



ANALYSIS

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1978, No. 74

An Act to consolidate and amend the Howard Estate Act 1919

[18 October 1978]

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

1. Short Title and commencement—(1) This Act may be cited as the Howard Estate Act 1978.

(2) This Act shall come into force on the 1st day of January 1979.

2. Interpretation—In this Act, unless the context otherwise requires,—

“Board” means the Howard Estate Advisory Board established by section 17 (1) of this Act:

“Cadet” means a person for the time being enrolled for training at the Training Farm:

“Estate” means all real and personal property, of whatsoever nature, for the time being held by the Public Trustee for the purposes of this Act:

“Financial year” means a period of 12 months ending with the 30th day of June:

“Member” means a member of the Board:

“Minister” means the Minister in Charge of the Public Trust Office:

“Training Farm” means the Smedley Cadet Training Farm.

Howard Estate

3. Public Trustee to hold property as endowment—Subject to the provisions of this Act, the Public Trustee shall hold—

(a) All property that he held, immediately before the commencement of this Act, under the Howard Estate Act 1919; and

(b) All property that he thereafter acquires under this Act; and

(c) All income derived from it—

as a permanent endowment for the purposes of this Act.

Cf. 1919, No. 14, s. 2

4. Objects for which Estate to be held—(1) Subject to subsection (2) of this section, the Public Trustee shall hold the Estate for the following objects:

(a) The development and maintenance of the institute of agricultural education known as the Howard Agricultural Institute established under the Howard Estate Act 1919:

(b) The farming, improvement, and development of the farm land forming part of the Estate:

(c) The assistance and development of any agricultural research or public agricultural education in New Zealand that may be to the special (but not necessarily exclusive) benefit of farming in the Provincial District of Hawke's Bay.

(2) The said institute shall be under the control of the Minister.

(3) Subject to the provisions of this Act, the Public Trustee shall apply, use, and manage the Estate in such manner as he thinks may best accomplish the objects for which he holds it.

Cf. 1919, No. 14, s. 8

5. General powers of Public Trustee—(1) Without limiting the generality of section 4 (1) of this Act, the Public Trustee shall have power:

- (a) To farm, develop, and manage the farm land forming part of the Estate:
- (b) Upon and subject to such terms and conditions (if any) as he thinks fit, to sell, exchange, or otherwise deal with any personal property forming part of the Estate:
- (c) Subject to subsection (2) of this section, to lease any land forming part of the Estate:
- (d) Upon and subject to such terms and conditions (if any) as he thinks fit, to purchase, bail, or otherwise acquire, for the objects for which he holds the Estate, any personal property:
- (e) To erect, add to, alter, or dismantle, any building or other work or improvement situated on land forming part of the Estate:
- (f) To maintain and keep in good order, repair, and condition, all buildings and other works and improvements forming part of the Estate:
- (g) To appoint such officers and servants, and at such salaries and upon and subject to such terms and conditions, as he thinks fit:
- (h) To make payments to or subsidise the National Provident Fund, or any fund or scheme established with the approval of the Minister, for the purpose of providing superannuation or retiring allowances for persons appointed under paragraph (g) of this subsection:
- (i) To insure any part of the Estate against public liability, loss or damage by fire or earthquake, or any other risk, insurance against which he thinks necessary or desirable:
- (j) With the prior approval of the Minister, to do any other act or thing that is necessary, expedient, incidental, or conducive to the objects for which the Public Trustee holds the Estate.

(2) Every lease of land forming part of the Estate shall be made in accordance with the Public Bodies Leases Act 1969; and, for the purpose, the Public Trustee shall, in respect of all such land, be deemed to be a leasing authority within the meaning of that Act.

Cf. 1919, No. 14, ss. 3, 4

6. Powers of Public Trustee with regard to land—The Public Trustee may with the prior consent of the Minister and the Minister of Agriculture and Fisheries,—

- (a) Purchase, take on lease, or otherwise acquire any real property that is, in his opinion, necessary or desirable for the objects for which he holds the Estate:
- (b) Sell or exchange any real property forming part of the Estate.

7. Power of investment—Notwithstanding section 30 of the Public Trust Office Act 1957 or the terms of any trust or endowment to which it is subject, the Public Trustee may invest any money forming part of the Estate that is not immediately required for the objects for which he holds the Estate—

- (a) In the Common Fund of the Public Trust Office; or
- (b) In any securities for the time being authorised by the law of New Zealand for the investment of trust funds; or
- (c) With the prior consent of the Minister, in any other manner or securities.

8. Acceptance of property on trust—(1) With the prior consent of the Minister, the Public Trustee may accept any property by way of bequest, devise, or gift, in trust for—

- (a) The objects for which he holds the Estate; or
- (b) Any purpose for which he can lawfully apply any part of the Estate;—

and in that case, that property shall be deemed to form part of the Estate and, subject to subsection (2) of this section, may be dealt with accordingly.

(2) Subject to section 7 of this Act, all property accepted by the Public Trustee under subsection (1) of this section, and any income derived from it, shall be appropriated and dealt with by him in accordance with the terms of the trust subject to which it was accepted.

9. Unauthorised expenditure—With the prior consent of the Minister, given on the recommendation of the Board, the Public Trustee may expend out of the Estate, for purposes not otherwise authorised by any law for the time being in force, any sum or sums not exceeding \$1,000 in the aggregate in any financial year.

10. Application of Public Trust Office Act 1957—(1) The Estate shall be deemed to be an estate administered in the Public Trust Office under the Public Trust Office Act 1957; and, except as provided in this Act, all the provisions of that Act, so far as they are applicable and with the necessary modifications, shall apply to the Estate and its administration accordingly.

(2) All expenses incurred by the Public Trustee pursuant to this Act shall be charged against and payable out of the Estate; and there shall also be payable to him out of the Estate the commissions and other charges from time to time prescribed by regulations made under section 140 of the Public Trust Office Act 1957.

Cf. 1919, No. 14, s. 6; 1927, No. 55, s. 8 (2)

11. Public Trustee may maintain imprest accounts—

(1) Subject to subsection (2) of this section, the Public Trustee may maintain and establish imprest accounts, and pay into any such account money forming part of the Estate.

(2) Without the prior approval of the Minister, no more than \$500 shall be held in any such account.

(3) No money shall be withdrawn from any such account except by cheque signed by a person appointed under section 5 (1) (g) of this Act who has been authorised in that behalf by the Public Trustee.

Smedley Cadet Training Farm

12. Smedley Cadet Training Farm to continue—(1) It is hereby declared that the training farm for boys established under the scheme approved by an Order in Council dated the 28th day of August 1946 made under the Howard Estate Act 1919 and known, immediately before the commencement of this Act, as the Smedley Boys' Training Farm—

(a) Shall continue to form part of the Howard Agricultural Institute; and

(b) Shall, on and after the commencement of this Act, be known as the Smedley Cadet Training Farm.

(2) The Training Farm shall be conducted, controlled, and administered in accordance with regulations made under this Act.

(3) It is hereby declared that both males and females shall be eligible to be enrolled for training at the Training Farm.

13. Remuneration of cadets—While attending the Training Farm, every cadet—

(a) Shall be provided with free board and lodging; and

(b) Shall be paid an allowance comprising—

(i) Such remuneration for the farming work he does during his training and instruction; and

(ii) A clothing allowance and such other allowances—

as the Public Trustee, after consultation with the Board, from time to time approves.

14. Discipline at Training Farm—The Board may from time to time, with the approval of the Minister, make such rules as may be reasonably necessary for maintaining discipline among the cadets, and may from time to time, with the like approval, amend, revoke, or replace, all or any of those rules; and those rules shall be binding upon the cadets according to their tenor.

15. Additional courses at approved institution—Where any person who has completed any course of training and instruction at the Training Farm—

(a) Has, in the opinion of the Board, shown exceptional promise and ability; and

(b) Wishes to study at degree level at an institution (whether within or outside New Zealand) approved by the Public Trustee on the recommendation of the Board, but cannot afford to do so,—

the Public Trustee may pay to or for the benefit of that person such sum or sums as the Public Trustee, on the recommendation of the Board, determines to enable that person to attend that institution.

16. Scholarships for farming courses—(1) The Public Trustee may, on the recommendation of the Board, award to any person who has completed any course of training and instruc-

tion at the Training Farm a scholarship to enable him to take a farming course at any institution in New Zealand approved by the Public Trustee on the recommendation of the Board.

(2) In making any recommendation under subsection (1) of this section, the Board shall take into account the standard of performance of the person concerned while enrolled at the Training Farm, but shall not be required to recommend the award of a scholarship after the conclusion of any course or series of courses at the Training Farm, or to any person whom the Board considers unsuitable, for whatever reason, for its award.

- (3) Every scholarship awarded under this section shall—
- (a) Be tenable at such institution and for such period; and
 - (b) So be awarded subject to such terms and conditions (if any); and
 - (c) Entitle the holder to be paid, or to have paid for his benefit, all or such part of the tuition fees at the institution concerned; and
 - (d) Entitle the holder to be paid such sum or sums by way of subsistence or other allowance or allowances—

as the Public Trustee, on the recommendation of the Board, approves.

Howard Estate Advisory Board

17. Howard Estate Advisory Board established—(1) There is hereby established the Howard Estate Advisory Board.

(2) The Howard Estate Advisory Board established by subsection (1) of this section is hereby declared to be the same as that established under that name by section 2 (1) of the Howard Estate Amendment Act 1927.

Cf. 1927, No. 55, s. 2 (1)

18. Functions of Board—The functions of the Board shall be—

- (a) To advise the Public Trustee on matters concerning the management and administration of the Estate; and
- (b) To advise the Public Trustee on the expenditure of money for the time being forming part of the Estate; and

- (c) To exercise, have, and perform, such other functions, powers, and duties as are conferred on it by or under this or any other Act.

Cf. 1927, No. 55, s. 7

19. Membership of Board—(1) Subject to section 20 of this Act, the Board shall comprise 5 members, who shall be appointed by the Governor-General as follows:

- (a) One member shall be appointed on the joint recommendation of the Hawkes Bay Provincial Executive and the Southern Hawkes Bay Provincial Executive of Federated Farmers of New Zealand (Incorporated):
- (b) One member shall be appointed on the recommendation of the Hawkes Bay Education Board:
- (c) One member shall be appointed on the joint recommendation of the Corporations of the Counties of Dannevirke, Hawkes Bay, Wairoa, and Woodville, and the Corporations of the Districts of Waipawa and Waipukurau:
- (d) One member shall be appointed on the joint recommendation of the following bodies:
- (i) The Corporations of the Cities of Hastings and Napier:
- (ii) The Corporations of the Boroughs of Dannevirke, Havelock North, Wairoa, and Woodville:
- (iii) Every Chamber of Commerce whose offices are within the said Provincial District:
- (e) One member shall be appointed on the joint recommendation of every society, within the meaning of the Agricultural and Pastoral Societies Act 1908, whose offices are situated within the said Provincial District.

(2) Subject to subsection (1) of this section, members shall be appointed in accordance with regulations made under this Act.

(3) Every person who was a member immediately before the commencement of this Act shall, unless he sooner vacates his office under section 22 (1) of this Act, continue in office as a member until the expiration of the term for which he was appointed, but may from time to time be reappointed.

Cf. 1927, No. 55, s. 2 (3)

20. Disqualification for appointment—No person shall be capable of becoming a member if—

- (a) He is not of full age or full capacity; or
- (b) He is alien; or
- (c) He is a bankrupt who has not yet obtained his order of discharge, or whose order of discharge is suspended for a term not yet expired or is subject to conditions not yet fulfilled; or
- (d) He has been sentenced to a term of imprisonment in respect of any offence for which he has been convicted and has neither obtained a full pardon nor served the sentence; or
- (e) He holds a position in the service of the New Zealand Government or the Estate to which any fees, salary, or emolument are attached.

21. Term of office—(1) Subject to subsection (2) of this section, every member shall hold office for a term of 3 years but may from time to time be reappointed.

(2) Unless he sooner vacates his office under section 22 (1) of this Act, every member shall continue in office until his successor comes into office, notwithstanding that the term for which he was appointed may have expired.

Cf. 1927, No. 55, s. 2 (2)

22. Extraordinary vacancies—(1) Any member may be removed from office by the Governor-General for disability, neglect of duty, or misconduct, proved to the satisfaction of the Governor-General, and may at any time resign his office by writing addressed to the Minister; and, notwithstanding section 21 of this Act, if any member—

- (a) Dies; or
- (b) Becomes disqualified for appointment; or
- (c) Is removed from office; or
- (d) Resigns; or
- (e) Is absent without leave from 3 consecutive meetings of the Board—

his office shall become vacant and that vacancy shall be deemed to be an extraordinary vacancy.

(2) Notwithstanding subsection (1) (b) of this section, where any member becomes disqualified for appointment by virtue of his having been sentenced to a term of imprisonment in respect of any offence for which he has been convicted, the following provisions shall apply:

- (a) His office shall not become vacant until the time for appealing against the conviction or the sentence has expired and, where he has appealed against the conviction, the sentence, or both, until the appeal has been determined:
 - (b) During the time specified in paragraph (a) of this subsection, the member shall be deemed to have been granted leave of absence, and shall not be capable of acting as a member.
- (3) Where an extraordinary vacancy has arisen, it shall as soon as practicable be filled by the appointment of some qualified person,—
- (a) In the same manner as; and
 - (b) For the residue of the term for which—
- the vacating member was appointed.
- Cf. 1927, No. 55, s. 4

23. Chairman of Board—(1) Whenever that office is vacant, the members shall elect a Chairman from among themselves.

(2) Every Chairman shall hold office until—

- (a) The expiration of the term of office as member during which he was elected Chairman; or
- (b) He ceases to be a member; or
- (c) He resigns as Chairman,—

whichever is the soonest; but so long as he remains a member he shall be eligible for re-election as Chairman.

(3) The Chairman shall preside at every meeting of the Board at which he is present; but if he is not present then the members present shall elect a person to preside from among themselves.

(4) The person who, immediately before the commencement of this Act, held office as Chairman shall, unless he sooner vacates his office as a member under section 22 (1) of this Act, continue to be Chairman until the expiration of the term of office as member during which he was elected Chairman, but may from time to time be re-elected.

Cf. 1927, No. 55, ss. 3, 5 (3)

24. Meetings of Board—(1) The Board shall hold a meeting within one month of the appointment of its members for a term of 3 years.

(2) Subject to subsections (1) and (3) of this section, the Board shall hold meetings at such times and places as the Board or the Chairman decides.

(3) Any 3 members may at any time call a special meeting of the Board.

(4) At any meeting of the Board, 3 members shall form a quorum.

(5) Subject to subsection (6) of this section, every question before any meeting of the Board shall be decided by a majority of the votes cast by the members present at the meeting.

(6) At any meeting of the Board the Chairman or person presiding shall have a deliberative vote and, in the case of an equality of votes, shall also have a casting vote.

(7) Subject to the provisions of this Act, the Board may regulate its procedure in such manner as it thinks fit.

Cf. 1927, No. 55, s. 5

25. Members' Interests—The Local Authorities (Members' Interests) Act 1968 shall apply to contracts made under this Act by the Public Trustee as if—

- (a) The Public Trustee were a local authority within the meaning of that Act; and
- (b) The Board were a committee of that local authority.

26. Travelling allowances and expenses—(1) Each member shall, when absent from his usual place of residence on business of the Board, be entitled to be paid, out of the Estate,—

- (a) His actual and reasonable travelling expenses; and
- (b) A prescribed amount for each day or part of a day during which he is so absent.

(2) For the purposes of subsection (1) of this section, "business of the Board" means—

- (a) Attendance at any meeting of the Board or of any committee of the Board; or
- (b) Any business transacted pursuant to a resolution of the Board.

Cf. *Gazette*, 1928, Vol. III, p. 2835

27. Secretary—The Board may from time to time appoint some suitable person to be Secretary of the Board; and in that

case that person may be paid, out of the Estate, such salary or honorarium as the Board, with the prior approval of the Minister, decides.

Cf. 1927, No. 55, s. 6

Miscellaneous

28. Public Trustee may borrow money—(1) With the prior consent of the Minister, the Public Trustee may from time to time raise or borrow such sums of money as he considers necessary or desirable for the attainment of the objects for which he holds the Estate.

(2) Without limiting the generality of subsection (1) of this section, any such sum may be raised or borrowed—

(a) By way of advance out of the Common Fund of the Public Trust Office under section 39 of the Public Trust Office Act 1957; or

(b) On the security of any part of the Estate; and in that case the Public Trustee may—

(i) Execute such mortgage or other documents as may be required by the lender; and

(ii) Enter into such covenants and agreements as may be agreed upon between him and the lender; and

(iii) Do all such other things as are necessary to enable the granting of that security and the registration of any document relating to it.

Cf. 1955, No. 103, s. 19

29. Accounts—(1) The Public Trustee shall cause true and regular accounts of all income and expenditure relating to the Estate and the objects for which he holds it to be kept.

(2) As soon as practicable after the close of each financial year, the Public Trustee shall cause those accounts to be balanced, and true statements of account to be prepared showing—

(a) The income and expenditure for that year relating to the Estate and the objects for which he holds it; and

(b) The assets comprising the Estate, and any liabilities relating thereto, as at the end of that year.

30. Annual report—As soon as practicable after the preparation, in respect of any financial year, of the statements of account referred to in section 29 (2) of this Act, the Public Trustee shall send a report of his activities under this Act during that year, together with a copy of those statements, to the Minister, and shall also send copies of that report and those statements to the Minister of Agriculture and Fisheries, the Minister of Finance, and the Controller and Auditor-General.

31. Liability for rates—Notwithstanding that it is vested in the Public Trustee for the objects specified in this Act, the Estate shall be liable for the payment of rates to the same extent as it would be liable if it were vested in a private person.

Cf. 1922, No. 51, s. 38

32. Upkeep of grave of Josiah Howard—The Public Trustee may from time to time expend such sums of money out of the Estate as he thinks fit in maintaining in good order the headstone and grave of the late Josiah Howard.

Cf. 1921–22, No. 72, s. 42; 1926, No. 29, s. 5

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

- (a) Providing for the conduct, control, and administration of the Training Farm:
- (b) Prescribing the manner of appointment of members of the Board:
- (c) Prescribing travelling allowances and expenses for members of the Board:
- (d) Providing for such matters as are contemplated by, or necessary for giving full effect to, the provisions of this Act and for its due administration.

Cf. 1927, No. 55, s. 10

34. Repeals and revocations—(1) The enactments specified in the First Schedule to this Act are hereby repealed.

(2) The regulations and Orders in Council specified in the Second Schedule to this Act are hereby revoked.

SCHEDULES

FIRST SCHEDULE

Section 34 (1)

ENACTMENTS REPEALED

- 1919, No. 14—The Howard Estate Act 1919.
 1921–22, No. 72—The Finance Act 1921–22. (1957 Reprint, Vol. 5, p. 50.)
 1922, No. 51—The Finance Act 1922. (1957 Reprint, Vol. 5, p. 52.)
 1926, No. 29—The Howard Estate Amendment Act 1926.
 1927, No. 55—The Howard Estate Amendment Act 1927.
 1932, No. 11—The Finance Act 1932: Section 8.
 1947, No. 60—The Statutes Amendment Act 1947: Section 24.
 1950, No. 93—The Finance Act 1950: Section 44.
 1955, No. 103—The Finance Act (No. 2) 1955: Section 19.
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SECOND SCHEDULE

Section 34 (2)

REGULATIONS AND ORDERS IN COUNCIL REVOKED

Description	Published in <i>Gazette</i>
The Howard Estate Advisory Board Regulations 1928	1928, Vol. III, p. 2835
The Howard Estate Advisory Board Regulations 1928, Amendment No. 1	1931, Vol. II, p. 1764
The Smedley Boys' Training Farm Approval Order 1946	1946, Vol. II, p. 1197
The Smedley Boys' Training Farm Approval Order 1946, Amendment No. 1	1952, Vol. I, p. 459
The Smedley Boys' Training Farm Approval Order 1946, Amendment No. 2	1954, Vol. I, p. 178
The Smedley Boys' Training Farm Approval Order 1946, Amendment No. 1	1965, Vol. I, p. 482
The Smedley Boys' Training Farm Approval Order 1946, Amendment No. 4	1974, Vol. III, p. 2978

This Act is administered in the Public Trust Office.
