of such estates as may be delegated to him by the Public Trustee, exercise all the powers of filing of elections conferred on the Public Trustee by the principal Act.

(3.) Section fifteen of the principal Act, and section eighteen of the Public Trust Office Amendment Act, 1913, are hereby amended by adding after the word "Wellington" in each case the words "or in such other office of the Supreme Court as may either generally or in respect of particular estates be directed by the Public Trustee."

*Qualification of Public Trustee or Assistant Public Trustees.*

14. (1.) Either the Public Trustee or one of the Assistant Public Trustees shall be a barrister and solicitor of the Supreme Court of New Zealand.

Public Trustee or one of Assistant Public Trustees to be barrister and solicitor.

(2.) Subsection two of section three of the Public Trust Office Amendment Act, 1917, is hereby repealed.

*Additional and Extended Powers of Public Trustee.*

15. Section twenty-one of the principal Act is hereby amended by omitting the word "two," and substituting the word "five."

Section 21 of principal Act amended.

16. Section twenty-two of the principal Act is hereby amended by omitting the word "fifty," and substituting the words "two hundred."

Section 22 of principal Act amended.

17. Section twenty-three of the principal Act is hereby amended by omitting the word "fifty" wherever such word occurs, and substituting the words "two hundred."

Section 23 of principal Act amended.

18. Section five of the Public Trust Office Amendment Act, 1912, is hereby amended by omitting the word "eighty" in paragraph (a) thereof, and substituting the words "two hundred."

Section 5 of Public Trust Office Amendment Act, 1912, amended.

19. Section twenty-five of the principal Act is hereby amended by adding, after the word "administrator" in subsection one thereof, the words "(either with or without the will annexed)."

Section 25 of principal Act amended.

20. (1.) In addition to the powers contained in section twenty-nine of the principal Act and in section twenty-one of the Public Trust Office Amendment Act, 1913, the Public Trustee shall have the following further powers:—

Further powers of Public Trustee.

(a.) He may, without the leave of the Supreme Court, lease or concur in leasing property for any term not exceeding one year, or from year to year, or for a weekly, monthly, or other like tenancy, or at will.

(b.) He may grant easements and enter into party-wall agreements, and execute all necessary documents to give effect thereto.

- (c.) He may, at the expense of the estate, employ such persons as he thinks fit (whether officers of the Public Trust Office or otherwise) for advising and assisting him in the administration or management of any estate, and remunerate any such persons in such manner as he thinks fit. 5
- (d.) He may contribute out of the moneys of any estate such sum as he thinks reasonable towards the costs of construction and maintenance of roads, sewerage and drainage works which in the opinion of the Public Trustee are likely to be beneficial to such estate, notwithstanding that such roads or works are intended to be constructed wholly or in part on lands not forming part of the estate under administration by the Public Trustee. 10
- (e.) He may make such inquiries, by way of advertisement or otherwise as he deems necessary, for the purpose of ascertaining the next-of-kin or beneficiaries in an estate, and charge the cost of such inquiries and advertisements against such estate. 15
- (f.) He may set off against the claim of any person in any estate (whether as beneficiary, creditor, or otherwise) and of any person claiming by, through, or under such person, all moneys owing by such first-mentioned person, whether to the same estate or to any other estate under administration by the Public Trustee. 20 25
- (g.) Where in any estate he holds any life policy and there are no funds or not sufficient funds which can properly be applied in payment of premiums in respect thereof, he may surrender such policy and accept in lieu thereof a fully paid-up policy. 30
- (h.) He may accept a lease of any real or personal property on such terms and subject to such covenants and conditions as he thinks fit.
- (i.) He may carry on any business for such period as he thinks necessary or advisable for the winding-up of such business, and during such carrying-on use and apply such part of the assets of the estate and employ in such business all such managers, agents, servants, clerks, workmen, and others as he shall think fit. In acting under the authority of this power the Public Trustee shall incur no liability except in so far as the assets of the estate extend. 35 40
- (j.) He may, where he is mortgagor or mortgagee in respect of any mortgage, from time to time agree to the renewal, extension, or variation of such mortgage for such period and on such terms and conditions as he thinks fit. 45
- (k.) He may at any time or times during the currency of a lease reduce the rent or otherwise vary or modify the terms thereof.
- (l.) Where provision is made in any testamentary instrument for payment of an annuity or other periodical payment, the 50

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Public Trustee may, notwithstanding that such annuity or payment may be by such instrument charged upon the estate or upon any specific part thereof, set aside and appropriate out of the estate, and invest in the Common Fund or otherwise a sum sufficient in his opinion at the time of such appropriation to provide out of the income thereof the amount required to pay such annuity or periodical payment, and, after such appropriation shall have been made, the residue of such estate or the income thereof shall no longer be liable for such annuity, and may be distributed forthwith in accordance with the trusts declared of and concerning the same.

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(m.) He may grant subleases or underleases of leasehold property.

(n.) In exercise of any power of sale conferred by the principal Act or its amendments, or by any instrument, he may—

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20 (i.) Sell or dispose of any buildings, fixtures, timber, or other things affixed to the soil apart and separately from a sale of the land itself :

(ii.) Allow any part of the purchase-money to remain owing for such period and on such terms and conditions as to interest and otherwise as he thinks fit.

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30 (iii.) On such conditions as he thinks proper, rescind, cancel, modify, or vary any contract or agreement for the sale and purchase of any land, or agree to do so, or compromise with or make allowances to any person with whom such contract or agreement has been made, or who is the assignee thereof in respect of any unpaid purchase-money secured on mortgage or otherwise :

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40 (iv.) In respect of any land under which there are or are believed to be minerals, sell the surface apart from the minerals, or sell the minerals, together with or apart from the surface, and grant or receive such rights of way, rights of water, and other easements in, over, or upon any such land or any other land as may be necessary or desirable.

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50 (v.) Where several properties are held under one lease, sell such properties separately on the terms that one of the purchasers shall take an assignment of the lease and grant underleases to the other purchasers, and that if any part of the property is not sold the Public Trustee shall retain the lease and grant underleases of the portions sold.

(o.) He may, where acting as trustee of any public, or charitable, or perpetual trust, exercise all the powers of leasing conferred on a leasing authority under the provisions of the Public Bodies' Leases Act, 1908, and shall be deemed to be a leasing authority within the meaning of that Act. Such power shall be in addition to any other powers conferred on the Public Trustee by an instrument or otherwise.

- (p.) In exercising any power of leasing conferred by the principal Act or its amendments or by any instrument, he may, in and by the instrument of lease,—
- (i.) Grant to the lessee a right of renewal for one or more terms as may be determined by him, at a rent to be fixed or made ascertainable in manner determined by him in the original lease, but so that the aggregate duration of the original and of the renewed terms shall not exceed twenty-one years. 5
- (ii.) Grant to the lessee a right to claim compensation for improvements made or to be made by him in, upon, or about the demised premises. 10
- (q.) He may, with the consent of any lessee, grant to a sub-lessee a lease direct from the Public Trustee of the whole or any part of the land comprised in the original lease for the residue of the original term thereof. 15
- (r.) He may expend moneys for the repair, maintenance, upkeep, or renovation of any property, and apportion the cost thereof between *corpus* and income, or otherwise among the persons beneficially entitled thereto, in such manner as to him seems equitable. 20
- (s.) He may at any time, at the expense of the estate, convert or join in converting any business into a company limited by shares in such manner as he may think fit; and may, at the like expense, promote and assist in promoting a company for taking over the said business; and may sell or transfer any business and the capital and assets and goodwill thereof, or any part thereof to such company, or to any company having for its objects the purchase of such a business, in consideration, in either case, wholly or in part of ordinary shares wholly or partially paid up of any such company, or wholly or in part of debentures, debenture-stock, or bonds or preferred shares of any such company, and as to the balance (if any) in cash payable immediately, or by any instalments with or without security. 25 30 35
- (t.) He may apportion blended trust funds.
- (u.) He may determine by whom, and in what manner valuations are to be made for any purpose, in the opinion of the Public Trustee, necessary or expedient for the carrying into effect any of the trusts, powers, and provisions of any will or other trust instrument. 40
- (v.) Where any property comprised in an estate is destroyed or damaged by fire, earthquake, or other cause, he may apply the moneys received under any policy of insurance in respect thereof in or towards the re-erection or restoration either wholly or in part of such property. 45
- (w.) He may, where an estate vested in or controlled by him is in any manner interested or concerned in a trade or business, make subscription out of the income of the estate to any fund created for objects or purposes in support of trades or businesses of a like nature and subscribed to by other persons engaged in the like trade or business. 50



(2.) Section twenty-nine of the principal Act is hereby amended as follows:—

(a.) By inserting in paragraph (a) thereof, after the word "sell," the words "or concur with any other person in selling":

5 (b.) By omitting from paragraph (b) thereof the words "without taking any fine, premium, or foregift," and substituting the words "with or without a fine, premium, or foregift, provided that should any such fine, premium, or foregift be taken the amount thereof shall be deemed to be part  
10 of and an accretion to the rental, and shall, as between the persons beneficially entitled to the rental, be considered as accruing from day to day and be apportioned over the term of the lease." This amendment shall extend and apply to all leases heretofore entered into by  
15 the Public Trustee.

(c.) By repealing the proviso thereof as amended by section seven of the Public Trust Office Amendment Act, 1912, and substituting the following:—

20 " Provided that the Public Trustee shall not exercise any power of selling, leasing, exchanging, purchasing, or mortgaging any freehold lands conferred on him by this Act where the value of the land proposed to be sold, leased, exchanged, purchased, or mortgaged exceeds  
25 two thousand pounds (unless in such case he is either under this Act or by or under an instrument expressly authorized to exercise such powers) without an order of a Judge of the Supreme Court, which order such Judge or Court is hereby authorized to make upon the applica-  
30 tion of the Public Trustee. The order may be general or apply only to a special case as the Judge or Court thinks proper.

(3.) Section twenty-one of the Public Trust Office Amendment Act, 1913, is hereby amended by repealing paragraph (r) thereof, and substituting the following paragraph:—

35 "(r.) He may postpone the sale, calling-in, and conversion of any real or personal estate for so long as he thinks fit, notwithstanding that it may be of a wasting, specu-  
40 lative, or reversionary nature; and pending such sale, calling-in, and conversion the whole of the net income of property actually producing income shall be applied as income; but on such sale, calling-in, and conversion, or on the falling-in of any reversionary property, no part of the proceeds of such sale, calling-in, conversion, or  
45 falling-in shall be paid or applied as past income."

(4.) Where the Public Trustee is acting under a will, settle-  
50 ment, or other instrument which contains a trust for, or a power of sale of real or personal property to be exercised at a fixed or specified time, the Public Trustee may, with the consent of the persons (if any) entitled to the specific use and enjoyment thereof, pending the sale of such real or personal property, sell the same at any time prior to the date originally appointed.

(5.) Where a trust for or a power of sale vested in the Public Trustee is expressed to be exercisable at a fixed or specified time, or on the determination of some future event, the Public Trustee may, with the consent of the Supreme Court, exercise the power of sale at any time prior to the time fixed by the trust instrument. 5

(6.) Paragraph (q) of section twenty-one of the Public Trust Office Amendment Act, 1913, is hereby amended by omitting the words "five hundred" in the proviso thereof, and substituting the words "two thousand."

(7.) Paragraph (s) of section twenty-one of the Public Trust Office Amendment Act, 1913, is hereby amended by adding, after the word "sale" where such word first occurs, the words "lease or other disposition." 10

Public Trustee may insure property, and recover amount of premiums.

21. (1.) It shall be lawful for, but not obligatory upon, the Public Trustee to insure against loss or damage by fire, earthquake, or other cause any building, rents, or other insurable property to any amount not exceeding the full insurable value of such building, rents, or property, and to pay the premiums for such insurance out of the income thereof or out of the income of any other property subject to the same trusts, without obtaining the consent of any person who may be entitled wholly or partly to such income. 15 20

(2.) The Public Trustee may recover the costs of any premiums paid in respect of such insurance from the life tenant or other person entitled to or in receipt of the rents and profits of the property so insured. 25

Section 39 of Public Trust Office Amendment Act, 1913, amended.

22. Section thirty-nine of the Public Trust Office Amendment Act, 1913, is hereby amended by inserting the words "constituting investments of the Common Fund" after the word "mortgages" in subsection one.

Section 25 of Public Trust Office Amendment Act, 1913, amended.

23. Section twenty-five of the Public Trust Office Amendment Act, 1913, is hereby amended as follows:— 30

(a.) By adding at the end of subsection two thereof the words "and may in the same or further order authorize the Public Trustee to apply, for such period as the Judge thinks fit, the whole or any part of the income or capital of the share of that person for the maintenance, education, and benefit of the husband, wife, or children of such person": 35

(b.) By adding at the end of subsection three thereof the words "Such further order may be made notwithstanding the fact that the directions as to advertisements previously given by subsection two hereof have not been strictly complied with." 40

Public Trustee may exercise powers and avail himself of remedies under Trustee Act.

24. In addition to the powers conferred by the principal Act or any amendment thereof, the Public Trustee shall have and may exercise all powers and authorities conferred upon, and may avail himself of all defences open to, trustees under the provisions of the Trustee Act, 1908, or of any other Act. 45

#### Accounts and Investments.

Section 33 of principal Act amended.

25. Section thirty-three of the principal Act is hereby amended by adding the following additional subsections thereto:— 50

"(2.) Forthwith upon the receipt by the Public Trustee of any such moneys, he shall make all reasonable efforts to find an

investment or investments therefor in accordance with the special directions contained in the trust instrument, and, if the whole of such moneys cannot be so invested within one calendar month from the date of receipt thereof, the Public Trustee may, until such

5 moneys can be so invested temporarily, appropriate and allocate as an investment for such moneys, or any part thereof, one or more existing investments of the Common Fund of the same nature and kind as is required by the trust instrument.

“(3.) Any Common Fund investment while so appropriated and allocated as a special investment shall not be entitled to the protection afforded by this Act to Common Fund investments.”

26. (1.) Notwithstanding anything contained in the principal Act or any amendment thereof, the Public Trustee may invest capital moneys in advances by way of submortgage of a mortgage of any

15 real estate held in fee-simple in New Zealand, subject to the conditions following :—

Public Trustee may lend on submortgage.

(a.) The head mortgage is not otherwise encumbered or charged and is eligible as a security for the amount owing thereon within the requirements and provisions of section thirty-four of the principal Act or any amendments thereof :

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(b.) That the amount advanced on the security of such sub-mortgage does not exceed the sum then owing on and secured by the head mortgage.

(2.) It shall be lawful for the Public Trustee in investing moneys by way of mortgage under the provisions of section thirty-four of the principal Act or any amendment thereof to provide that the loan with interest thereon shall be repaid to the Public Trustee by periodical instalments extending over such period, and subject to such terms and conditions as the Public Trustee thinks fit.

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(3.) The powers contained in sections thirty-seven and thirty-eight of the principal Act and in section six of the Public Trust Office Amendment Act, 1912, shall be deemed to authorize and to have heretofore authorized any advances or payments therein referred to from the Common Fund.

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27. Section thirty-nine of the principal Act is hereby repealed, and the following substituted :—

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Section 39 of principal Act repealed, and substitution therefor.

“39. (1.) The Public Trustee shall, within thirty days after the close of each year ending on the thirty-first day of March, prepare—

“(a.) A balance-sheet, showing the assets and liabilities of the Public Trust Office at the end of such year; and

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“(b.) A Profit and Loss Account setting out the revenue and expenditure of the Public Trust Office during such year; and

“(c.) A Profit and Loss Appropriation Account, showing the balance of the profit or loss made during such year and bringing forward the balance of unappropriated profits for previous years and the appropriations of such profits during such year, together with any advances from the Consolidated Fund, or other dispositions of losses incurred.

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“(2.) In preparing the aforesaid accounts the Public Trustee may, in his discretion, charge against the Profit and Loss Account or the Profit and Loss Appropriation Account all outgoings or items of expenditure incurred over or relating to a period extending beyond the year in respect of which such accounts are prepared.

“(3.) The Public Trustee shall send such balance-sheet, Profit and Loss Account, and Profit and Loss Appropriation Account to the Controller and Auditor-General, who shall forthwith transmit the same, together with such report thereon as he thinks fit, to the Minister of Finance, by whom they shall forthwith be laid before Parliament if sitting, or if not, then within ten days after the commencement of the next ensuing session.” 5

General Legal Expenses Account.

28. There shall be paid out of the fees and income of the Public Trust Office in each year such sum as the Minister determines into a fund to be called “The General Legal Expenses Account,” out of which there may be paid from time to time such costs, charges, expenses, and moneys as may be awarded against the Public Trustee or incurred by the Public Trustee in obtaining legal opinions or in any legal proceedings of general interest to which the Public Trustee is or is made a party, or is in any way interested or affected, and which costs by reason of the general interest and importance of the matter in dispute cannot be fairly charged against any particular estate under administration by the Public Trustee. 10 15

Moneys in Assurance and Reserve Fund and Investment Fluctuation Account may be used for purchase of office premises.

29. (1.) With the approval of the Minister of Finance, the Public Trustee may from time to time expend moneys out of the Assurance and Reserve Fund or out of the Investment Fluctuation Reserve Account in the acquisition and furnishing of office premises. 20

(2.) The Public Trustee may, with the like approval, from time to time expend, out of any portion of the profits of the Public Trust Office, moneys in the purchase of office appliances, motor-cars, bicycles, and other things which the Public Trustee deems requisite for the efficient conduct of the Public Trust Office. 25

(3.) All office premises and property of any kind heretofore or hereafter purchased out of the profits of the Public Trust Office shall constitute investments of the Assurance and Reserve Fund. 30

(4.) Section thirty-four of the Public Trust Office Amendment Act, 1913, is hereby amended as follows:—

(a.) By omitting the words “and furnishing of office premises” in subsection one thereof, and substituting the words “of office premises and property of any kind.” 35

(b.) By adding, after the words “Investment Fluctuation Account” in paragraph (a) of subsection two of the said section, the words “and such sum may be charged to the Profit and Loss Appropriation Account or to the Profit and Loss Account at the discretion of the Public Trustee.” 40

(c.) By repealing paragraph (b) of subsection two.

30. Section three of the Public Trust Office Amendment Act, 1912, is hereby amended as follows:—

(a.) By omitting from subsection one the words “or the bank at which the Public Trustee’s Account is kept,” and substituting the words “or any bank”: 45

(b.) By omitting from subsection three the words “four months,” and substituting the words “six months”:

(c.) By repealing subsection four. 50

Section 3 of Public Trust Office Amendment Act, 1912, amended.

31. (1.) Notwithstanding anything to the contrary in the Public Revenues Act, 1910, and in addition to the amounts specified

Unauthorized expenditure.

in section fifty-four thereof, the Minister of Finance, where he considers such a course necessary for the service of the Public Trust Office, is hereby empowered to expend any sum or sums out of the Public Trustee's Account in excess of or without the appropriation of Parliament.

(2.) The total amount of all sums paid under this section shall not exceed in any financial year fifty thousand pounds.

32. Section thirty-seven of the principal Act is hereby amended as follows:—

Section 37 of principal Act amended.

10 (a.) By omitting from subsection two thereof the words "the rate of not exceeding six pounds per centum per annum," and substituting the words "a rate to be fixed from time to time by the Public Trust Office Board."

15 (b.) By adding the following additional subsection—

"(3.) Moneys shall be deemed to be required to be paid within the meaning of subsection one hereof whenever the Public Trustee has decided or is required to exercise any powers or discretions vested in him by this Act or otherwise, and there is not sufficient money available in the estate to carry into full effect such power or discretion."

33. Section thirty-eight of the principal Act is hereby amended as follows:—

Section 38 of principal Act amended.

25 (a.) By omitting the words "not exceeding six pounds per centum per annum" in subsection one thereof, and substituting the words "to be determined from time to time by the Public Trust Office Board":

(b.) By repealing subsection two thereof.

34. Section six of the Public Trust Office Amendment Act, 1912, is hereby amended as follows:—

Section 6 of Public Trust Office Amendment Act, 1912, amended.

30 (a.) By omitting from subsection two thereof the words "agreed on not exceeding six per centum per annum," and substituting the words "fixed from time to time by the Public Trust Office Board":

35 (b.) By adding the following subsections—

"(5.) The provisions of this section shall not apply to any person whose share is subject to any contingency or is not indefeasibly vested in interest.

40 "(6.) When any advance is made to any person under the provisions of this section the moneys so advanced, together with all interest, costs, charges, and expenses due in connection therewith, shall, in the absence of express agreement, be repayable on demand, and may be recovered from such person in any Court of competent jurisdiction.

45 "(7.) The Public Trustee may at any time, without notice, sell, mortgage, charge, or otherwise deal with the share of such person for the purpose of obtaining repayment of the moneys so advanced, together with all such interest, costs, charges, and expenses accrued thereon.

50 "(8.) Where any such person is beneficially entitled to a share or interest in more than one estate under

administration by the Public Trustee, the Public Trustee may exercise the powers conferred by the last preceding subsection in respect of the share or interest of such person in all or any of such estates."

Advances to estates and beneficiaries from estates comprising land to be treated as registered mortgage.

35. (1.) In any case where the Public Trustee advances money to an estate under his administration, or to any beneficiary therein, on the security of the assets of such estate or the share of such beneficiary therein, and the assets include land, such advance shall, for the purposes of the Land and Income Tax Act, 1916, and any other Act relating to land-tax, be treated in all respects as a registered mortgage of the land. 5 10

(2.) A certificate under the hand and seal of the Public Trustee, setting out the amount of such advance, shall be accepted by all persons as sufficient evidence thereof, without further proof.

#### Shares in Companies.

Registration of shares.

36. (1.) The entry of the Public Trustee by that name in the Register of Shareholders of a company shall not constitute notice of a trust. A company shall not be entitled to object to enter the name of the Public Trustee in its Register of Shareholders by reason only that the Public Trustee is a trustee or is a corporation. In dealings with property, the fact that the person or one of the persons dealt with is the Public Trustee shall not of itself constitute notice of a trust. 15 20

(2.) Where any trust or estate which is being administered by the Public Trustee consists wholly or partly of shares in any body, whether corporate or not, or in any association, or where such shares are vested in the Public Trustee under the terms of any trust instrument, or are purchased by him in the exercise of any trust, direction, or authority imposed or conferred upon him, then, notwithstanding any law or provisions affecting the registration of persons holding shares as trustees or in any other representative capacity, the Public Trustee shall be entitled to be registered as the proprietor of such shares as trustee, or in any other representative capacity as he may require. But under no circumstances shall his liability in respect of such shares exceed the value of the other assets which, at the time when any demand is made for the satisfaction of any such liability, he holds in trust for the person beneficially entitled to such shares. If such assets are insufficient to meet such liability, then such body or association and any person lawfully acting on its behalf shall, in respect of any unpaid balance of such liability, have the same rights and remedies against any such person so beneficially entitled as if the latter were the registered proprietor of such shares. The Public Trustee, upon registration, shall for all purposes, excepting as to liability as aforesaid, be deemed to be the registered proprietor of any such shares, and neither the body nor association aforesaid, nor any person dealing with the Public Trustee, shall be concerned to see or inquire whether any sales, dealings, or transactions by or with the Public Trustee are or are not within his powers. In this subsection the term "shares" includes shares, stock, or other property. 25 30 35 40 45 50

(3.) Notwithstanding the provisions of any Act, charter, deed of settlement, or other instrument, the number of shares in the capital of any bank that may be held by the Public Trustee in his corporate capacity shall not be subject to any limit.

5 (4.) Section forty-four of the principal Act is hereby repealed.

*Advisory Trustees.*

37. Section four of the Public Trust Office Amendment Act, 1913, is hereby amended as follows:—

Section 4 of the  
Public Trust Office  
Amendment Act,  
1913, amended.

10 (a.) By adding at the end of paragraph (b) of subsection two thereof the words "or of the Public Trustee":

(b.) By repealing subsection four thereof; and by adding to subsection three the following paragraphs—

15 " (c.) Where any advice or direction is tendered or given by the advisory trustees the Public Trustee may follow the same and act thereon, and shall not be liable for anything done or omitted by him by reason of his following such advice or directions.

20 " (d.) In any case where the Public Trustee is of opinion that such advice or direction conflicts with the trusts or any rule of law, or exposes him to any liability, or is otherwise objectionable, he may submit the matter in a summary manner to a Judge in Chambers, whose decision therein shall be final and shall bind the Public Trustee and the advisory trustees, and the Judge may make such order as to costs as he think proper:

" Provided that it shall not be obligatory for the Public Trustee to act under this subsection.

30 " (e.) Where there are more advisory trustees than one the advice and direction referred to in this section means the unanimous advice of all the advisory trustees who are *sui juris* and for the time being resident in New Zealand.

35 " (f.) Where the advisory trustees are not unanimous, and tender to the Public Trustee conflicting advice or directions, the Public Trustee may apply to the Court for advice and directions.

*Unclaimed Land.*

40 38. Section sixty-seven of the principal Act is hereby amended as follows:—

Section 67 of  
principal Act  
amended.

(a.) By omitting the words "one hundred" in paragraph (a) thereof, and substituting the words "five hundred":

45 (b.) By omitting in paragraph (d) thereof the words "one hundred," and substituting the words "five hundred."

39. Section sixty-eight of the principal Act is hereby amended by omitting from paragraph (f) the words "one hundred," and substituting the words "five hundred."

Section 68 of  
principal Act  
amended.

Section 72 of  
principal Act  
amended.

40. Section seventy-two of the principal Act is hereby amended by omitting all the words after the word "shall," and substituting the words "form part of the Common Fund."

*Unclaimed Property.*

Section 87 of  
principal Act  
amended.

41. Section eighty-seven of the principal Act as amended by section thirty-six of the Public Trust Office Amendment Act, 1913, is hereby further amended by adding thereto the following subsection:—

"(2.) Provided that where the value of such real or personal property does not exceed one thousand pounds the Public Trustee (with the consent of the Public Trust Office Board) may by notice in the *Gazette* declare his intention to exercise the foregoing powers, and thereafter exercise the same without application to the Court."

*Miscellaneous.*

Officers of Public  
Trust Office to take  
oath of fidelity and  
secrecy.

42. (1.) Every member of the staff of the Public Trust Office, every agent of the Public Trustee, and every member of the Public Trust Office Board and of the Public Trust Office Investment Board—

(a.) Shall maintain and aid in maintaining the secrecy of all matters coming to his knowledge appertaining to the business of the Public Trust Office or to the affairs of any estate under its administration or in relation to the affairs of any person concerned therein, except as may be authorized by law to a person directly interested and entitled to information or for the purpose of carrying out the powers and functions of the Public Trustee and his own proper duties:

(b.) Shall take and subscribe such oath of fidelity or declaration of fidelity and secrecy as may be prescribed, which oath or declaration may be administered by or taken before the Public Trustee, Assistant Public Trustee, or any District Public Trustee.

(2.) Every person who wilfully acts in contravention of this section or of the true intent of such oath or declaration is liable on summary conviction before a Magistrate to imprisonment for any term not exceeding *six* months or to a fine not exceeding *one hundred* pounds.

(3.) Section forty-one of the Public Trust Office Amendment Act, 1913, is hereby repealed.

43. Section thirteen of the principal Act is hereby amended as follows:—

(a.) By adding, after the word "executors" in subsection three thereof, the words "or administrators":

(b.) By repealing subsection eight thereof, and substituting the following subsection:—

"8. Where the Public Trustee is appointed executor, administrator, or trustee under the provisions of this and the last preceding 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

Section 13 of  
principal Act  
amended.



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such appointment, and without any conveyance or assignment, become vested in and exercisable by the Public Trustee as fully and effectually as if he had been named as such executor, administrator, or trustee under such instrument."

5

44. Subsections two and three of section fourteen of the principal Act shall apply and be deemed at all times to have applied, with the necessary modifications, to applications for probate of a will or administration or an order to administer with the will annexed, whether for general, limited, or special purposes.

Subsections (2) and (3) of section 14 of principal Act to apply to applications for probate.

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45. (1.) Where a grant of probate or letters of administration (in this section referred to as the original grant) has been made in respect of the estate of any deceased person (in this section referred to as the original estate) and the persons to whom the original grant or any subsequent or substituted grant of probate or administration have died, or hereafter die, leaving part of the original estate unadministered, and the gross value of the original estate so left unadministered at the time of the election hereinafter mentioned does not exceed the sum of four hundred pounds, as estimated by the Public Trustee, and no person has since the death of the last executor or administrator taken out letters of administration *de bonis non* in respect of the original estate, the Public Trustee may, in all cases where he is entitled to obtain a grant of administration *de bonis non*, in lieu of obtaining such grant, file in the office of the Supreme Court where the original grant was made an election under his hand and seal setting forth the fact of the original grant, the death of the executors or administrators, and the particulars of the property so left unadministered, and electing to administer the property so left unadministered.

Public Trustee may file an election *de bonis non*.

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30 (2.) On such election being filed, the Public Trustee shall be deemed to be administrator of the original estate left unadministered in all respects as if an order to administer *de bonis non* had been regularly granted to him.

25

35 (3.) The provisions of section twenty of the Public Trust Office Amendment Act, 1913, shall apply to all elections filed in pursuance of this section.

40

46. (1.) Where the Public Trustee or any District Public Trustee has, pursuant to the provisions of the principal Act or any amendment thereof, filed an election to administer an estate, and the Public Trustee or District Public Trustee subsequently discovers that such election is invalid or ineffective by reason of the discovery of a will or of a later will, or of the revocation or invalidity of a will, or for any other reason, then and in any such case the Public Trustee or District Public Trustee may file in the Supreme Court a memorandum setting out the facts and certifying that the election already filed is ineffective.

Revocation of election to administer erroneously filed.

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50 (2.) Upon such memorandum being filed, the election to administer shall cease to be of any effect whatever, and the Public Trustee or District Public Trustee may thereupon proceed to apply for administration or probate, or file a fresh election, in all respects as if the election to administer referred to in subsection one hereof had not been filed.

Section 15 of principal Act amended.

47. Section fifteen of the principal Act is hereby amended as follows:—

(a.) By inserting the words "situated in New Zealand" after the word "property" wherever such word occurs in the said section: 5

(b.) By inserting the words "in New Zealand" after the word "administration" whenever such word occurs in the said section.

Section 18 of Public Trust Office Amendment Act, 1913, amended.

48. (1.) Section eighteen of the Public Trust Office Amendment Act, 1913, is hereby amended as follows:— 10

(a.) By inserting in subsection one thereof the words "in New Zealand" after the words "property" and "probate" where such words occur in the said subsection:

(b.) By inserting in subsection one thereof the words "(or an exemplification thereof where probate has been granted out of New Zealand)" after the word "will" where it first occurs in the said subsection: 15

(c.) By omitting from subsection two thereof the words "whole property," and substituting the word "will."

Section 16 of principal Act amended.

49. Section sixteen of the principal Act is hereby amended as follows:— 20

(a.) By adding, after the word "sold" in the proviso to subsection one thereof, the words "leased, exchanged, mortgaged, or partitioned":

(b.) By adding the following additional subsection— 25  
 "(4.) The Public Trustee acting under this section shall not be deemed to be or to be liable as an executor or administrator *de son tort*."

Section 18 of principal Act amended.

50. Subsection one of section eighteen of the principal Act is hereby amended as follows:— 30

(a.) By adding after the word "made" the words "in New Zealand":

(b.) By omitting the words "the Public Trustee may apply for letters of administration," and substituting the words "the Public Trustee may apply for an order to administer with the will annexed." 35

Section 45 of principal Act amended.

51. Section forty-five of the principal Act is hereby amended by adding at the end thereof the words "or in any other capacity."

Section 46 of principal Act amended.

52. Section forty-six of the principal Act is hereby amended by adding the following subsection:— 40

"(5.) When notification is given to the Public Trustee pursuant to the provisions of section four of the Administration Amendment Act, 1911, of any application for probate or letters of administration of the estate of any deceased person, and there is deposited in the Public Trust Office the will of any person whose name is identical with or resembles that of such deceased person, then and in any such case the Public Trustee may search, free of cost, in any Registry of the Supreme Court for the purpose of determining whether such deceased person is identical with the testator whose will is so deposited in the Public Trust Office." 45

Section 48 of principal Act amended.

53. Section forty-eight of the principal Act is hereby amended by omitting the word "fifty," and substituting the words "one hundred." 50

54. Section fifty-two of the principal Act is hereby amended as follows:—

Section 52 of principal Act amended.

(a.) By omitting the words "Chief Consular Officer," and substituting the words "Consular Officer":

(b.) By adding the following subsection—

"(2.) 'Consular Officer' means the Chief Consular Officer resident in New Zealand and exercising consular jurisdiction for the whole of New Zealand, but where there is no Chief Consular Officer, means and includes any Consul or Consular Agent of that country resident in New Zealand."

55. Section fifty-six of the principal Act is hereby amended by omitting the word "fifty," and substituting the words "two hundred."

Section 56 of principal Act amended.

56. Section sixty-two of the principal Act is hereby amended by adding a new paragraph as follows:—

Section 62 of principal Act amended.

"(k.) Prescribing the time during which all documents, records, vouchers, or papers shall be retained in the custody of the Public Trustee, and the mode in which they may thereafter be destroyed or otherwise disposed of."

57. Section seventeen of the Public Trust Office Amendment Act, 1913, is hereby amended—

Section 17 of Public Trust Office Amendment Act, 1913, amended.

(a.) By adding after the word "writing" in subsection two thereof the words "in a form to be presented":

(b.) By adding an additional subsection as follows—

"(5.) The writing referred to in subsection two hereof shall contain a certificate by the executor that the amount therein stated is the whole amount to which the infant is entitled, and the Public Trustee shall be under no liability in acting upon the statement contained in the aforesaid writing."

58. Section twenty-nine of the Public Trust Office Amendment Act, 1913, is hereby amended by omitting from subsection one thereof the words "in the Head Office"; and by repealing subsection two thereof.

Section 29 of Public Trust Office Amendment Act, 1913, amended.

59. (1.) Where any person is legal or equitable tenant for life of any lands comprised in an estate being administered by the Public Trustee, such person shall not be entitled to the use, occupation, and enjoyment of, or to receipt of, the income, rents, issues, and profits of such lands, except with the consent of the Public Trustee, and on such terms and conditions as to keeping the trust property in repair and punctual payment of rates, taxes, insurance premiums, assessments, rents, impositions, and other outgoings, or otherwise, as the Public Trustee may think fit.

Restriction on powers of tenant for life.

(2.) Should such person being in occupation of such lands fail to observe any of the duties or obligations attaching to him as such tenant for life or imposed by the Public Trustee, or should the Public Trustee for any other reason deem it necessary or expedient to enter into possession of the said lands, then the Public Trustee may, by notice in writing personally delivered to such person, or forwarded by registered letter to him at his last known address, direct such person

to give up possession of the said property on or before a date to be named in such notice not being less than one calendar month from the date thereof.

(3.) On failure to give up possession of such lands on or before the expiry of the date named in such notice, such person shall be deemed to be a trespasser, and the Public Trustee may take the necessary legal proceedings to have such person ejected. 5

(4.) It shall be no defence to any such proceedings that the person sought to be ejected is a legal or equitable life tenant of the said lands. 10

(5.) In respect of any estate under administration by the Public Trustee, the provisions of the Settled Land Act, 1908, shall have no application, and the powers of leasing and sale thereof shall only be exercised by the Public Trustee, and not by the tenant for life or other person entitled to exercise such power under that Act. 15

Protection of Public Trustee when executing discharge of mortgage on behalf of absent mortgagee.

60. Where the Public Trustee exercises the powers of discharging mortgages under the provisions of section seventy-five of the Property Law Act, 1908, or of section one hundred and seventeen of the Land Transfer Act, 1915, he shall incur no liability in respect of any loss incurred in respect of his so acting, provided he acts reasonably and in good faith. The onus of proving that the Public Trustee has not acted reasonably and in good faith shall be upon any person alleging it. 20

Protection of beneficiaries, creditors, &c.

61. (1.) Any devisee, legatee, beneficiary, creditor, or *cestui que trust* aggrieved by any act, omission, or decision of the Public Trustee relating to any estate may require the Public Trustee to set forth in writing the grounds upon which the Public Trustee acted. 25

Right of appeal to Judge.

(2.) Such person may, if he thinks fit, summon the Public Trustee to appear before a Judge of the Supreme Court to substantiate and uphold the grounds of such decision, such summons to be issued under the hand of a Judge of the said Court and served upon the Public Trustee fourteen clear days at least before the day appointed for hearing. 30

(3.) Such summons may be heard by a Judge in Chambers; and upon the hearing the Public Trustee or his counsel shall have the right of reply, and the Judge shall, if any question of fact is involved, direct an issue to be tried to decide such fact; and the Judge shall thereupon make such order in the premises as the circumstances of the case may require, which order shall be binding upon the Public Trustee. 35 40

(4.) All expenses attendant upon any such proceedings shall be borne and paid by the person initiating the proceedings, unless the Court or Judge orders that the same be paid by the Public Trustee or out of the estate in respect of which the proceedings are taken, which such Court or Judge is hereby empowered to do. 45

(5.) Where any such person is dissatisfied with the direction or decision of a District Public Trustee, he may require the District Public Trustee to refer the matter to the Public Trustee, whose decision shall be binding on the District Public Trustee. 50

(6.) No application to the Court shall be made by any such person in respect of any act, omission, or decision of a District Public

Trustee, unless and until such person has in writing referred his grievance to the Public Trustee and has failed within a reasonable time to obtain redress.

(7.) Paragraph (b) of section twelve of the Public Trust Office Amendment Act, 1913, is hereby repealed.

62. Section four of the Public Trust Office Amendment Act, 1912, is hereby amended as from the passing of this Act by adding the following additional subsection:—

Section 4 of Public Trust Office Amendment Act, 1912, amended.

10 “(3.) (a.) Notwithstanding anything heretofore contained, where the fund does not exceed one thousand pounds the Public Trustee, in lieu of applying to the Supreme Court for directions as to the administration of the fund, may, with the consent of the committee (if any) or the majority of the members thereof, settle a scheme of administration.

15 “(b.) The scheme so settled may be incorporated in a declaration of trust by the Public Trustee, who, for the purpose of such trust instrument, shall be deemed to be the settlor of such trust.

20 “(c.) Any statements or recitals in any such trust instrument shall be sufficient evidence of the truth thereof and the provisions of such declaration of trust shall be final and binding on all persons whether beneficially interested thereunder or otherwise:

25 “Provided that the Public Trustee may, if he thinks fit so to do, and with the consent of the surviving members of the committee (if any) in New Zealand or a majority of such, at any time modify such scheme, and the declaration of trust shall be amended accordingly.”

30 63. (1.) Where a testate or intestate estate is under administration by the Public Trustee, he shall, at such times as he thinks fit, cause advertisements to be published in such newspapers as he deems expedient, calling upon creditors to prove their debts before him on or before a time to be fixed in such notice.

Proof and payment of debts.

(2.) The Public Trustee may allow any claim which is made before him upon the statutory declaration of the claimant alone, or, where he shall think fit to call for further evidence, upon such further evidence as he requires.

35 (3.) The Public Trustee shall, as soon after the expiration of the time allowed for proof of debts as he conveniently can,—

(a.) Pay the debts proved, if the whole thereof can be paid; and, if not,

(b.) Declare and pay a dividend thereon.

40 (4.) If he collects any further assets after making such payment, he may pay any part of the proved debts remaining unpaid, and any debts subsequently proved before him, or a dividend thereon, as the case may be.

45 (5.) Such creditors as subsequently prove shall first be paid a dividend equal to the dividend paid to creditors having previously proved their debts.

(6.) After payment of all debts, fees, and expenses incident to the collection, management, and administration of the estate, the Public Trustee shall pay over the residue to the person or persons 50 entitled to receive the same.

Closing  
administration of  
estate after notice.

(7.) This section shall be read subject to the provisions of section forty-nine of the principal Act and section *sixty-six* of this Act.

64. Subsection one of section fifty of the principal Act and section sixteen of the Public Trust Office Amendment Act, 1917, are hereby repealed, and the following is substituted:—

“(1.) Where a testate or intestate estate is under administration by the Public Trustee, and such administration could be properly closed in a less time than is required by the existing law, the Public Trustee, after giving notice at least once in some newspaper published or circulating in the locality where the deceased resided or carried on business immediately preceding his decease (whether such person died in or out of New Zealand), requiring creditors and others to send in to the Public Trustee their claims against the said estate, may, at the expiration of the time limited in such notice, being not less than one month from the first publication thereof in the case of a person dying in New Zealand, or, in the case of a person dying out of New Zealand, not being less than six months, distribute the assets of the deceased, or any part thereof, amongst the persons entitled thereto, having regard to the claims of which the Public Trustee has then notice:

“Provided that if any such estate is of less value than four hundred pounds it may be distributed or conveyed and assured and dealt with without giving any such notices as aforesaid.”

Priorities of debts  
in case of insolvent  
estates.

65. (1.) Where the assets are insufficient to pay the liabilities in full, and the Public Trustee has recourse to and administers such estate under the provisions of Part IV of the Administration Act, 1908, the assets shall be applied subject to the following priorities:—

(a.) In payment of all proper costs, charges, and expenses attending the due administration of the estate:

(b.) In payment of funeral charges proportioned, as the Public Trustee thinks proper, to the position of the deceased in his lifetime:

(c.) In payment of medical charges incurred for a period not exceeding three months next immediately preceding the death of the deceased:

(d.) In payment of other claims in accordance with the priorities prescribed by section one hundred and twenty of the Bankruptcy Act, 1908.

(2.) In applying the provisions of section one hundred and twenty of the Bankruptcy Act to this section and to section forty-nine of the principal Act, the date of the deceased debtor's death shall be substituted for the date of adjudication, or the date of the filing of the debtor's petition, or the date of the filing of a creditor's petition, as the case may be, wheresoever the same are mentioned or referred to in paragraphs (c) and (d) of the said section one hundred and twenty of the Bankruptcy Act, 1908.

Restriction of  
liability of Public  
Trustee in respect  
of rents and  
covenants in leases.

66. (1.) Where the Public Trustee as executor or administrator, liable as such to the rents, covenants, or agreements contained in any lease or agreement for a lease granted or assigned to the testator or intestate of whose estate he is administrator, has—

(a.) Satisfied all such liabilities under the said lease or agreement for a lease as may have accrued due and been claimed up to the time of the assignment hereinafter mentioned; and

5 (b.) Set apart a sufficient sum to answer any future claim that may be made in respect of any fixed and ascertained sum covenanted or agreed by the lessee or grantee to be laid out on the property demised or agreed to be demised, although the period for laying out the same may not  
10 have arrived; and

(c.) Assigned the lease or agreement for a lease to a purchaser,— he may distribute the estate of the testator or intestate remaining in his hands amongst the parties entitled thereto respectively, without appropriating any part, or any further part thereof, as the case may  
15 be, to meet any future liability under such lease or agreement for a lease.

(2.) The Public Trustee so distributing such estate shall not, after having assigned the said lease or agreement for a lease, and having where necessary, set apart such sufficient fund as aforesaid,  
20 be personally liable in respect of any subsequent claim under any such lease or agreement for a lease.

(3.) But nothing herein shall prejudice the right of the lessor or those claiming under him to follow the assets or estate, or any part thereof, into the hands of the persons, or any of them, among whom  
25 the same may have been distributed, or who may have received the same.

67. (1.) For the purposes of Part II of the Administration Act, 1908, the words "probate" and "letters of administration" where they occur therein shall include an election or rule to administer the  
30 property of any deceased person or other document having a like effect which has been filed in any Court in any part of His Majesty's dominions situated outside of New Zealand by any Public Trustee, Curator, or other like public official and which under the law in force in that part of the said dominions, upon being filed, operates to  
53 make such Public Trustee, Curator, or other like public official administrator of the whole property of the deceased person in all respects as if he had duly obtained a grant of probate or letters of administration out of such Court.

(2.) The filing of any such election or rule to administer or  
40 other like document shall be deemed to be equivalent to the granting of probate or letters of administration.

(3.) The seal of the Supreme Court of New Zealand may be affixed to any exemplification of any such election or rule to administer, or other document having a like effect under the same  
45 conditions, and in all cases where any probate or letters of administration or any exemplification thereof may now be sealed pursuant to the provisions of section forty-three of the Administration Act, 1908.

68. (1.) Where, before or after the commencement of this Act,  
50 the Public Trustee is administering the estate of a person who at the time of his death was domiciled in England or in one of the States of the Commonwealth of Australia, and whose estate in England or

Elections to administer granted in British possessions may be resealed in New Zealand.

Reciprocity of administration with Public Trustees of England and Australian States.

in such State is being administered by the Public Trustee or Curator of England or of such State, the Public Trustee may pay over to the Public Trustee or Curator of England or of such State the balance of the proceeds of the estate in New Zealand of the said person, after payment of creditors and the charges provided for under this Act, without any obligation to see to the application of such balance, and without incurring any liability in regard to the payment of such balance, and shall certify to an account in favour of the Public Trustee or Curator of England or of such State or country accordingly. 5 10

(2.) Where the estate of any deceased person, who at the time of his death was domiciled in New Zealand, is being administered by the Public Trustee, and the Public Trustee of England or of any of the States mentioned in the *last preceding* subsection has in England or in such State obtained administration of the estate in such State or country, the Public Trustee may receive from the Public Trustee or Curator of England or of such State or country the balance of the proceeds of the estate in England or in such State or country. Such balance shall, when so received, form part of the estate of the deceased person, and shall be dealt with according to the law of New Zealand. 15 20

Statutory declarations made under principal Act exempt from stamp duty.

Applications to Court by Public Trustee to be by petition.

Minister of Finance to include Minister in Charge of Public Trust Office.

Public Trustee acting in fiduciary capacity may receive remuneration.

Tenancies to be deemed weekly tenancies.

No waiver of notice to quit by receipt of rental.

Fees and commission deemed to be testamentary expense.

69. All statutory declarations required or authorized by the principal Act or any amendment thereof, or in any way required by the Public Trustee, shall be exempt from stamp duty.

70. All applications by the Public Trustee to the Supreme Court or a Judge thereof for the approval of such Court to the exercise of any power shall be by way of petition. At or prior to the hearing of such petition the Court or Judge may direct service on such persons as it thinks fit. 25 30

71. The term "Minister of Finance" in the principal Act and all amendments thereof shall include the Minister for the time being in charge of the Public Trust Office, who may exercise all the powers and discretions conferred by such Acts on the Minister of Finance. 30 35

72. Notwithstanding the provisions of any other Act or any rule of law prohibiting or limiting the right of any person acting in a fiduciary capacity to demand or receive payment or remuneration for so acting, it shall be lawful for the Public Trustee when acting in any such fiduciary capacity to charge, demand, and receive such remuneration therefor as may be fixed by any Act or regulation thereunder. 35 40

73. (1.) Notwithstanding any law to the contrary, every tenancy created by the Public Trustee shall, in the absence of any written agreement to the contrary, be deemed to be a weekly tenancy determinable at the will of the Public Trustee or of the tenant by one week's notice in writing. 40 45

(2.) When any notice to quit has been served by the Public Trustee on any tenant or lessee or other notice of the termination of the tenancy or lease given, the acceptance by the Public Trustee or any officer or agent of the Public Trustee of any rent after the giving of such notice shall not be deemed to be a waiver of such notice. 45 50

74. The fees and commission charged by the Public Trustee shall be deemed to be a testamentary expense.



75. Where the Public Trustee pays any premiums in respect of any policy of insurance he shall have a lien on the policy-moneys for the amount of the premiums so paid, together with interest thereon at the rate current from time to time in the Public Trust Office on  
 5 advances by way of overdraft.

Public Trustee to have lien on policy moneys for premiums paid.

76. (1.) Where any chattels are, under the provisions of any will being administered by the Public Trustee, bequeathed to any person for life or for any limited interest, the Public Trustee may cause an inventory to be made of the said chattels, which inventory  
 10 shall be signed by such person and retained by the Public Trustee, and a copy of such inventory signed by the Public Trustee shall be delivered to such person.

Protection of Public Trustee in handing over chattels to life tenant.

(2.) The Public Trustee may thereupon deliver the chattels to such person, and shall not thereafter be bound to see to the repair or  
 15 insurance of the said chattels, and shall not be subject to any liability whatsoever by reason of the neglect of such person to do such repairs or effect such insurance.

(3.) A copy of any such inventory, signed by such person and by the Public Trustee or by a District Public Trustee, shall be deemed to  
 20 be an instrument within the meaning of the Chattels Transfer Act, 1908, and may be registered accordingly.

77. (1.) In all proceedings before any Court, Judge, Board, Commission, tribunal, body, or person whatever in which the Public Trustee is a party or is in any way interested and is represented by  
 25 the Office Solicitor (whether as counsel or solicitor) the Public Trustee shall be entitled to the same costs and allowances as if he had been represented by a counsel or solicitor not employed as a permanent officer in the Government Service.

Right of Office Solicitor to costs of legal proceedings.

(2.) All fees, allowances, and charges earned by the Office  
 30 Solicitor shall be applied and disposed of as directed by the office regulations as a profit of the Public Trust Office.

(3.) The term "Office Solicitor" where used in the principal Act or any amendment thereof includes any solicitor employed by the Public Trustee subordinate to the Office Solicitor.

35 (4.) This provision of this section shall be deemed to apply to all past transactions.

78. (1.) The Public Trustee may be appointed or directed by any Court or Judge to represent any party to any proceedings, or any person or class of persons interested therein.

Public Trustee may be appointed to represent parties in legal proceedings.

40 (2.) The Public Trustee shall be entitled to be represented at such proceedings, and the cost of any such representation as between solicitor and client shall be paid to the Public Trustee out of any estate or funds or otherwise the subject of the proceedings.

79. Notwithstanding any rule of law or practice to the contrary,  
 45 the Public Trustee, acting in one capacity, may commence proceedings in his corporate name against himself acting in another capacity, provided that in every such case the Public Trustee shall obtain the directions of the Court as to how the opposing interests are to be represented.

Public Trustee may sue himself in a different capacity.

50 80. (1.) On an application by the Public Trustee for probate of any will, or for administration with will annexed, the Public Trustee shall be entitled to his costs, and shall not be liable to pay the costs of any other person, notwithstanding that such application is unsuccessful.

Public Trustee propounding will or applying for administration entitled to costs.

(2.) Where the beneficiaries entitled under any intestacy cannot agree as to the person to be appointed administrator and the Public Trustee, at the request of any one or more of such beneficiaries, applies for administration, he shall not be liable for the costs of any person, and shall be entitled to his costs out of the estate whether he is or is not appointed administrator. 5

Certificate under hand and seal of Public Trustee to be accepted by all Courts, &c., as sufficient proof of right to administer.

81. (1.) Where the Public Trustee is acting as trustee, guardian, manager, agent, attorney, or receiver, or in any other capacity not provided for by section fifty-two of the principal Act, a certificate under his hand and sealed with his corporate seal certifying that he is authorized to act as such trustee, guardian, manager, agent, attorney, or receiver, or in any other capacity, as the case may be, and stating how and when he became so authorized to act, shall, notwithstanding any law or statute to the contrary, be accepted by all Courts, officers, and persons (whether acting under any Act or not) as sufficient evidence of such appointment, and of the Public Trustee's right to act, without production of any other proof whatever. 10

(2.) Such certificate shall be sufficient for the purpose of registering the Public Trustee as proprietor of any estate or interest in any land under the Land Transfer Act, 1915, or of any shares, stock, or property in any body or association. 15

(3.) As regards land under the Deeds Registration Act, 1908, such certificate shall be equivalent for registration purposes to the trust instrument, order, power of attorney, or other document or authority under which the Public Trustee is acting, and it shall not be necessary to register such trust instrument, order, power of attorney, or other document or authority. 25

(4.) A recital of the purport of any such trust instrument, order, power of attorney, or other document or authority in any assurance or instrument under the hand and seal of the Public Trustee shall be sufficient evidence thereof, and no one shall be concerned to inquire beyond such recital. 30

Depreciatory conditions of sales by Public Trustee.

82. (1.) No sale made by the Public Trustee shall be impeached by any *cestui que trust* upon the ground that any of the conditions subject to which the sale was made may have been unnecessarily depreciatory, unless it also appears that the consideration for the sale was thereby rendered inadequate. 35

(2.) No sale made by the Public Trustee shall, after the execution of the conveyance or transfer, be impeached as against the purchaser upon the ground that any of the conditions subject to which the sale was made may have been unnecessarily depreciatory, unless it appears that such purchaser was acting in collusion with the Public Trustee at the time when the contract for such sale was made. 40

(3.) No purchaser upon any sale made by the Public Trustee shall be at liberty to make any objection against the title upon the ground aforesaid. 45

Protection of purchasers and others.

83. It shall not be incumbent upon any purchaser, vendor, mortgagee, lessee, or other person to or with whom any sale, exchange, purchase, mortgage, or lease shall be made to inquire as to the autho- 50

5 rity or power in any respect of the Public Trustee to make any such  
 10 sale, exchange, purchase, mortgage, or lease; and, in particular, it  
 shall not be incumbent upon any such person to inquire whether the  
 proposed dealing is consistent with the trusts on which the lands or  
 other hereditaments proposed to be dealt with are held, or whether  
 the authority of the Public Trustee, or any person, body, or committee  
 authorized by him, has been given where required by the principal  
 Act or by this Act, or to inquire otherwise as to the propriety or  
 regularity of the transaction, or as to the application of any money  
 received by the Public Trustee upon any such sale, exchange, or  
 mortgage.

84. The title of any tenant or lessee of the Public Trustee or  
 any person claiming under him, if (in each case) acting in good faith,  
 shall not be prejudiced or affected by reason of the non-compliance  
 on the part of the Public Trustee with any direction of the trust  
 instrument or of any Act requiring the calling of tenders, submission  
 to auction, or other matters preliminary to the execution of the  
 lease.

Protection of  
tenant or lessee.

85. A statement or recital in any transfer, conveyance, lease, or  
 other assurance of land signed by the Public Trustee or by any  
 District Public Trustee respecting any matter of fact in relation to  
 such transfer, conveyance, or lease shall, in favour of the purchaser,  
 transferee, or lessee, and of those claiming under him, be sufficient  
 evidence of the matter stated.

Rentals in transfers,  
&c., sufficient  
evidence of matters  
stated.

86. (1.) Where any deceased person whose estate is being  
 administered by the Public Trustee was at the time of his death  
 liable under the covenants, express or implied, in any mortgage, and  
 it is, in the opinion of the Public Trustee, expedient in the interests  
 of his estate to sell, convey, or transfer the property subject to such  
 mortgage (whether to a beneficiary or to any other person), the  
 Public Trustee may serve on the mortgagee or his agent or solicitor  
 a notice of his intention so to sell, convey, or transfer the property  
 subject to such mortgage.

Protection of  
Public Trustee in  
respect of  
covenants in  
mortgage.

(2.) The mortgagee may within one month from the date of  
 service on him of such notice apply in a summary manner to a  
 Judge of the Court for such relief as he thinks fit, and serve a copy  
 of such summons on the Public Trustee. On the hearing of such  
 summons the Judge may make such order as he thinks fit.

(3.) If no such summons is served on the Public Trustee within  
 the said period of one month, the Public Trustee may thereupon sell,  
 convey, or transfer the land subject to the mortgage, and neither the  
 Public Trustee nor the assets of the estate shall be liable under or in  
 respect of any covenant, agreement, or stipulation, express or implied,  
 in the said mortgage either directly, or by way of indemnity, or  
 otherwise howsoever.

(4.) The provisions of this section shall not operate to deprive  
 the mortgagee of any rights other than his right to sue the Public  
 Trustee on any such covenant, agreement, or condition expressed or  
 implied in the said mortgage.

(5.) Where the Public Trustee is directly liable under any such  
 covenant, agreement, or condition the mortgagee may, after such

sale, conveyance, or transfer as aforesaid, pursue his rights under any such covenant, agreement, or condition against the purchaser or transferee in all respects as if such purchaser or transferee had been originally named as mortgagor under the said mortgage.

(6.) Where the liability of the Public Trustee in respect of such mortgage arises not directly thereunder, but by way of indemnifying any predecessor in title, such predecessor in title may, after any such sale, conveyance, or transfer as aforesaid, exercise and pursue any right or remedy against the purchaser or transferee, which he theretofore had or possessed against the Public Trustee in all respects as if such purchaser or transferee, and not the Public Trustee, had been his immediate successor in title. 5 10

(7.) The Public Trustee shall not be entitled to the protection of this section unless all interest and other moneys accrued, due, and payable under such mortgage has been paid up to the last interest due date prior to the issue of the aforesaid notice. 15

Protection of  
Public Trustee  
acting under order  
of Court.

87. All acts and things done or omitted by the Public Trustee under or in pursuance of any judgment or order of any Court or Judge shall be good, valid, and effectual, notwithstanding that such order or judgment is subsequently invalidated, overruled, or set aside, or otherwise rendered of no effect. 20

Payment of moneys  
without probate or  
letters of  
administration.

88. (1.) On the death of any person to whom any sum of money, not exceeding one hundred pounds, is payable by the Public Trustee it shall be lawful for the Public Trustee to authorize the payment of such sum or any part or parts thereof to any person or persons whom the Public Trustee may consider entitled thereto without requiring the production of probate or letters of administration. 25

(2.) Any payment made *bona fide* in pursuance of this section shall be valid against all persons whatsoever, and the Public Trustee acting under its provisions shall be absolutely discharged from all liability in respect of any money paid or applied by him under this section. 30

(3.) Nothing in this section shall debar or prevent any person to whom the said moneys or any part thereof ought to have been paid from pursuing and exercising any remedy for the recovery thereof against the person or persons to whom such moneys have been paid. 35

Unclaimed moneys  
to be paid to  
Assurance and  
Reserves Fund.

89. (1.) Every sum of money in the Public Trust Office which remains unclaimed, and to which no lawful owner is known, for a period of six years after its receipt into that office, whether received before or after the coming into operation of this Act, shall at the end of each financial year be transferred by the Public Trustee to the Assurance and Reserves Fund. 40

(2.) Nothing in the *last preceding* subsection shall operate as a bar to any lawful claim to any such moneys for a period of ten years after their receipt into the Public Trust Office; and the Public Trustee shall, within such period, issue and pay any such lawful claims out of the Reserves and Assurance Fund without further appropriation than this Act. 45

(3.) Sections eighty-nine and ninety of the Public Revenues Act, 1910, are hereby repealed. 50

90. (1.) Where any person claims to recover from the Public Trustee any moneys, chattels, or things under one hundred pounds in value and the Public Trustee rejects such claim, the Public Trustee may serve upon the person by whom or on whose behalf the claim is made a notice calling upon him to take legal proceedings within a period of three months to establish or enforce the claim and also to prosecute the proceedings with all due diligence.

Public Trustee may bar claim of creditor if claim not prosecuted.

(2.) If such proceedings are not commenced by such person within the said period, such claim shall thereupon be barred and become irrecoverable, and the Public Trustee may proceed to distribute and administer the estate disregarding such claim.

(3.) The powers given by this section shall be in addition to the powers conferred by section three of the Administration Amendment Act, 1911.

91. (1.) Unless expressly prohibited by any Act or under the terms of any particular trust, the Public Trustee may, in the administration of any trust or estate, or the performance of any power or duty under the principal Act or any amendment thereof, act on credible information (though less than legal evidence) as to matters of fact.

Public Trustee may act on written statement or other evidence he deems sufficient.

(2.) He may allow any claim which is made upon or before him upon the affidavit, declaration, or statement of the claimant alone, or, where he thinks fit to call for further evidence, upon such further evidence as he requires.

(3.) He may at any time require a statutory declaration or other sufficient evidence that a person is alive and is the person to whom any money or property is payable or transferable, and may refuse payment or transfer until such declaration or evidence is produced.

(4.) If acting in good faith, he shall not be liable for accepting or acting upon the faith of any written statement or statutory declaration by any person, in or out of New Zealand whom he believes to be trustworthy, as to any birth, death, marriage, or other matter of pedigree or relationship, or other matter of fact, upon which the title to any estate or any part thereof may depend.

(5.) Such declarations shall be exempt from stamp duty.

(6.) Sections twenty-six and forty-five of the Public Trust Office Amendment Act, 1913, are hereby repealed.

92. (1.) Where any person under the age of twenty-one years pays or has heretofore paid any moneys to the Public Trustee as agent for the investment thereof in the Common Fund for the use and benefit of the principal or of any other person under the age of twenty-one years, the Public Trustee may pay to such principal or other person such moneys, or the interest thereon, in the same manner as if such principal or other person receiving the same were of full age, and the receipt of the principal or other person shall be a sufficient discharge for all money paid to him as aforesaid, notwithstanding his incapacity or inability in law to contract or act for himself.

Repayment of moneys invested with Public Trustee by or on behalf of infant.

(2.) On the death of any such principal or other person leaving invested as aforesaid with the Public Trustee a sum which, with the accrued interest thereon, does not exceed one hundred pounds, the Public Trustee may, without requiring probate or letters of adminis-

tration, pay such sum with the interest thereon to any person who is proved to his satisfaction to be entitled by law to receive the same.

(3.) The Public Trustee, acting *bona fide* under the authority of this section, shall be absolutely discharged from liability in respect of any payments made by him under such authority, but any person to whom the said moneys ought to have been paid shall have remedy for the recovery thereof against the person to whom such moneys have been paid. 5

Registrars to notify Public Trustee of lodging of caveat.

93. Whenever a caveat is lodged against any application by the Public Trustee for probate or administration it shall be the duty of the Registrar forthwith to notify the Public Trustee at Wellington by telegraph of the lodging of such caveat, and of the name of the solicitor or other person lodging the same. 10

Conveyances by Public Trustee deemed to be made in fiduciary capacity.

94. Every conveyance of property by the Public Trustee, except when acting as agent or attorney, shall be deemed to have been made by him in a fiduciary capacity within the meaning of section sixty-one of the Property Law Act, 1908. 15

Incidence of costs of inquiring regarding beneficiaries.

95. (1.) The costs of any inquiries made by the Public Trustee to ascertain the existence and identity of any person or persons entitled to any legacy, moneys, or distributive share in any estate or otherwise incurred in relation thereto shall be borne and paid out of the legacy, moneys, or distributive share of the person or persons in respect of whom the inquiries were made. 20

Section 43 of Public Trust Office Amendment Act, 1913, amended.

96. Section forty-three of the Public Trust Office Amendment Act, 1913, is hereby amended by adding, after the words "profit and loss" in the said section, the words "Appropriation Account, or the Profit and Loss Account, as may be considered proper by the Public Trustee in his discretion." 25

Inquiries as to property.

97. (1.) The Public Trustee shall be entitled to require all persons to deliver, convey, transfer, or assign to him all property to which he is entitled. 30

(2.) For the purpose of ascertaining whether any person is possessed of or entitled to any property which should be so delivered, conveyed, transferred, or assigned, the Public Trustee may institute such inquiries as he thinks proper, and may, by summons under his hand, require any person to appear before him and answer all questions that he may put to such person with reference to any property. The Public Trustee shall pay or tender to the person so summoned the same amount as such person would have been entitled to had he been summoned as a witness to the Court. 35

Power to summon persons before Court.

(3.) If any person fails to so deliver, convey, or transfer all property as aforesaid, or if the procedure in the *last preceding* subsection provided fails to elicit the particulars required, the Public Trustee may take out a summons requiring such person, or any person who may be supposed to be in possession of information relevant to the matter under investigation, to appear before the Court for the purpose of being examined touching such matters, and to produce any documents. 40

Order for transfer of property.

(4.) If the Court is of opinion that any such person is possessed of or entitled to any property that should be so delivered, conveyed, transferred, or assigned as aforesaid, the Court may make an order requiring such person to deliver, convey, transfer, or assign all such 45

property within such time as the Court may fix. Such order may be made in the absence of the person summoned, if the summons has been duly served upon him, or the Court is satisfied that reasonable efforts have been made to serve the same.

5 (5.) The Court may order such person to pay all expenses of and incidental to such summons and any examination consequent thereon; and if the Court does not so order, then such expenses shall be paid out of the general funds of the estate concerned in priority to all other claims, or, if the Court so orders, out of any particular portion of such funds.

10 (6.) Any person who, without valid excuse, fails to attend pursuant to such summons, or who, upon attending, refuses to be sworn or neglects to answer any relevant question put to him by or on behalf of the Public Trustee, or who, having been summoned to produce any documents, fails to produce the same without valid excuse, or, if so required by the Court, to hand such documents over to the Public Trustee, or who disobeys any order made by the Court upon the hearing of such summons, shall be guilty of contempt of Court; and the Court may make an order for the arrest of such person, and his imprisonment either for such period as the Court thinks fit or until he has purged his contempt to the satisfaction of the Court. The Court may also order such person to pay the expenses of such proceedings.

25 (7.) Any such person wilfully neglecting to comply with this section shall be liable to a penalty not exceeding *two hundred pounds*, to be recoverable by civil action at the suit of the Public Trustee.

(8.) In this section the term "documents" includes books, papers, deeds, documents, and any writings whatsoever.

30 98. (1.) The Public Trustee may from time to time require any ranger or other officer of the Public Trust Office to make an inspection of any lands or property, and to furnish a report to him as to the state or condition thereof, or the observance and performance by any occupier, lessee, mortgagor, or other person of the terms and conditions on which such land is held, or generally on any matters relating to any property forming part of any estate being administered by the Public Trustee. Powers of rangers inspecting property.

(2.) For the purpose of making any such report any such ranger or officer shall at all reasonable times have free ingress, egress, and regress and right of inspection in, to, and over any lands or other property in the occupation or possession of any person.

40 (3.) Every person who obstructs any such ranger or officer in the performance of his duty or refuses or wilfully neglects to answer any reasonable question put to him in writing by the ranger or other officer in connection with his duty, or makes to him any wilful misstatement, is liable to a fine not exceeding *ten pounds*, which shall be recoverable in a summary manner before any two Justices.

50 99. (1.) Where the Public Trustee executes any document as attorney it shall not be obligatory for him, nor shall any person require him, to furnish evidence by way of statutory declaration that no notice or information of the revocation of the power of attorney by death or otherwise has been received by him. Declaration of non-revocation not necessary where Public Trustee executes as attorney.

(2.) The execution by the Public Trustee of any such document as such attorney shall be accepted by all persons as conclusive proof of such non-revocation at the time when such document was executed.

Protection of  
Public Trustee  
acting under power  
of attorney.

100. The Public Trustee, acting or paying money in good faith under or in pursuance of any power of attorney, shall not be liable for any such act or payment by reason of the fact that at the time of the payment or act the person who gave the power of attorney was dead or had done some act to avoid the power, if this fact was not known to the Public Trustee at the time of his so acting or paying. 5

Procurator fee in  
respect of loan  
from Public Trustee  
forbidden.

101. (1.) It shall not be lawful for any person acting as solicitor or agent for a mortgagor in respect of any loan from the Public Trustee to charge any procurator fee in respect thereof. 10

(2.) Any mortgagor may recover in a Court of competent jurisdiction any such procurator fee paid by him. 15

Public Trustee may  
determine domicile  
of person in certain  
cases.

102. (1.) Where the Public Trustee is administering the estate of any person and the value of the net residue of such estate as estimated by the Public Trustee, after meeting all liabilities in respect thereof, is under the value of one thousand pounds, the Public Trustee may determine the domicile of that person on such evidence as to him seems fit. 20

(2.) The determination by the Public Trustee as to the domicile of any such person shall be sufficient evidence thereof for the purposes of the Death Duties Act or any other purposes whatsoever, and the Public Trustee may administer, distribute, or otherwise deal with the assets of any such estate accordingly, and shall not be liable to any *cestui que trust*, beneficiary, next-of-kin, creditor, or other person in respect of any error in such determination. 25

Interest on  
pecuniary legacies.

103. When under the will of any person whose estate is being administered by the Public Trustee provision is made for payment of a pecuniary legacy and there is no money or not sufficient money for the time being in the estate wherewith to pay such legacy, or by reason of the infancy or disability of such legatee, or for any other reason, payment of such legacy is postponed, such legacy or so much thereof as cannot be immediately paid shall from the time the same is due and payable until payment thereof bear interest at a rate fixed by the Public Trustee, but not exceeding the rate current in the Public Trust office on advances by way of overdraft, any rule of law to the contrary notwithstanding. 30

Public Trustee, as  
mortgagee in  
possession, may  
make charges for  
collection of rents.

104. It shall be lawful for the Public Trustee, when exercising the powers of mortgagee in possession, to charge for the collection of rents and other duties incidental to a mortgagee in possession such commission as may be fixed by regulation. All such charges, with interest thereon at the rate agreed on in the mortgage, shall constitute a debt due by the mortgagor to the Public Trustee, and until repayment thereof shall be added to the sum expressed to be secured by such mortgage. 35

Public Trustee may  
be appointed  
guardian or next  
friend of infant.

105. (1.) The Public Trustee may, by deed or will or by an order of the Court (whether on the application of the Public Trustee or of any other person), be appointed to be a guardian of the person of an infant under any law in force for the time being relating to the guardianship and custody of infants. 45



(2.) The Public Trustee shall be capable of being appointed and may, with his consent, be appointed by order of the Court or any Judge thereof as next friend of an infant.

5 106. The Public Trustee may act as agent for the purpose of resealing in New Zealand any grant of probate or letters of administration granted outside New Zealand.

Public Trustee may act as agent for resealing in New Zealand.

10 107. (1.) Where under any instrument or statute the Public Trustee is empowered to appoint a new trustee or trustees he may, in lieu of making any such appointment, by writing under his hand and seal, elect to act as such new trustee.

Public Trustee, where entitled to appoint new trustee, may himself elect to act as such new trustee.

(2.) On such election being made the Public Trustee shall have all the powers, functions, directions, and authorities of the original trustee or trustees in the same manner as if the Public Trustee had originally been appointed sole trustee under the trust instrument or

15 108. (1.) In exercise of any powers conferred by the trust instrument or by statute to apply moneys for the maintenance of any person, the Public Trustee may, in the exercise of his discretion, apply such moneys for past maintenance.

Powers of applying moneys for maintenance.

20 (2.) In determining the amount to be applied for the maintenance of any person the Public Trustee may take into consideration the age, position, and fortune of that person.

25 (3.) Without in any way limiting the generality of the term, the word "maintenance" in the principal Act and all amendments thereof shall be deemed to include lodging (including rental, rates, and taxes), feeding, clothing, teaching, training, attendance, medical and surgical relief.

30 109. (1.) Where any person dies leaving real or personal property situated in New Zealand and any person other than the Public Trustee makes application for administration of the estate of such deceased person and the Public Trustee believes that there are substantial and reasonable grounds for opposing such grant, but there is no person in New Zealand beneficially interested in opposing such grant who is *sui juris*,—

Public Trustee may oppose application for administration.

35 (a.) The Public Trustee may, if he thinks it expedient, lodge a caveat against such application for administration pursuant to the provisions of section twenty-seven of the Administration Act, 1908:

40 (b.) The Public Trustee may thereupon forthwith apply *ex parte* to a Judge in Chambers, on motion for directions, and such Judge may, if he thinks fit, direct the Public Trustee to represent the persons prejudicially affected by such grant and in his own name oppose such grant on their behalf.

45 (2.) All costs, charges, and expenses incurred by the Public Trustee acting pursuant to any such directions in the *last preceding* subsection hereof shall be paid out of such estate.

(3.) In this section the word "administration" has the same meaning as in the Administration Act, 1908.