

New Zealand.

ANNO TRICESIMO PRIMO

V I C T O R I Æ R E G I N Æ .

No. 40.

AN ACT to provide for the management of Title.
Real Estate belonging to infants and
others of the Maori race under disability.
[10th October 1867.]

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

1. The Short Title of this Act shall be “The Maori Real Estate Management Act 1867.” Short Title.

2. In the construction of this Act the word “Maori” shall mean Aboriginal Native of New Zealand and shall include half-castes and their descendants by Natives the word “trustees” shall mean trustees appointed pursuant to this Act whether original or substituted and shall include the survivor of them and the term “hereditaments” shall mean land the subject of tenure or held under title derived from the Crown or any estate or interest therein or arising thereout. Interpretation.

3. If any title to or interest in any hereditaments shall accrue to any Maoris who or any of whom shall be infants lunatics or under other legal disability it shall be lawful for the Governor in Council if he think fit to order that such hereditaments or any part thereof or interest therein as shall to the Governor in Council be shewn to belong to such infant lunatic or other person under legal disability shall be vested in trustees as the Governor in Council shall think fit and in and by such Order in Council such trustees thereof shall be named as the Governor shall think fit and such trustees shall have the powers and be subject to the legal incidents hereinafter set forth Provided always that none of the powers or incidents hereby conferred or annexed to the said office or to the circumstances hereinafter stated shall take effect or be exercisable if it is declared in the Order in Council appointing the trustees that they shall not take effect and where there is no such declaration then if any variations or limitations of any of the powers or incidents hereby conferred or annexed are contained in such Order in Council such powers or incidents shall be exercisable and take effect only subject to such variations and limitations Provided further that such variations may be made by reference to the numbers of the sections and subsections of sections of this Act. Trustees in care of infants lunatics.

4. For the purposes of this Act and subject to the provisions thereof the trustees managing or taking possession of such hereditaments or the income or proceeds thereof shall have and may exercise the same rights and powers as the owner or owners thereof might if not under disability. Powers of trustees.

5. The trustees may from time to time let all or any part of such hereditaments with the appurtenances to such person for such period Trustees may let.

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not exceeding a tenancy from year to year and subject to such rent covenants and conditions as they shall think fit.

Trustees with consent of Governor may lease.

6. The trustees may with the consent of the Governor first obtained let all or any part of such hereditaments upon lease for any term not exceeding twenty-one years and subject to such rent covenants and conditions as they may think fit.

Further powers of trustees.

No. 56 of 1865 Intestate Estates s. 29.

7. The trustees out of the rents and proceeds received under this Act in respect of any hereditaments so taken possession of or managed by them may expend money for the following purposes with respect to the hereditaments from whence the same shall arise and may exercise the following powers that is to say—

- (1.) May keep any buildings and fences in good repair and may maintain the same with their appurtenances in good order and condition
- (2.) May erect any such fence as the owner or occupier of such land is by law required to make
- (3.) May cut and gather crops growing thereon
- (4.) May insure any buildings thereon from loss by fire
- (5.) May pay any rates by law due and payable
- (6.) May contribute towards the formation of any road footway or improvement projected under the authority of any law by which the Government or any municipal provincial or local government body make any contribution

With the sanction of the Supreme Court or a judge thereof sitting within the judicial district within which such hereditaments are situate previously obtained the trustees may do any other act necessary or desirable for the preservation maintenance or improvement of the land with its buildings and appurtenances.

Further powers of trustees—

To pay costs.

29 Vic. No. 25 s. 4.

8. The trustees for the time being may do the following things—

- (1.) They may pay and discharge all costs and expenses incurred by or on behalf of their *cestui-que* trust in appearing before any court or other judicature for the purpose of establishing their title to such hereditaments or consequent or attending thereon or for any other purpose which the judge of such court or other judicial authority shall certify to have been necessary or beneficial to the parties.
- (2.) They may pay such portion of the rents and money in their hands as the Governor shall sanction to any widow of a deceased owner of the said hereditaments or person entitled under the certificate of such judge or other judicial authority and may also pay to such widow an annuity of such an amount as to them may seem just for her maintenance.
- (3.) They may with the consent of the Governor pay any portion of such rents and money to or divide such portion amongst any members of the aboriginal tribe whom they may think entitled thereto according to the Native custom applicable to the land from whence or respecting which the fund arose.
- (4.) They may in their own names invest the rents and money in their hands in bonds or debentures issued by the Government of New Zealand hereinafter called Government securities or on mortgage of land and hereditaments or other real securities within the Colony and also from time to time may vary any such investments.
- (5.) If the said real estate is held in trust for infants the trustees shall stand possessed of the same for the benefit of all and every such infants to be equally divided among them share and share alike the shares of such infants to be paid assigned

To pay annuity &c. to widow.

To distribute part of money to tribe.

To invest.

To hold property in trust for infants.

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or transferred as and when they shall respectively attain the age of twenty-one years but if there shall be only one such infant *cestui-que* trust who shall attain the age of twenty-one years then the whole of such real estate shall be paid transferred and assigned to such one subject however in all cases to any annuity payable under the foregoing provisions Provided that if any infant *cestui-que* trust shall die before his or her rents and money shall become vested as aforesaid leaving children such children shall succeed to their deceased parents' rents and money or share and be entitled thereto in manner aforesaid.

- (6.) In all cases where the property is held in trust for infants the trustees may at their discretion pay to or apply for or towards the maintenance or education of such infants the whole or any part of the income to which such infants may be entitled in respect of such property whether there be any other fund applicable to the same purpose or any other person bound to provide for such maintenance and education or not and the trustees shall accumulate all the residue of such income by way of compound interest by investing the same and the resulting income thereof from time to time in Government securities or on mortgage of land and hereditaments or other real securities within the Colony or in the purchase of hereditaments for the benefit of the person who shall ultimately become entitled to the property from which such accumulation shall have arisen Provided always that it shall be lawful for the trustees at any time if it shall appear to them expedient to apply the whole or any part of such accumulations as if the same were part of the income arising in the then current year. To apply money for maintenance &c. of infants.
- (7.) They may at their discretion apply the whole or any part of the accumulations of income or share of an infant if a male in placing him in any business profession or engagement or otherwise for his preferment or advancement in life and if a female may settle her accumulations of income or share on her and her children on her marriage or pay over the same to trustees for her or to her for her absolute use on her marriage as they may think fit. Or for advancement.
- (8.) When all the surviving *cestui-que* trusts shall have come of age the trustees shall wind up the trust estate and shall divide the residue of the trust property among them subject to any annuity as aforesaid if any such there be (for the regular payment of which thereafter they may make such arrangements as they think fit) share and share alike. To divide trust funds.
- (9.) They may give do make and execute all notices agreements deeds and other instruments and things necessary for carrying into effect the objects of their trust. To execute deeds.
- (10.) They may out of the trust fund reimburse themselves all costs charges and expenses which they may lawfully incur or be reasonably put to in carrying this Act into execution. To reimburse themselves expenses.
- (11.) They may pay to themselves or to such one of them as they shall fix upon to undertake the administration of the affairs of their trust and the management of the education advancement and maintenance of the *cestui-que* trusts an annual remuneration of five per cent. on the income. To remunerate themselves.
- (12.) And they may with the consent of the Governor first obtained do all such other things as they may think necessary or beneficial for the advantageous administration of the trust estate and the good of their *cestui-que* trusts. To do anything else advantageous to trust estate.

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Appointment of new trustees.

29 Vic. No. 25. s. 7.

9. Whenever any trustee either original or substituted shall die or desire to be discharged from or refuse or become unfit or incapable to act in the trusts or powers in him reposed before the same shall be fully discharged and performed it shall be lawful for the surviving or continuing trustees or trustee for the time being or the acting executors or administrators of the last surviving and continuing trustee or for the last retiring trustee by writing to appoint any person or persons to be a trustee or trustees in the place of the trustee or trustees so dying or desiring to be discharged or refusing or becoming unfit or incapable to act as aforesaid and so often as any new trustee or trustees shall be so appointed as aforesaid all the trust property which for the time being shall be vested in the surviving or continuing trustees or trustee or in the heirs executors administrators of any trustee shall immediately thereupon without any further deed become by virtue of this Act legally conveyed assigned and transferred to and effectually vested in such new trustee or trustees either solely or jointly with the surviving or continuing trustee or trustees as the case may require And every new trustee to be appointed as aforesaid shall have the same powers authorities and directions and shall in all respects act as if he had been originally appointed a trustee by the Order in Council.

Receipts of trustees.

Ib. s. 7.

10. The receipt in writing of any trustees or trustee for any rents and money payable to them or him by reason or in exercise of the trusts or powers reposed or vested in them or him shall be a sufficient discharge for the rents and money therein expressed to be received and shall effectually exonerate the persons paying such rents and money from seeing to the application thereof or from being answerable for any loss or misapplication thereof.

Limitation of liability of trustees.

Ib. s. 8.

11. Every trustee shall be chargeable for such rents and moneys only as he shall actually have received although he shall have joined in any receipt for rents and moneys received by any co-trustee and shall not be answerable for the act of any co-trustee or for any loss which may arise by reason of any trust moneys being deposited in the hands of any banker or agent or from the insufficiency or deficiency of any security upon which the trust moneys or any part thereof may be invested nor for any loss in the execution of the trust unless the same shall happen through his own wilful neglect or default.

Application to Supreme Court.

Ib. s. 9.

12. Upon the application by petition to the Supreme Court or any judge thereof of any person making claim to the trust hereditaments estate or property or any part thereof or the rents interest and proceeds thereof or to the securities whereon any such rents interest or proceeds shall be invested or any part thereof or to any estate or interest therein the Supreme Court or such judge may in a summary way make such order for the vesting of the said hereditaments or for the distribution of the trust funds or for the investment thereof or payment of the interest and proceeds thereof or any part thereof or any such other order relating thereto or the rights or interests of the several parties thereto or therein as to the Supreme Court or such judge thereof shall seem fit.

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