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*This PUBLIC BILL originated in the LEGISLATIVE COUNCIL, and having this day passed as now printed is transmitted to the HOUSE OF REPRESENTATIVES for its concurrence.*

*Legislative Council,  
9th September, 1873.*

(Hon. Dr. Pollen.)

## Public Trust Office Act Amendment.

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### A BILL INTITLED

AN ACT to amend "The Public Trust Office Act, Title.

1872."

No 21—2.

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

Short Title.

1. The Short Title of this Act shall be “The Public Trust Office Act Amendment Act, 1873.”

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Division of Act.

This Act is divided into Parts as follows:—

PART I.—Intestate Estates, ss. 2–19.

Management of Real Estate of Absent Heir or Devisee, ss. 20–28.

General provisions relating to Administration of Intestate Estates and Real Estate, ss. 29–36.

PART II.—Lunatic Patients’ Estates.

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## PART I.

### INTESTATE ESTATES.

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Intestate Estates Acts repealed.

2. “The Intestate Estates Act, 1865,” and “The Intestate Estates Act Amendment Act, 1866,” are hereby repealed: Provided that all proceedings which shall have been commenced under the said Acts or either of them which are still pending and incomplete shall be in force notwithstanding such repeal, and shall be continued under this Act.

Public Trustee *ex officio* Curator of Intestate Estates.

3. The Public Trustee for the time being in office under “The Public Trust Office Act, 1872,” (hereinafter referred to “as the said Act,”) shall *ex officio* be Curator of the Estates of Deceased Persons.

Estates unadministered under the repealed Acts placed in Public Trust Office.

On the passing of this Act the Curators in office under the said repealed Acts immediately before the passing of this Act shall cease to hold office, and the Public Trustee shall become administrator of all and singular the goods chattels and credits of every such deceased person as hereinafter mentioned left unadministered by such Curators, and all the estates goods chattels moneys and effects whatsoever vested in the Curators so ceasing to hold office shall vest in and belong to the Public Trustee, and be deemed to be placed in the Public Trust Office, and all moneys in the Public Account to the credit of the Intestate Estates Fund, or the Intestate Real Estate Management Account, and all investments thereof shall, on the passing of this Act, be deemed to be placed in the Public Trust Office.

Public Trustee to apply for rule or order to administer estates of deceased persons.

4. The Public Trustee upon receiving information of the death of any person, not being one of the Aboriginal Native race, who has died or shall hereafter die within New Zealand or elsewhere possessed of or entitled to personal estate within New Zealand, shall apply to a Judge of the Supreme Court for an order to administer the same. Except as hereinafter provided no such order shall be granted except upon affidavits of a like nature (as nearly as may be) to those required in the case of a grant of letters of administration in other cases, nor unless the Judge shall be satisfied that no grant of probate of any will or letters of administration relating

to the estate within New Zealand of such deceased person has been made, and that no person entitled and within New Zealand is ready to take such grant, and that such estate or some part thereof is exposed and liable to loss waste or injury.

5 If no administration of the personal estate of any such person as aforesaid shall have been granted to any person within three months after such deceased person's death, such order may be granted without proof that there is no person entitled and within New Zealand ready to take grant of probate or letters of administration, and without proof 10 that the estate or part thereof is exposed and liable to loss waste or injury. And on any such application, in the absence of evidence to the contrary, the affidavit of the Public Trustee that to the best of his information and belief no administration has been granted within three months of the deceased person's death, shall be sufficient 15 evidence of that fact.

Such orders as aforesaid may be granted notwithstanding any caveat may have been entered against the granting of any probate or letters of administration relating to such estate, and notwithstanding any opposition thereto, if the Judge shall think fit.

20 The application for any such order shall be made in the judicial district of the Supreme Court within which the office of the Public Trustee shall be situated, but all legal proceedings against the Public Trustee may be commenced in the judicial district within which the deceased person shall have died, or in the judicial district within 25 which the office of Public Trustee shall be situated ; or if such person shall have died out of New Zealand, then the judicial district within which any property of such deceased person shall be.

5. Whenever any such order shall be granted, the property which the Public Trustee is thereby authorized to administer shall, within the 30 meaning of the said Act, be deemed to be placed in the Public Trust Office.

Property to be deemed to be placed in Public Trust Office.

6. If any person deceased shall have left behind him personal estate of a perishable nature, and whereof the value may be greatly diminished in the interval before letters of administration can be 35 duly granted, a Judge of the Supreme Court may, upon application to him for that purpose, make an order authorizing the sale of such property by some person therein named, or authorizing some person to take charge thereof, and may direct the property to be delivered or the proceeds thereof, if sold, to be paid to the Public Trustee on 40 account of the estate of the deceased, and such property and proceeds when so delivered shall be then deemed to be placed in the Public Trust Office within the meaning of the said Act.

Judge may order sale of perishable property.

7. Every such order to administer any estate may be in the form contained in the First Schedule to this Act, and when made the Public 45 Trustee shall be administrator of all the goods chattels and credits of the deceased within New Zealand and such order shall give to and impose on the Public Trustee the same rights duties and liabilities, so far as is not hereby otherwise provided, as if letters of administration of the goods chattels and credits of the deceased had been granted to 50 him in the ordinary course.

Order to administer may be in form contained in First Schedule.

No bond or security by or on behalf of such Public Trustee shall be required on or before the grant of any such order in respect of such grant.

8. The Public Trustee shall not be obliged to obtain any such 55 rule or order as aforesaid in the case of any estate the assets of which to be administered shall be under the value of fifty pounds, and such Public Trustee may administer any estate the assets whereof to be administered shall be under the value of fifty pounds without any such order as aforesaid ; and such estate shall be deemed to be placed 60 in the Public Trust Office whenever the Public Trustee elects to administer the same, without an order.

No order necessary where assets to be administered are of less value than £50.

If at any time after commencing to administer any estate under this section the estate to be administered shall be found to be of the value of fifty pounds or upwards, the Public Trustee shall within one month after he has notice thereof file in the Supreme Court a memorandum under his hand stating that fact, and proceed in the ordinary manner to obtain an order for the administration of the estate. 5

Order to be published within fourteen days after same is granted.

9. Within fourteen days after any such order under any of the provisions aforesaid shall have been granted, the Public Trustee shall cause such order to be published twice in such newspaper as the Judge on the granting of such order shall direct. 10

Liable to duties.

10. Every such order shall be subject and liable to the payment of the same duties as may from time to time be payable in respect of probates of wills or letters of administration as the case may be; and all payments and appropriations in respect of any estate comprised in or affected by any such order shall be liable to the same stamp legacy and succession duties as the same would have been subject to if paid or appropriated by an executor or administrator of the same. 15

Governor may authorize Public Trustee to administer estate of Aboriginal Native.

11. It shall be lawful for the Governor from time to time, by warrant under his hand, to authorize and direct the Public Trustee to administer the estate of any Aboriginal Native person who has died, or shall hereafter die within New Zealand, possessed of or entitled to personal estate within New Zealand; and the Public Trustee shall thereupon administer such estate either subject to and in accordance with such general directions and regulations touching the distribution and administration of the estates of deceased Aboriginal Native persons or subject to and in accordance with such special directions and regulations relating to the particular estate as the Governor in Council may from time to time determine, and which general and special directions and regulations, when published in the *New Zealand Gazette*, shall be of the like force and effect as if incorporated in and forming part of this Act; and it shall be lawful for the Governor in Council in like manner to revoke alter and vary such directions and regulations and to make others in lieu thereof, which directions and regulations as aforesaid, and new directions and regulations, when published in like manner, shall be of the like force and effect, and every such estate as to which any such direction shall be given shall be deemed to be placed in the Public Trust Office. 20 25 30 35

Moneys to be paid into "The Public Trustee's Account."

12. The Public Trustee shall pay into "The Public Trustee's Account" kept under the said Act, and in such manner and at such intervals as is provided or directed in or under the said Act or this Act, all moneys paid to him or his agents, without any deductions whatever; and there shall be deducted from the moneys so paid such amount as shall from time to time be fixed by the Governor in Council, but not exceeding seven pounds per centum from the moneys so paid to the credit of the Public Trustee's Account, and the sum so deducted shall be passed to the credit of and shall form part of "The Public Trust Office Expenses Account." 40 45

Public Trustee to make alphabetical list of estates administered by him.

13. The Public Trustee shall make or cause to be made an alphabetical inventory or list of all the estates of the persons of whose estates he shall have been appointed, or of which he shall become administrator, and shall keep an account of all his receipts payments and dealings in every such estate, and shall keep all letters received and copies of all letters written by him, and all deeds papers and writings of and relating to such estates which shall have been in the possession of any such deceased person at the time of his death. And any person may at reasonable times inspect the separate accounts relating to any estate at the office of the Public Trustee, upon payment of two shillings and sixpence. 50 55

14. The Public Trustee shall in the first week of every month in the year publish in the *New Zealand Gazette*, and in such other newspaper or *Gazette* as the Governor shall from time to time direct, a tabular alphabetical list or statement setting forth the particulars in the form in the Second Schedule to this Act of all the estates which he shall have been appointed to administer during the preceding month, so far as his information will enable him to set forth such particulars.

List to be published in *Gazette*.

15. Where any person shall be entitled to receive any money out of the fund standing to the credit of any such estate as aforesaid, then upon the person so claiming subscribing a declaration that such account is true and just in every particular, and that the estate upon which such claim is made is legally liable to satisfy such claim, it shall be satisfied to the extent of the fund standing to the credit of the estate upon which such claim is made.

Payments out of estates, how made.

16. Such declaration shall be in the form prescribed by the Third Schedule hereto annexed; and if any person shall make and subscribe any declaration required by this Act to be made or subscribed, knowing the same to be false, he shall incur the same penalties as are or may be provided against persons convicted of wilful or corrupt perjury.

Declaration to be in form in Third Schedule.

But it shall be lawful for the Supreme Court, or any Judge thereof, on the application of any such claimant, by order to dispense with such declaration, and to admit other evidence by affidavit of the claimant's title in lieu thereof. And such order, and affidavit made in compliance with such order, shall be acted upon by the Public Trustee in lieu of such declaration.

17. In the case of any estate comprised in any such order appearing to the Public Trustee to be insufficient for the payment of the debts appearing to be due from the same, the Public Trustee shall apply to any Judge of the Supreme Court upon affidavit of the circumstances, and such Judge, if he shall think fit, upon any such application may direct the proceeds of the estate comprised in such application to be applied in part payment of all such debts rateably, and in proportion to their respective amounts. And such Judge by order shall from time to time fix the rate or proportion payable, and on such order being made the Public Trustee shall act thereon.

Assets of estate to be distributed amongst creditors rateably in proportion to the amount of the respective debts.

18. Notwithstanding any order which shall have been made authorizing the Public Trustee to administer under this Act, the Supreme Court may grant probate of the will or letters of administration of the estate of such deceased person to any person or persons entitled thereto, in such manner and subject to such limitations or conditions as such Court shall think proper, but no application for any such grant shall be made after any such order to administer as aforesaid has been made until seven days after notice in writing of the intention to apply for the same shall have been left at the office of the Public Trustee.

Court may grant probate or letters of administration to any other person entitled thereto after Public Trustee has obtained order of administration.

19. Immediately on the grant of any such probate or letters of administration, all the powers rights and duties of the Public Trustee (except such rights as are conferred by this section) in regard to the estate of the deceased person whose estate shall be affected by such grant, and all liabilities of the Public Trustee under any contract or agreement enter into by the Public Trustee in relation to such estate or any part thereof, shall cease, and (subject to and on the allowance and payment of all money due for commission percentage and necessary outlay disbursements costs charges and expenses in relation to such estate, including all costs of appearing on the application for such probate or letters of administration and consequent thereon, and subject

Duties and liabilities of Public Trustee thereupon shall cease.

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also to the provisions of this section), such portion of the estate of such deceased person as shall be left unadministered by the Public Trustee shall vest in the executor or administrator obtaining such grant of probate or letters of administration.

MANAGEMENT OF REAL ESTATE OF ABSENT HEIR OR DEVISEE. 5

Public Trustee to manage real estate of absent heir or devisee.

**20.** All real estate, and all rents income and proceeds arising therefrom, accruing or which may have accrued to any heir-at-law or devisee who may be or may have been absent from New Zealand at the time of the death of the person from whom such real estate is or was immediately derived, may, until such heir-at-law or devisee shall 10 duly establish his right and title to the possession of such estate to the satisfaction of the Supreme Court of New Zealand or any Judge thereof sitting in the judicial district in which such real estate is situate, or unless such heir-at-law or devisee shall have already taken possession of such estate, be taken possession of managed and received 15 by the Public Trustee.

Powers of Trustee in relation to such real estate.

**21.** For the purposes of this Act, and subject to the provisions thereof, the Public Trustee managing or taking possession of such real estate, or the income or proceeds thereof, shall have and may exercise the same rights and powers as the heir or devisee if he were present. 20

Purposes for which Trustee may expend money about real estate.

**22.** Out of the rents and proceeds received by the Public Trustee under this Act in respect of any land messuages and real estate so taken possession of or managed by the Public Trustee, he may expend money for the following purposes with respect to the land messuages and real estate from whence the same arise, that is to say— 25

May keep any buildings and fences in good repair, and may maintain the same, with their appurtenances, in good order and condition.

May erect any such fence as the owner or occupier of such land is by law required to make. 30

May cut and gather such crops as may be growing thereon at the time of the testator's decease.

May insure any buildings thereon from loss by fire.

May pay any rates by law due and payable.

May contribute towards the formation of any road footway or 35 improvement projected under the authority of any law by which the Government or any Municipal or Provincial body make any contribution.

With the sanction of a Judge of the Supreme Court sitting in the judicial district within which such real estate is situate, previously 40 obtained, the Public Trustee may do any other act necessary or desirable for the preservation maintenance or improvement of the land, with its buildings and appurtenances.

Trustee may lease.

**23.** The Public Trustee may from time to time let all or any part of such messuages and land, with the appurtenances, and for 45 such consideration to such person, for such period not exceeding a tenancy from year to year, and subject to such rents covenants and conditions as he shall think fit.

Custody of rents and moneys proceeds of real estate.

**24.** All rents and other moneys received by the Public Trustee who has taken possession of or is managing any such real estate shall, 50 after the deduction of such moneys as may be expended under the powers hereinbefore contained, be by him paid at such intervals as the Governor shall from time to time by Rules direct, into the said Public Trustee's Account: Provided that after the payment as aforesaid of the said rents and moneys into the said account, any Judge of the Supreme 55 Court sitting in the judicial district in which such real estate is situate, from time to time may order that such rents and moneys, or

any part thereof, shall be applied by the Public Trustee to any of the purposes hereinbefore mentioned; and upon the production of any such order the money therein specified shall be applied in accordance therewith by the Public Trustee.

5     **25.** Upon the establishment of the right or title of the heir-at-law or devisee, as hereinbefore mentioned, the Supreme Court sitting within the judicial district in which such real estate is situate, shall make an order for the payment to him of the money in the Public Trustee's Account to which he is entitled; and upon the production of  
10 such order, such money shall be paid to such heir-at-law or devisee.

Proceeds of real estate to be paid to heir or devisee.

**26.** The Public Trustee shall, as to the real estate of each deceased person whose real estate he shall have so entered upon or managed, make up for examination and audit annually an account stating therein in detail the gross receipts and the sums expended  
15 under the powers of this Act in that behalf contained, with explanatory particulars of each item, and such account shall be examined by a Judge of the Supreme Court sitting in the judicial district in which the real estate dealt with is situate, and being allowed by him as correct if he shall be satisfied therewith, shall be published in the *New Zealand Gazette*: Provided that if the right and title of the heir-at-law or devisee be established as aforesaid before the expiration of any  
20 such year, the said account shall be made up to the date of such establishment, and shall be examined delivered and published as aforesaid.

Accounts of receipts and expenditure in respect of real estate.

**27.** On the establishment by the heir-at-law or devisee of such  
25 right or title as aforesaid, possession of the land with the appurtenances shall be immediately delivered by the Public Trustee to such heir-at-law or devisee.

Possession of land to be given to heir or devisee.

**28.** There shall be allowed by the Judge in passing the account of rents and profits of any real estate managed by the Public Trustee,  
30 five pounds per centum on the gross receipts and expenditure, being an allowance to be paid into the Public Trust Office Expenses Account for the performance of the duties of the Public Trustee under this Act in regard to such real estate as aforesaid.

Trustee to receive percentage for management of real estate.

GENERAL PROVISIONS AS TO ADMINISTRATION OF INTESTATE ESTATES  
AND REAL ESTATE.

35     **29.** In all proceedings at law or in equity by or against the Public Trustee in respect of any estate which he may have been appointed to administer, under this Part of this Act, he shall sue and be sued by and in his name of office of the Public Trustee, and not  
40 his individual name, and be described in like manner as if letters of administration of the estate in respect of which he shall so sue or be sued had been granted to him by such name of office in due course of law; and it shall not be necessary to state or prove his appointment as Public Trustee, but it shall be sufficient for that purpose to  
45 prove the order hereinbefore mentioned.

Public Trustee to sue and be sued by his official designation.

**30.** The Public Trustee neither before or after the grant to any other person of any probate or letters of administration, nor having taken possession of or managed any real estate under the provisions of this Part of this Act, shall be liable to be sued or proceeded against  
50 in any action or suit for anything done or omitted in his office, or in the intended execution of his duty, unless such action or suit shall be sanctioned by the Supreme Court or a Judge thereof, after a rule *nisi* or summons to show cause.

Public Trustee not to be liable to suit or action without leave of Court.

**31.** Nothing in this Part of this Act shall be deemed to render  
55 the Public Trustee or any officer of Her Majesty or of the Government of New Zealand liable to any claim or demand, or be deemed to give to any person any right to any compensation, for any omission to apply for an order to administer goods, or for any omission to collect

Limitation of liability of Trustee.

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recover or convert into money the goods of any deceased person, or for any omission to demand or receive or to enforce payment of any rents or profits of any real estate of any deceased person taken possession of or managed under this Act.

Judges to make rules regulating applications.

**32.** The Judges of the Supreme Court, or any two of them, of whom the Chief Justice shall be one, may from time to time make such general rules and orders touching and concerning applications to be made to the Court or a Judge thereof under this Act, and the conduct and despatch of all business matters and things to be done in relation to such application, as to the said Court shall seem expedient and may from time to time repeal vary or amend as occasion may require such rules and orders or any of them, and every such rule or order shall take effect from the day to be named therein for that purpose, and such rules and orders shall be published in the *New Zealand Gazette* within one month from the making thereof. 15

To be published in *New Zealand Gazette*.

Trustee to take charge of perishable property.

**33.** In case of the decease of any person, and before probate of the will or administration to the estate and effects of such person has been granted, or in case it shall at any time be made to appear by affidavit or otherwise to the Public Trustee that there are grounds for believing that any person is dead, if in either of the above cases it shall be made to appear by affidavit or otherwise to the satisfaction of the Public Trustee that any goods chattels or effects of such person deceased or believed to be deceased situated in New Zealand are about to be, or that there is any reasonable probability that the same will be wasted destroyed removed sold or otherwise disposed of, to the prejudice of any person having an interest therein, it shall be lawful for the Public Trustee to cause possession and care to be taken of such goods chattels and effects by some person on behalf of the parties interested, subject to the orders of the Supreme Court or a Judge thereof in respect of the same, unless some person being in possession of such goods chattels and effects, or claiming an interest therein, shall give to the Public Trustee security to his satisfaction that such person will not waste destroy remove sell or otherwise dispose thereof until probate of the will or letters of administration to the estate and effects of the deceased shall have been granted or other order shall have been made by the Supreme Court relating thereto; and if afterwards administration shall be granted to the Public Trustee, such Public Trustee may retain out of the proceeds of the estate and effects, along with other lawful costs and charges, the expenses of the custody and taking care of such estate and effects to be allowed by a Judge of the Supreme Court under his hand, and all moneys so allowed shall be paid into the Public Trust Office Expenses Account; and if the Court or a Judge shall grant administration to any other person than the Public Trustee, or shall grant probate of the will of the deceased, it shall be lawful for such Court or Judge to make such grant subject to the payment by the person to whom it shall be made of the expenses aforesaid allowed as aforesaid. And if the person believed to be dead shall afterwards appear and establish his claim to such goods chattels and effects, the Court or Judge may order the same to be delivered to such person, subject to and on payment of the expenses allowed as aforesaid. 45

Goods and chattels to be considered the property of incoming Trustee.

**34.** On the death resignation or removal of the Public Trustee, or of the successor in office of any such Public Trustee, the successor of the Public Trustee so dying resigning or removed shall immediately on his appointment, and by virtue thereof, become administrator of all and singular the goods chattels and credits of every such deceased person as herein mentioned left unadministered by his predecessor; and all the estates goods chattels moneys and effects whatsoever vested in the Public Trustee so dying resigning or removed shall vest in such successor immediately upon his appointment to such office. 60



- 35.** On the neglect or refusal of the Public Trustee to do any act as administrator in relation to the personal estate of any deceased person of which such Public Trustee is administrator, or on his doing or threatening to do any act in breach of his duty as administrator of any such personal estate, and on the neglect or refusal of the Public Trustee to do any act which under the provisions herein contained he ought to do in relation to any real estate which he shall have taken possession of under the provisions of this Act, or on such Public Trustee doing or threatening to do any act in relation to any such real estate in breach of his duty, in any such case any person interested as creditor next of kin or otherwise in any such personal estate, or as heir-at-law devisee or otherwise in any such real estate, may apply *ex parte*, upon affidavit, to the Supreme Court of New Zealand, or to a Judge thereof, for a rule or order calling upon the Public Trustee to show cause, upon a day not less than two days from the service of such rule or order upon him, before such Court or Judge, why he should not do or abstain from doing such act; and such rule or order may be granted subject to such conditions as to giving security for costs as the Court or Judge may impose.
- 36.** Upon the hearing of any such complaint, such Court or Judge may receive proof of the matters in relation thereto orally or by affidavit, and make such rule or order thereon as the circumstances of the case may require; and as to payment of costs by the complainant, or by the Public Trustee personally, or from the estate administered by him, or the profits of the real estate taken possession of by him, as in the discretion of the Court or Judge shall seem just. And such rules and orders shall have the same effect, and be enforceable by the same process and in the same manner, as if made by the Court or Judge in a matter or cause within the ordinary jurisdiction of such Court or Judge.

Order may be applied for to Supreme Court calling upon Trustee to show cause why he should not do or abstain from doing certain acts.

Court may receive proof of the matter of complaint orally or by affidavit, and may make such rule or order as the case may require.

## PART II.

### LUNATIC PATIENTS' ESTATES.

- 37.** In lieu of the Registrar of the Supreme Court of the judicial district within which any lunatic patient resides, it shall be the duty of the Public Trustee to take possession and care of, receive collect preserve and administer, under the provisions of "The Lunatics Act, 1868," as amended by this Act, and of the said Act, the property and estates of every lunatic patient of whose estate no committee shall have been appointed, and all such property and estates shall be deemed to be placed in the Public Trust Office.

General powers of Registrar of Supreme Court as to taking charge, &c., of property of lunatic patients of which no committee appointed, transferred to Public Trustee, and property, &c., deemed to be placed in Public Trust Office.

- And all moneys in the Public Trust Fund at the time of the passing of this Act to the credit of the estate of any lunatic patient of whose estate no committee has been appointed, and all investments thereof, shall on the passing of this Act be deemed to be placed in the Public Trust Office.

To vest present moneys in Public Trust Office.

- 38.** All expenses incurred by or on behalf of the Colony or any Province or County, or the Public Trustee or the Public Trust Office, in the care protection and management of the estate of any such lunatic patient, shall by such Public Trustee be charged against and paid out of and recoverable from such estate.

Expenses of management.

- 39.** In addition to such expenses and to all payments for or on account of maintenance, there shall be charged a percentage of not exceeding five per centum on all moneys collected by or paid to or coming under the control of the Public Trustee, for or on behalf of any lunatic patient or his estate; and in every case the fractional parts less than one moiety of the pound sterling shall be disregarded in the calculation of the amount payable for percentage, and shall

Per-centage.

not be levied or paid. The amount of all such deductions for expenses and percentage shall be paid to the Public Trust Office Expenses Account.

Sections 107, 108, and 109 of the Lunatics Act shall apply to percentage.

40. The one hundred and sixth section of "The Lunatics Act, 1868," shall not apply, but the one hundred and seventh one hundred and eighth and one hundred and ninth sections of the last-mentioned Act shall apply to the percentage aforesaid. 5

Certain powers of Registrars as to estates of lunatic patients of which no committee appointed transferred to Public Trustee.

41. The Public Trustee shall, in the execution of his powers and authorities under this Part of this Act, have the like power and authorities as conferred on any Registrar of the Supreme Court by the sections of the said Lunatics Act numbered from one hundred and ten to one hundred and thirteen, both inclusive, and shall, in lieu of any Registrar of the Supreme Court, have in respect of the property and estate of any lunatic patient of whose estate no committee shall have been appointed, and in addition to the general powers conferred upon such Public Trustee by the preceding sections of this Part of this Act, all the duties powers and authorities which are in subdivision two of Part VI. of the said Lunatics Act given to any Registrar of the Supreme Court, and all the like duties powers and authorities as are in subdivision three of the said Part of the said last-mentioned Act given to the committee of the estate of a lunatic. 10 15 20

But the Governor in Council may from time to time by Rules provide that such of the said powers duties and authorities as appear to him ought not to be conferred on the Public Trustee, either generally or as to any particular estate, shall not be conferred on the Public Trustee, and such Order in Council may be altered or revoked, and all such powers duties and authorities as such Order in Council shall divert from the Public Trustee, shall devolve on and be performed and executed by the Registrar of the Supreme Court. 25

Proceeds of estates to be paid into Public Trustee's Account instead of Public Trust Fund.

42. Such moneys as by the one hundred and fiftieth section of "The Lunatics Act, 1868," are made payable into the Public Trust Fund, shall not hereafter, so far as relates to the estates of lunatic patients of whose estate no committee has been appointed, be paid into the said Fund; but all moneys belonging to any such estate shall be paid into the Public Trustee's Account, but shall be otherwise liable to be dealt with as by the said section provided. And out of the moneys belonging to such estate at such Account shall be paid all such sums as by the said section are payable, but all percentage shall be paid into the Public Trust Office Expenses Account. 30 35

In Part VII. of Lunatics Act, term "Registrar" to include "Public Trustee."

43. In Part VII. of "The Lunatics Act, 1868," the word "Registrar" shall with regard to lunatic patients of whose property no committee shall have been appointed, and their property, include the "Public Trustee." 40

### PART III.

#### MISCELLANEOUS.

45

Public Trustee may be appointed by Supreme Court administrator with will annexed in certain cases.

44. In any case in which, by reason of the absence from New Zealand, or the minority or other disability of any person entitled to administration with a will annexed, the Supreme Court has jurisdiction to appoint an administrator with such will annexed, the Supreme Court may appoint the Public Trustee to be such administrator with such will annexed. 50

Proposal to appoint to be submitted to Board.

45. Before such appointment be made, the proposal to make such appointment shall be submitted to and approved of by the Board; and upon such appointment being made, the property of which the Public Trustee is appointed to be administrator shall be deemed to be placed in the Public Trust Office. 55

Appointment to be subject to consents, &c., as in other cases.

46. In cases where if another than the Public Trustee were to be appointed, any consent, authority by power of attorney, performance of any condition, or existence of any state of facts would be necessary,

nothing in this Act shall be deemed, in the case of the appointment of the Public Trustee to be administrator, to render unnecessary such consent, power of attorney, performance of condition, or existence of state of facts.

5 **47.** All moneys in the Public Trustee's Account, from whatever property arising, shall, except as regards moneys as to which special provision is made for the investment thereof by the trusts affecting the particular property, be for the purposes of investment one common fund, and the investments thereof shall not be made on account of or  
10 belong to any particular property unless the Governor shall otherwise direct as to any particular property, and the interest accruing from investment of such moneys shall be divided amongst the properties from which the fund arises in such manner and at such times and in such proportions as shall be prescribed by regulations to be made for  
15 the purpose from time to time by the Governor in Council, and such regulations shall have the force of law as if included in this Act.

Investment of moneys at Public Trustee's Account as to which no special discharge in the Trust to be made on general account.

Interest accruing, how to be divided.

**48.** The provisions of the said Act, and the rules thereunder for the time being in force touching the safe custody of moneys, the receipt and payment of money and investing thereof, and the time  
20 place and manner of account, the method of keeping accounts, the inspection and audit thereof, and generally touching the conduct of the Public Trustee's business, shall, so far as applicable, apply to the moneys payable or paid by or to the Public Trustee, or payable or paid into or out of the Public Trustee's  
25 Account or the Public Trust Office Expenses Account under this Act, and generally to the conduct of the business of the Public Trustee under this Act; but the Governor in Council may, if he think fit, from time to time, make special rules touching the matters aforesaid, and of all proceedings under this Act, or any of them, and the appointments  
30 and duties of agents of the Public Trustee, and for devolving upon such agents such functions of the Public Trustee as the Governor in Council may deem desirable, and the conduct and despatch of all business matters and things to be done in pursuance of this Act, and generally for carrying the several provisions of this Act into  
35 effect, as may be deemed expedient, and from time to time repeal vary or amend, as occasion may require, such rules, or any of them; and every such rule shall take effect from a day to be therein named for that purpose: Provided that no such rule be repugnant to or inconsistent with any of the provisions of this Act.

Provisions of "The Public Trust Office Act, 1872," to apply to custody, &c., of moneys received under this Act.

40 **49.** During the illness or absence of the Public Trustee, the Deputy Public Trustee may discharge the duties of the Public Trustee under this Act, and such Deputy may during such illness or absence act in the stead of the Public Trustee, and sign and execute in his name all such documents as may require his signature or  
45 execution, and do perform and discharge all other acts deeds and duties pertaining to the office of Public Trustee under this Act.

Deputy Public Trustee may perform duties of Public Trustee in some cases.

## SCHEDULES.

### FIRST SCHEDULE.

#### ORDER OF COURT.

In the Supreme Court of New Zealand,  
District.

The day of A.D. 18 .

UPON reading the affidavits of A.B., C.D., and E.F., it is ordered that the Public Trustee shall be administrator of all and singular the goods chattels and credits of O.P. deceased [with the will of the said O.P. annexed]; and that this rule be published in the newspaper.

## ORDER OF JUDGE.

In the Supreme Court of New Zealand,  
District.

UPON reading the affidavits of A.B., C.D., and E.F., I do order that the Public Trustee shall be administrator of all and singular the goods chattels and credits of O.P. deceased [with the will of the said O.P. annexed]; and that this order be published in the newspaper.

R.S.

## SECOND SCHEDULE.

PARTICULARS OF THE ESTATES OF DECEASED PERSONS WHICH HAVE BEEN PLACED UNDER THE CHARGE OF THE PUBLIC TRUSTEE FOR MANAGEMENT DURING THE MONTH OF

No.	Name of Deceased.	Colonial Residence.	Supposed British or Foreign Residence.	Date of Order.	Value or estimated Value of Personal Estate.	Time of Deceased's Death.	Remarks.

Dated the                      day of

Public Trustee.

## THIRD SCHEDULE.

THE ESTATE OF                      DE. TO A.B.

Date.	Estate.	Nature and full particulars of Claim.*	Amount.

I, A.B., being a claimant as above stated, do solemnly and sincerely declare that the particulars above given of the claim made by me are true and just in every particular, and that I believe the above-named estate to be legally liable to satisfy such claim.

A.B.

\* If claimant is entitled as next of kin, his relationship to the deceased must be fully stated.