

New Zealand.

## ANALYSIS.

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## 1913, No. 59.

- Title. AN ACT to amend the West Coast Settlement Reserves Acts, and to alter the Law relating to the Administration of Portions of the Reserves. [15th December, 1913.]
- Preamble. WHEREAS under the West Coast Settlement Reserves Act, 1881, and the amendments thereof, leases have from time to time been granted by the Public Trustee of lands within the area described in the Schedule to the said West Coast Settlement Reserves Act, 1881: And whereas many of the lessees, or their assigns, did not avail themselves of the various statutory provisions from time to time enacted enabling perpetually renewable leases to be granted to them under the provisions of the West Coast Settlement Reserves Act, 1892: And whereas the area comprised in such leases as were not made perpetually renewable under the last-mentioned Act amounts in all to eighteen thousand three hundred and ninety-nine acres, or thereabouts: And whereas some of the said leases are shortly about to expire: And whereas many of the Native owners of the land comprised in the said leases are desirous of having an

opportunity of themselves occupying and farming the said lands: And whereas many of the said leases contain provisions for payment to the lessees of compensation for improvements effected on the land comprised in such leases: And whereas under certain of the said leases the lessees are entitled to compensation for improvements up to the value of five pounds per acre for every acre of land included in the lease, and under others of the leases the lessee's right to compensation is unaffected by the limit of five pounds per acre: And whereas it is expedient in the interests both of the lessees and of the Native owners that an equitable arrangement should be made for the purpose of settling the rights of the parties:

BE IT THEREFORE 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 West Coast Settlement Reserves Amendment Act, 1913. Short Title.

2. In this Act, unless a contrary intention appears,—

“The said leases” means all leases of land granted or given by the Public Trustee or by the Native owners under the West Coast Settlement Reserves Act, 1881, and the amendments thereof, or granted and given by the Native owners and subsequently validated or confirmed under those Acts, which leases the lessees were by statute entitled to convert, but failed to convert, into perpetually renewable leases under the principal Act: Interpretation.

“Present lease” means the lease now held by any particular lessee, and includes any of the said leases which would have determined but for section thirty-seven of the Reserves and other Lands Disposal and Public Bodies Empowering Act, 1912:

“The said lands” means the lands comprised in the said leases:

“Principal Act” means the West Coast Settlement Reserves Act, 1892:

“Lessees” means the persons for the time being entitled respectively to the present leases, and includes the executors, administrators, and assigns of such persons:

“Improvements” has the same meaning as “substantial improvements of a permanent character” in section two of the Land Act, 1908, excepting where in any present lease it has a wider meaning.

3. Each of the lessees shall be entitled to a new lease of the land comprised in his present lease for a further term of ten years; and such further term shall in the case of such of the present leases as will expire on or before the thirtieth day of June, nineteen hundred and fourteen, be computed and commence from the thirtieth day of June, nineteen hundred and fourteen; and such further term shall in the case of all the present leases which shall expire after the thirtieth day of June, nineteen hundred and fourteen, be computed and commence from the date of the expiration thereof respectively. On the expiration of such further term of ten years all and singular the rights of the respective lessees as such in or to the said lands shall absolutely cease

Lessees to be  
entitled to new  
leases for ten years.

and determine, and the respective lessees shall have no rights whatever under their present leases or under their new leases other than the right to be paid compensation for improvements as hereinafter provided.

Lessees to receive notice requiring them to elect whether to take a new lease.

4. Immediately upon the coming into operation of this Act the Public Trustee shall give notice to each of the lessees whose leases will expire on or before the thirty-first day of December, nineteen hundred and sixteen, requiring such lessee to elect, by notice in writing to the Public Trustee within three months from the date of such first-mentioned notice, whether or not he will accept a new lease under the provisions of this Act; and the Public Trustee shall in the case of every lessee who may elect to take a new lease as aforesaid execute a memorandum of lease in favour of such lessee of the lands comprised in the present lease of such lessee for a term of ten years computed in each case as aforesaid. The memorandum of lease to be so executed shall be in a form to be approved by the Governor in Council, and shall contain a provision entitling the lessee to payment of compensation to the amount of the full value of improvements upon the land on the expiration of such new lease in terms of section seventeen hereof, and such covenants, conditions, provisions, and agreements, not inconsistent with the provisions of this Act, as the Governor in Council may think proper. Any lessee who fails or neglects to give notice of his election to take a new lease shall be deemed to have elected not to take a new lease.

New leases to be executed.

5. In the case of any lessee whose lease expires after the thirty-first day of December, nineteen hundred and sixteen, such lessee shall, if he desires to obtain a new lease under the provisions of this Act, give to the Public Trustee at least three months' notice in writing of his desire before the expiration of the term of his present lease, and if any lessee shall fail to give such notice he shall be deemed to have elected not to accept a new lease.

Lessees in case of leases expiring after 31st December, 1916, to give three months' notice.

6. The rental to be reserved in each of the new leases to be given by the Public Trustee as aforesaid shall be fixed in manner following, that is to say:—

Method of assessment of rental.

- (a.) The capital value of the land comprised in the present lease and the value of the improvements as existing at the date of assessment shall be separately assessed as hereinafter provided, and the value of the improvements, but not exceeding in the whole the sum of five pounds per acre upon the total area comprised in the lease (except in cases where under any of the present leases the lessee is entitled to a greater sum for improvements), shall then be deducted from the capital value:
- (b.) The annual rental shall be a sum equal to four pounds ten shillings per centum upon the difference between the capital value and the amount so deducted for improvements; but such rental shall be reducible to a sum equal to four pounds per centum upon such difference in respect of each and every payment of rent made not later than fourteen days after the due date for such payment; and the memorandum of lease hereinbefore referred to shall provide accordingly.

7. In respect of any present leases which will expire on or before the thirty-first day of December, nineteen hundred and sixteen, and in respect of which the lessees elect to take new leases, the capital value and the value of improvements as provided in the last preceding section shall be assessed as soon as possible after the coming into operation of this Act by three valuers, one of whom shall be appointed by the lessees, another by or on behalf of the Native owners of the said land as hereinafter provided, and the third shall be an officer of the Valuation Department to be appointed by the Valuer-General.

Valuers to assess values of lands comprised in leases expiring on or before 31st December, 1916.

8. As soon as the time has elapsed within which those lessees whose leases will expire before the thirty-first day of December, nineteen hundred and sixteen, are to elect whether or not they will accept new leases under the provisions of this Act the Public Trustee shall cause notice to be sent to such of the said lessees as have elected to take new leases requiring them to appoint a valuer for the purposes aforesaid, and the said lessees, or a majority of them, shall appoint a valuer accordingly within three months from the date of such notice, and shall, within the said period of three months, forward to the Public Trustee notice of the said appointment, signed by the persons making the same, and accompanied by the consent in writing of the valuer so appointed. If within the said period of three months the said lessees, or a majority of them, shall fail to appoint a valuer and to give notice to the Public Trustee of such appointment, the Public Trustee shall appoint a valuer to act on behalf of such of the said lessees as shall have failed to appoint a valuer.

Appointment of valuer by lessees.

9. The Public Trustee shall send a similar notice to Tupatea Haumatao, Pouwhareumu Toi, Tahuata te Poi, Hikaha, Poi te Wharepouri, Kapinga Makarati, Wiremu Tupito Maruera, Rourangi Tamahiri, Aropeta Tamumu, Tutanuku Tume, Neha Kipa, and Waata Wiremu Hipango, or such of them as shall then be living, as representing the Native owners of the said lands, and the said persons shall, within the period of three months from the date of such notice, appoint a valuer on behalf of the Native owners of the said lands, and shall give the like notice to the Public Trustee of their appointment, accompanied by the consent in writing of the person appointed as valuer, as is required to be given by the lessees. If the said persons, or a majority of them, shall fail to appoint a valuer and to give notice to the Public Trustee of such appointment, then the Minister in charge of Maori Councils shall appoint a person to act as valuer for and on behalf of the owners of the said lands.

Appointment of valuer by Natives.

10. As soon as the valuers for the lessees and the Native owners respectively have been appointed the Valuer-General shall appoint an officer of the Valuation Department as the third valuer, and such officer shall preside at all meetings of the valuers. The decision of the valuers, or, in the event of their disagreement, the decision of any two of them, shall be final and conclusive in respect of all matters to be determined by the valuers under the provisions of this Act.

Third valuer to be appointed by Valuer-General.

Decision of valuers to be final.

11. No person shall be competent to act as a valuer who is interested in any of the said leases.

No interested person to act as valuer.

Method of  
performance of  
duties by valuers.

12. The said valuers in determining the matters to be determined by them under the provisions of this Act shall make such inquiries and in such manner, formally or informally, as they may think proper; and may, if they think proper, decide the various matters to be determined by them upon their own judgment and inspection of the said lands and without calling any formal evidence or hearing the parties.

Payment of  
remuneration to  
valuers.

13. The valuer appointed by or on behalf of the lessees shall be paid his remuneration by the lessees. The valuer appointed by or on behalf of the Native owners shall be paid his remuneration by the Public Trustee out of rents received by the Public Trustee in respect of the said lands, and the Public Trustee shall charge any amount so paid by him against the whole of the Native owners of the said lands or against such of them individually as he may think equitable.

Valuations in  
respect of leases  
expiring after  
31st December,  
1916.

14. As to any of the said leases expiring after the thirty-first day of December, nineteen hundred and sixteen, and in respect of which the lessee shall give not less than three months' notice as aforesaid prior to the expiration of the term of his lease of his intention to accept a new lease, the capital value and the value of improvements as aforesaid shall be ascertained by three valuers, one of whom shall be appointed by the lessee, another by the Native owners of the land comprised in the lease, and the third shall be an officer of the Valuation Department appointed by the Valuer-General as aforesaid; and if any party having the right to appoint a valuer shall fail to make an appointment, the Public Trustee shall appoint a valuer to act on behalf of such person. The provisions hereinbefore contained with regard to valuers, their duties, and their payment, shall, as far as applicable, apply, *mutatis mutandis*, to valuers appointed under the provisions of this section.

Native Land  
Court to partition  
lands.

15. (1.) The Public Trustee shall forthwith, upon the coming into operation of this Act, forward to the Chief Judge of the Native Land Court a list and description of all lands subject to the provisions of this Act, and a list of the Native owners so far as the same are known to the Public Trustee; and the Native Land Court shall thereupon, without further application or direction, according as far as practicable to its usual practice, subject, however, to any regulations that may be made under this Act, proceed to partition the same amongst the Native owners thereof; and the Chief Judge of the said Court shall take all the necessary steps for the holding of a sitting of the Court for that purpose; and the said Court shall have jurisdiction from time to time to make any necessary partitions of the said lands and to appoint successors to any deceased Native owners; but no partition shall take effect, nor shall the land comprised in any partition order vest in the Native owner thereof, until the expiration of the new lease to be granted in pursuance of the provisions of this Act in respect of such land, but upon the expiration of such new lease the land comprised therein shall vest at law in the Native owners thereof in accordance with the partition orders to be made by the Native Land Court; and the District Land Registrar of the district in which such land is situate shall thereupon issue certificates of title to the Native owners entitled thereto, freed and discharged from all restrictions whatsoever against alienation:

Provided, however, that the Native owner of the land comprised in any partition order may, if he so desire, direct the District Land Registrar in writing to issue a certificate of title to the Public Trustee instead of to himself, and in such case the District Land Registrar shall issue a certificate of title to the Public Trustee accordingly, and the Public Trustee shall thereafter manage and administer the land comprised in such certificate of title for and on behalf of the Native owners thereof, and shall have power to grant leases of such land for such periods and on such terms and conditions as he may think best in the interests of the said Native owners, but subject to regulations to be made in that behalf:

Provided further that if at the period of vesting as aforesaid any of the Native owners shall be minors, or be under any disability, the Public Trustee shall manage and administer the interests of such Native owners during their minority, or so long as such disability shall exist.

(2.) Until the said partition orders take effect it shall not be lawful for any beneficial Native owner to alienate any part of the said land, or any estate, share, or interest therein, excepting under the provisions of section one hundred and nine of the Native Land Amendment Act, 1913, in the event of the same being made applicable as hereinafter provided.

(3.) No partition of any land as aforesaid shall affect the rights of the lessee thereof, or any rights which may be acquired by the Crown.

16. (1.) Pending the vesting of the said lands in the Native owners as aforesaid, the Public Trustee shall receive on behalf of the Native owners the rentals from time to time payable in respect of the said lands, and, after deducting therefrom five pounds per centum for his pains and trouble in the administration of the said lands, and after payment of any incidental expenses, including survey fees, shall pay one-third of the residue to the Native owners for the time being entitled thereto, and shall pay the remaining two-thirds into the common fund of the Public Trust Office, there to accumulate with the interest thereon (in the manner prescribed by regulations made from time to time under the Public Trust Office Act, 1908, with regard to moneys in the common fund) for the purpose of paying compensation to the lessees, as hereinafter provided, on the expiration of the said new leases.

Collection and  
disposal of rentals.

(2.) The Public Trustee shall, wherever the same may become necessary by reason of the said lands becoming partitioned, apportion amongst the Native owners entitled thereto the rental payable in respect of any of the said lands in such manner as he may think equitable; and any apportionment so made shall be final and conclusive.

17. (1.) At the expiration of the term of each of the new leases to be given by the Public Trustee as aforesaid the lessee shall be entitled to be paid the full value of the improvements upon the land and existing at the expiration of the said new lease, notwithstanding such value may exceed five pounds per acre. The value of such improvements shall be ascertained by three valuers to be appointed in the same manner as is provided by section fourteen hereof, and the decision of such valuers, or of a majority of them, shall be final and conclusive.

Compensation to  
lessees for  
improvements.

(2.) In the case of any present lease which confers on the lessee the right to compensation for improvements in excess of improvements as defined in section two of the Land Act, 1908, such lessee shall under the new lease to be granted to him be entitled to full compensation for all improvements in terms of his present lease.

Provision for  
payment of  
compensation.

18. The amount to be paid to each lessee for improvements shall be paid by the Public Trustee out of the moneys accumulated for that purpose as aforesaid; and, if the moneys so accumulated in respect of the land comprised in any particular lease shall be insufficient to pay the lessee the amount to which he is entitled, the Public Trustee shall make up the deficiency by an advance out of the common fund of the Public Trust Office, and the land in respect of which such payment is made by the Public Trustee shall be charged with the payment of the amount so paid, together with interest thereon at the current rate charged from time to time by the Public Trustee for moneys advanced on the security of freehold lands. In respect of any payment so made the Public Trustee may sign and seal a memorial of charge against the land in respect of which the payment is made, which said memorial of charge shall be registered against the land described therein by the District Land Registrar, and, when so registered, shall have the same force and effect as if it were a valid mortgage to the Public Trustee executed by the Native owner of the land therein described to secure the repayment of the principal and interest moneys thereby expressed to be due; and the power of sale and all other powers expressed by the Property Law Act, 1908, or the Land Transfer Act, 1908, as the case may be, shall be implied in each such memorial, and shall have the same effect and operation as if the same were a mortgage executed as aforesaid containing the said powers.

Lessee electing not  
to take new lease  
to be paid  
compensation  
under present lease.

19. (1.) If any lessee elects not to accept a new lease of the land comprised in his present lease, he shall be paid compensation at the expiration of his present lease and in accordance with the provisions contained or implied in such lease, such payment being advanced by the Public Trustee in manner hereinbefore provided and charged against the lands in respect of which the said payment is made; and the Public Trustee shall, in such manner as he thinks best, lease the lands in respect of which the lessee shall not have elected as aforesaid for a period of ten years, computed from the expiration of the present lease, at the best improved rent obtainable, and without any right of renewal or compensation for improvements. The provisions of sections fifteen and sixteen of this Act shall, *mutatis mutandis*, apply in any such case.

(2.) For the purposes of this section the date of the expiration of any lease to which section thirty-seven of the Reserves and other Lands Disposal and Public Bodies Empowering Act, 1912, has become applicable, and of which the lessee elects not to take a renewal, shall be the thirtieth day of June, nineteen hundred and fourteen.

Act not to apply to  
lessee whose lease  
has already expired  
and to whom new  
lease has already  
been granted.

20. The rights conferred upon lessees by this Act shall not apply in the case of any lessee whose lease has expired prior to the coming into operation of this Act and to whom a new lease has already been granted by the Public Trustee, and in any such case the

lessee shall not be entitled to any renewal at the expiration of the new lease so already granted to him, and at the expiration of such new lease shall have no further or other right than the right to be paid compensation in accordance with the terms of his said new lease.

21. And whereas there are certain areas of land comprised in the Schedule to the West Coast Settlement Reserves Act, 1881, which said areas of land have not been leased under the provisions of either the West Coast Settlement Reserves Act, 1881, and its amendments, or under the West Coast Settlement Reserves Act, 1892, but in respect of portions of which occupation licenses and leases for short terms have been granted and issued, the whole of which said areas of land are hereinafter referred to as the "unsettled reserves": And whereas it is desirable and expedient to give the Native owners of the said unsettled reserves every facility to occupy and farm the same: Be it therefore enacted that the provisions of section fifteen of this Act shall, so far as the same are applicable, apply to the said unsettled reserves, but subject and without prejudice to all occupation licenses and leases which have been granted in respect of the unsettled reserves, or any portions thereof, and which are hereby declared to have been validly granted and issued.

Application of Act to unsettled reserves.

22. No barrister, solicitor, or Native agent shall be allowed to appear before any valuers or before the Native Land Court in any proceedings directed to be held under this Act.

Prohibiting barrister and others from appearing in proceedings under this Act.

23. The Governor may, by Order in Council, at any time and from time to time declare that the provisions of sections one hundred and nine and one hundred and eighteen of the Native Land Amendment Act, 1913, shall apply to any block, section, or subdivision of the said lands for the purchase of which the Crown may desire to negotiate; and until the Governor shall so declare the provisions of the said sections shall not apply to any of the said lands.

Application of sections 109 and 118 of Native Land Amendment Act, 1913.

24. The Governor may from time to time, by Order in Council gazetted, make regulations, not inconsistent with this Act, for the purposes of carrying the provisions of this Act into effect; and, in furtherance and not in limitation of, and without prejudice to, such general power, may make regulations for all or any of the following purposes:—

Regulations.

- (a.) Prescribing the form of lease to be given and executed by the Public Trustee under the provisions of section four of this Act:
- (b.) Prescribing the method of the appointment of valuers and the giving of notices in reference thereto, and, in particular, for prescribing the method of appointment of valuers where two or more persons are required to appoint a valuer and fail to agree upon an appointment:
- (c.) Determining whether any valuer is competent to act, and providing that the decision arrived at in accordance with the regulations made in that behalf shall be final and conclusive:

- (d.) Prescribing the rate of remuneration payable to valuers, and ensuring to the valuers appointed by lessees payment of their remuneration, and, in particular, requiring lessees to deposit with the Public Trustee sums of money sufficient to cover the remuneration of valuers appointed by them :
- (e.) Providing for the appointment of new valuers where persons first appointed are interested, or where for any reason the appointment first made fails :
- (f.) Prescribing the method of ascertaining the wishes of the Native owners as to whether upon the period of vesting they desire certificates of title to issue to themselves or to the Public Trustee, and providing generally for the issue of such certificates of title :
- (g.) Prescribing the terms, conditions, and rental of any leases to be given by the Public Trustee of lands to be managed and administered by him under section fifteen of this Act :
- (h.) Making such provision as may be deemed proper or necessary for the purpose of facilitating the performance of the duties of the Native Land Court to be performed under this Act in partitioning the said lands, or otherwise prescribing the procedure to be followed by the said Court.

Extending time  
within which  
valuations may be  
made of lands  
comprised in leases  
under West Coast  
Settlement Reserves  
Act.

25. Whereas cases have occurred and are likely to occur where the valuations required to be made by clause numbered 56 of the Schedule to the West Coast Settlement Reserves Act, 1892, have not been made or may not be made within the time limited by the said clause : Now, for the purpose of enabling such valuations to be carried out, it is hereby enacted that the same may be made at any time not later than five months before the expiry of the term for which the lease is granted, and the said clause is hereby modified accordingly.

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