

New Zealand.



ANALYSIS.

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1924, No. 51.

Title. AN ACT to make Provision with respect to the Making, Levying, and Recovery of Rates in respect of Native Lands.

[6th November, 1924.]

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

Short Title. 1. This Act may be cited as the Native Land Rating Act, 1924, and shall be read together with and deemed part of the Rating Act, 1908 (hereinafter referred to as the principal Act).

Interpretation. 2. In this Act, unless a contrary intention appears, the terms "European land," "Native land," "customary land," "Native freehold land," "Native," and "Court" have the same meanings respectively as in the Native Land Act, 1909; "Maori Land Board" means the Maori Land Board for the district in which the land affected is situated; and "Registrar" means the Registrar of the Native Land Court for any such district.

Liability of Native land for rates. 3. Save in so far as otherwise provided by this Act, Native land shall be liable for rates in the same manner as if it were European land.

4. In addition to the exceptions from the definition of the term "rateable property" as defined by the principal Act the following classes of Native land shall be exempt from liability to rates, namely:—

Special exemptions of Native land from rates.

- (a.) Customary land :
- (b.) Native land, not exceeding five acres in any case, occupied by any Native burial-ground :
- (c.) Native land, not exceeding five acres in any case, on which a church or Native meeting-house is erected.

5. (1.) The Governor-General may from time to time, by Order in Council, exempt any Native land liable to rates from all or any specified part of such rates, and such Order in Council may apply either to any specified land on account of the indigent circumstances of the occupiers or for any other special reason, or to any specified class of lands.

Other classes of Native land may be exempted by Order in Council.

(2.) No such exemption shall affect any rate theretofore made by any local authority.

(3.) Any such exemption may be at any time varied or cancelled by Order in Council.

(4.) All similar exemptions heretofore granted by the Governor-General in Council and in force at the passing of this Act shall continue in full force and effect, and may be varied or cancelled by Order in Council under this Act.

6. Where Native land is vested in trust in a Maori Land Board, or the Native Trustee, or the East Coast Commissioner, the following provisions shall apply:—

Special provisions as to payment of rates where land vested in trustee.

- (a.) The trustee shall pay all rates levied upon areas vested in him out of the net revenues of all lands held by him for the same group of beneficial owners.
- (b.) The trustee shall be liable for rates only to the extent of the net revenues actually received by him on behalf of the beneficial owners of the area affected.
- (c.) The revenues received by the trustee in any year may be applied in payment of rates levied in previous years.
- (d.) The trustee shall not be bound to pay rates which are more than four years in arrears.
- (e.) The trustee may apply, at his discretion, the whole or any part of any moneys held by him on behalf of any Native in settlement of that Native's proportion of liability for any rates due upon other land of which the same Native is a beneficial owner (not being land held by the trustee).

7. (1.) Where Native land is owned by one owner the name of such owner shall be inserted as owner in the owners' column of the valuation roll.

Compilation of valuation roll.

(2.) Where Native land is owned in common and is vested in a Maori Land Board, the Native Trustee, or the East Coast Commissioner, the name and designation of the trustee shall be inserted in the owners' column.

(3.) Where Native land is owned in common and is vested in a corporate body constituted under Part XVII of the Native Land Act, 1909, or any other statute enabling Native owners to become incorporated, the name of the corporate body shall be inserted in the owners' column.

Exercise of voting-powers of ratepayers where Native land held in trust.

(4.) Where Native land is owned in common and is not vested in any trustee or corporate body as aforesaid, the word "Natives" shall be entered in the owners' column.

8. (1.) Where at any election or at a poll on any proposal any person is entitled to vote in respect of any land, such vote may, in cases where the land is held in trust by the Maori Land Board, or the Native Trustee, or the East Coast Commissioner, be exercised by the President of the Board, the Native Trustee, or the East Coast Commissioner, as the case may be, or by some person appointed in writing for that purpose by the person entitled to exercise the vote.

(2.) Where a corporate body is entitled to vote in respect of any land as aforesaid, such vote may be exercised by the chairman of the committee of management or by some person appointed in writing by the committee of management in that behalf.

(3.) Where Native land (not being land to which the foregoing provisions of this section apply) is owned by two or more owners in common, a Judge or Commissioner of the Native Land Court, or if a Judge or Commissioner is not available, then the Registrar may appoint a person having an interest in such land to exercise any vote in respect of that land, and the person so appointed shall be entitled to exercise the vote accordingly.

(4.) The name of the person so appointed under the last preceding subsection shall be entered in the occupiers' column, and such person shall receive notice of all claims for rates in respect of such land.

Recovery of rates

9. (1.) Rates due in respect of Native land by a Maori Land Board, the Native Trustee, or the East Coast Commissioner shall be demanded in the ordinary way, and if not paid within nine months shall become a debt due by the beneficial owners of the land upon which they are levied, and be recoverable in the same manner as other rates due on Native land.

(2.) With regard to rates due on Native land where it is sought to recover the rates from the owners or beneficial owners thereof, then as soon as it is convenient after the rate is levied, but not later than two years thereafter, a claim for rates against the land shall be lodged with the Registrar.

(3.) Such claims shall thereupon be treated as applications for charging-orders, and be notified for hearing at the first convenient sitting of the Court as a claim upon the land affected for the rates so levied.

(4.) The Court shall proceed to hear all objections to the rate, and all defences open to an ordinary ratepayer shall be open to any one or more of the owners or beneficial owners of the land, or to the Maori Land Board, the Native Trustee, or the East Coast Commissioner, as the case may be.

(5.) If, after hearing the parties, the Court is satisfied that the rates are payable, it may make an order granting a charge over the land in favour of the local authority for the amount of the rates so payable and the costs of obtaining a charge. Such charge shall be filed and noted in the Court, and if the title has reached the Land Transfer Office may be registered against such title. If the title has not gone forward for registration, it shall be the duty of the Registrar to send such charge for registration contemporaneously with the title which it affects.

(6.) The Court, in dealing with any claim for rates, may, in cases where it thinks it necessary or expedient, transfer the liability for such rates or any part thereof to any other land, and may grant a charge accordingly. In special circumstances arising from hardship or indigency the Court may remit the whole or any part of any rate so levied, and thereupon such rates, or so much thereof as shall be so remitted, shall be deemed to be discharged.

(7.) A charge when granted may be enforced by the appointment of a receiver in accordance with section thirty-one of the Native Land Act, 1909, and subsections three, four, five, and six of that section shall apply to any receiver so appointed. Any instrument of alienation executed by the receiver may be registered and dealt with notwithstanding the provision of any statute dealing with the limitation of area that any person may hold.

(8.) A charge granted hereunder shall have the effect of preventing any dealings by the owners thereof with the land affected by any charge without the leave of the Court or the consent of the local authority or person entitled to the charge until such charge is paid or secured. The charge shall remain effective against the land notwithstanding that the land may have become European land.

(9.) The charge in lieu of being made in favour of a local authority may be made in favour of any person paying the rates or any part thereof, and any charge may be assigned *pro tanto* according to the amount so paid.

(10.) The Court may apportion the liability under any such charge either amongst the individual beneficial owners or amongst various portions of the land so charged. Where prior charges have been granted in respect of the same land, the Court may consolidate the various charges into a single charge for the total amount due and vacate the previous charges.

(11.) Where any land is partitioned after a charge has been granted, the charge shall thereupon be deemed to be apportioned according to area among the various portions of the land, unless the Court, in its discretion, makes an order apportioning the charge in any other manner it thinks equitable.

(12.) Any lessee or mortgagee paying any such charge may deduct the amount so paid from any rent payable to the Native owners, provided that he shall not be entitled for this purpose to deduct in respect of any land more than one-half of the rent payable therefor in any one year, and the amount so deducted shall, as between the lessor and lessee, be deemed to have been paid on account of rent.

10. (1.) If a charge granted under this Act remains unpaid for one year after the same has been granted by the Court, the Court may, upon report of the receiver or upon being satisfied that it is not expedient in any case to appoint a receiver, order that the land affected (whether it is then Native land or European land) shall, subject to the consent of the Native Minister, be vested in the Native Trustee for the purposes of sale for the payment of such charge; and such order may at any time, with the consent of the Native Trustee, be varied, cancelled, or superseded.

If charge remains unsatisfied for more than one year land may be vested for sale in Native Trustee.

(2.) The Native Trustee may sell the whole or any part of the land so vested in him either by private contract or by public auction, and

either in one or more lots, and subject to such terms and conditions as he shall think fit, including the condition that part of the consideration be left upon mortgage secured upon the said land; or the Native Trustee may, if he thinks it expedient, instead of selling the said land, raise money by way of mortgage upon it for the purpose of liquidating the charge.

(3.) All moneys received from the sale or mortgage of the land shall, after payment thereout of the costs, expenses, and remuneration of the Native Trustee, be applied in satisfaction of the charge, and the residue thereof (if any) shall be paid to the Maori Land Board, who shall see to its application, and if any doubt arises as to the person or persons entitled thereto the Board may apply to the Court to decide to whom the money shall be paid.

(4.) Where Native land is subject to section six hereof, the trustee may, with the consent of the Native Minister, exercise powers similar to those conferred on the Native Trustee by the preceding subsections hereof.

Person in actual occupation of Native land, whether with or without title, deemed to be occupier for purposes of principal Act.

11. (1.) Notwithstanding anything to the contrary in the principal Act, a person, not being an owner of Native land, shall be deemed to be an occupier thereof if he is in actual occupation of such land or any part thereof, whether he occupies the land by virtue of a tenancy or for any fixed period or at will or otherwise howsoever, and whether his occupation thereof is lawful or unlawful.

(2.) It shall not be necessary to enter the name or other particulars relating to such person on the valuation roll or in the rate-book.

(3.) Such person is hereby made liable at the suit of the local authority or of the Maori Land Board for the payment of all rates and special rates due in respect of such land levied for the period he is in occupation in the same manner and to the same extent as if his name had been lawfully entered in the valuation roll and in the rate-book as the occupier of such land, and no formal demand for payment of such rates shall be necessary.

(4.) For the purposes of this section a person proved to be in actual occupation of any area for any period shall be deemed to have been in occupation of any larger area of which such area forms part for the whole of the rating-period, unless and until the contrary is shown, and in any such case the burden of proving that he was not so in occupation shall be upon the person charged.

(5.) The Court shall have the power to ascertain and determine if any person, whether an owner or not, is in such occupation, and the proportion (if any) of any rate levied that such person should pay, and may make an order accordingly. Such person shall thereupon become liable for so much of the said rates as is set out in the order, and the same may be recovered either by the local authority or by the Maori Land Board as a debt. Where money is so recovered by the local authority it shall be applied in satisfaction of the claim for rates. Where it is recovered by the Maori Land Board it shall be applied in payment of rates due, and any balance shall be held on behalf of the beneficial owners.

(6.) In any action for recovery of rates under this section the Court hearing such action may apportion the rates payable according to the value or the acreage of the area occupied and the period of the

occupation, or in accordance with the order made under subsection five hereof (which shall be conclusive), and give judgment accordingly.

12. (1.) Where one or more of the owners in common of Native land has, prior to a charge being granted, paid to the local authority any amount on account of rates due in respect of that land, or on account of the costs of any proceeding for the recovery thereof, the Court may, upon proof of the facts, grant a charge in favour of such owner or owners, and such charge may be enforced as if it were a charge in respect of rates.

In case of land held in common, charge may be made in favour of owner or owners who have paid rates.

(2.) Without in any manner restricting the powers of a receiver appointed in respect of any such charge, such receiver may grant a lease of the land charged to any person entitled to the benefit of the charge.

(3.) This provision shall extend to rates so paid before the coming into operation of the Act, and also to rates which have been levied before the coming into operation of the Act but have been paid subsequently thereto.

13. Sections seventy-two, seventy-three, seventy-four, and seventy-five of the principal Act shall have no application to Native land or to rates payable in respect thereof.

Certain provisions of principal Act not applicable to rates on Native land.

14. (1.) A local authority may, if it thinks fit, remit the payment of any rates due on land owned or occupied by Natives or any additional charge thereon, either wholly or in part, or may postpone the payment of any such rates for such time as it thinks fit, or may compound therefor, or may accept land in satisfaction thereof, either under order of the Native Land Court or by way of transfer for the purpose.

Remission in respect of rates on Native land.

(2.) The Court, in any proceedings before it, may make an order vesting Native land in a local authority in satisfaction of any such rates, or may make an order vesting such land in His Majesty the King on condition that the amount of rates mentioned in such order will be paid by the Crown to the local authority. Any land so acquired by the Crown shall be proclaimed Crown land as if it were land acquired by the Crown by purchase.

(3.) No alienation under the provisions of this section shall require to be confirmed by a Maori Land Board.

(4.) This section shall apply as well to rates heretofore levied as to rates that may be levied hereafter; and all remissions of rates heretofore made shall be deemed to have been validly made.

15. Any charge or vesting-order granted under this Act may be registered against the Land Transfer title or upon the Deeds Register, as the case may require, and it shall not be necessary for the purpose of such registration to produce the certificate of title or to have a plan of the land endorsed on the charge or vesting-order.

Registration of charges.

16. (1.) Any charge may be discharged in whole or in part by writing under the seal of the local authority or by order of the Court. Such discharge may be registered in the same manner as a charge is registered.

Authorizing of discharges in full or in part.

(2.) Where the discharge relates to the full amount named in the charge and is given before the charge is registered, the Registrar shall mark the charge discharged, and it shall be deemed to be discharged accordingly.

(3.) Upon partition, the owners of any separate area may pay the portion of rates apportioned to that area, and the production of the receipt of the Registrar that such amount has been paid shall be treated by the District Land Registrar as a discharge of the charge against that area, and may be registered accordingly.

(4.) Where a discharge is only partial the charge may be marked by the Registrar as partially discharged, both as to the amount and as to the portion of the land affected by it, and in such case the charge shall be registered only as to the balance of the money or the residue of the land affected thereby.

Repeals.

17. (1.) The Acts mentioned in the Schedule hereto are hereby repealed to the extent therein mentioned; but, notwithstanding such repeal, the said enactments shall continue in force for the purpose of continuing and perfecting under such repealed enactments any act, matter, or thing, or any proceedings commenced or in progress thereunder.

(2.) If a local authority elects to claim a charge under this Act in regard to rates levied before the passing of this Act it may waive its rights under the enactments hereby repealed, and within two years after the passing of this Act may lodge a claim with the Registrar for such rates, and a charge in accordance with the provisions of this Act may be granted, and all the provisions hereof shall apply thereto: Provided that this subsection shall not apply in respect of rates levied more than four years before the passing of this Act.

Schedule.

SCHEDULE.

Title of Enactment.	Extent of Repeal.
1910, No. 60.—The Rating Amendment Act, 1910	Sections 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 16, 17, 18.
1913, No. 54.—The Rating Amendment Act, 1913	Sections 9, 10, 11, 13, 14, 15, 16, 17, 18.