



Public Trustee may advance out of his account moneys payable in respect of his administration of an estate where funds belonging to estate not immediately available for purpose.

Public Trustee may apply income or not exceeding one-half of capital for maintenance, &c., of infant.

Proviso.

Section 4 not to restrict jurisdiction of Courts to make orders for maintenance, &c.

Public Trustee may make payments not exceeding £50 without order.

Section 8 of "The Public Trust Office Act Amendment Act, 1891," repealed. Public Trustee may, in certain cases, on electing so to do,

3. Notwithstanding anything contained in the said Acts, or in any other Act, the Public Trustee, in any case where there is to the credit of any estate in the Public Trust Office any real or personal property whether corpus, capital, or income, but there is no money or not sufficient available to make payments required to be made on account of such estate, whether to the persons entitled thereto, or to a share or interest therein, or otherwise, then the Public Trustee may, out of the Public Trustee's Account, advance and pay, for or on account of such estate, any sum of money which he is authorised or required to pay: Provided that no greater amount shall be so advanced and paid than the value of the real and personal property. With respect to the sums so advanced, they shall be a first charge upon real and personal property, and shall bear interest at the rate of \_\_\_\_\_ per centum per annum. 5 10

4. The Public Trustee may, if he thinks fit, apply for the maintenance, education or otherwise for the benefit of any infant, during his or her minority, the whole or any part of the income of the share to which such infant shall be entitled in possession, whether the same shall arise by intestacy or under a will, or under any trust; and the Public Trustee may, if he thinks fit, apply for the advancement or otherwise for the benefit of an infant any part or parts not exceeding in the whole one half of the corpus or capital of the share to which any infant shall be entitled in possession or reversion immediately expectant on a prior life interest, and whether such share shall arise by intestacy or under a will, or under any trust; but no such application of a reversionary share shall be made without the previous consent in writing of the person on whose death such prior interest shall be determinable: 15 20 25

Provided that nothing herein contained shall apply to the case of a will or any trust whereby provisions are expressly made for the maintenance, education, advancement, or otherwise for the benefit of an infant, or whereby provisions are expressly made against any such application: Provided further that where provision is made, but it shall be or become insufficient, then the provisions of this section shall apply. 30 35

5. Nothing contained in section four shall restrict any Court having jurisdiction from making any order for the application of either corpus, capital, or income for the maintenance, education, advancement, or otherwise for the benefit of an infant.

6. When under the said Acts or under any Act of Parliament the Public Trustee is directed to pay any money to any person entitled thereto, upon an order of Court being obtained he may make a payment, if the amount thereof does not exceed fifty pounds, without such order; and any payment so made shall be as valid as if authorised by an order of Court, and the Public Trustee shall be protected as he would be if he had made the payment pursuant to an order of Court. 40 45

7. Section eight of "The Public Trust Office Act Amendment Act, 1891," is hereby repealed.

8. Where before or after this Act comes into operation any person has died or shall die intestate leaving real or personal property the estimated value of which in the opinion of the Public 50

Trustee does not, at the time of the election hereinafter mentioned, exceed two hundred and fifty pounds, and no person has taken out administration, the Public Trustee may, in all cases where he is entitled to take out administration in lieu of taking out  
 5 letters of administration or obtaining an order to administer, file in the Supreme Court of the district in which the intestate died, or, if the intestate died out of the colony, then in the Supreme Court for the Wellington District, an election in writing setting forth the name, residence, and occupation, so far as then known to the Public Trustee,  
 10 of the intestate, and of the property of the intestate as then known, and electing to administer such property. Upon such election being filed the Public Trustee shall be deemed to be administrator of the property of the deceased person in all respects, as if letters of administration had been regularly granted to the Public Trustee.  
 15 The Public Trustee shall publish in the *Gazette*, and elsewhere as he thinks fit, a notice that he has made such election. The *Gazette* notice shall be conclusive evidence that the Public Trustee has made and filed the election hereinbefore mentioned.

Notwithstanding that after the filing of such election it shall be  
 20 found that the real and personal property of such intestate exceeded two hundred and fifty pounds such election shall be valid, and the Public Trustee shall continue to be administrator without any grant of letters of administration.

9. When the Public Trustee is executor or administrator, or is  
 25 by law authorised to administer the estate of any deceased person, a certificate under his hand, and sealed with his corporate seal, certifying that he has taken out probate or letters of administration or is authorised to administer, and stating the date when such probate or letters of administration were granted, or when and how he became  
 30 authorised to administer, and the name, residence, and occupation of the deceased person, shall be accepted by all Courts, officers, and other persons, whether acting under any Act or not, as sufficient evidence of the death of the deceased person, and of the appointment of the Public Trustee as executor or administrator, or of his  
 35 right to administer, without production of any other proof whatever.

10. When any person dies or has heretofore died, whether  
 testate or intestate, and notwithstanding that some person other than the Public Trustee is appointed executor or is entitled to letters of administration, the Public Trustee may, if he thinks  
 40 fit, for the protection of the property of the deceased person, until probate or letters of administration are granted, exercise thereover and otherwise all such powers and authorities and do all acts and things as he would have or could exercise or do if he had obtained probate of the will or letters of administration of the estate of the  
 45 deceased person, save as follows:

The Public Trustee shall not sell, lease, exchange, mortgage, or partition any portion of the real or personal estate, except by sale of such portion of the personal estate as may be of a perishable nature, or which may be ordered to be sold by a Judge of the Supreme Court  
 50 upon the application of the Public Trustee, and which order a Judge of the Supreme Court is hereby authorised to make. All costs, charges, and expenses incurred by the Public Trustee under this

1171  
 administer the estate of any intestate whose estate does not exceed £250 in value without grant of administration.

A certificate under the hand and seal of the Public Trustee that he is executor or administrator of the estate of a deceased person to be accepted by all Courts, &c., as sufficient proof of death, and that Public Trustee is executor or administrator.

Pending grant of probate or letters of administration to any person entitled thereto, the Public Trustee may, for the protection of the estate, exercise certain of powers of executor or administrator.

section shall be a first charge upon the property of the deceased person.

Any executor or administrator who takes out letters of administration of the estate of any such person, or who obtains probate of his will, shall, out of any assets which come to his hands, first pay thereout any costs, charges, and expenses which may have been incurred by the Public Trustee in giving effect to this section. 5

Notice of intention to exercise powers conferred by section 10 to be given by Public Trustee to person entitled to grant of probate or administration.

11. Before the Public Trustee first acts under section ten he shall give notice, in writing or by telegram, to any person in the colony if known to the Public Trustee as a person who (not being an infant, lunatic, or idiot) would be entitled to obtain probate or letters of administration, informing such person that he intends to so act unless such person forthwith proceeds to apply for probate or letters of administration; and if such person does not, within a period of days after the posting of such notice or the despatching of such telegram, give notice, in writing or by telegram, to the Public Trustee that he intends to apply for probate or letters of administration, or if such person gives such notice but fails for days after giving such notice to apply for probate or letters of administration, or makes such application and it fails, then the Public Trustee may proceed to exercise any of the powers and authorities given by section ten of this Act. 15 20

If more persons than one are entitled to take out probate or letters of administration, it shall be sufficient to give notice to one of such persons only. 25

Proviso in cases of emergency, or where person entitled unknown.

Nothing herein contained shall, where it is not known to the Public Trustee that there is in the colony any person entitled to obtain probate or letters of administration, or in case of emergency (of which emergency the Public Trustee shall be the sole judge), prevent the Public Trustee from exercising the powers and authorities given by section ten without giving such notice as aforesaid. 30

No person to take out or reseal probate or letters of administration without giving notice of his intention to the Public Trustee.

12. No person shall be entitled to take out probate or letters of administration in the colony, or to reseal probate or letters of administration issued out of the colony, until he has given notice, by telegram or in writing, to the Public Trustee or his agent that he is about to make application for such probate or administration or resealing; and before such probate or administration is granted, or such resealing effected, an affidavit of the giving of such notice shall be filed. 35

Affidavit that notice given to be filed before grant of probate or administration. Section 5 of "The Public Trust Office Act Amendment Act, 1891," repealed. Provision for closing administration of estate after notice.

13. Section five of "The Public Trust Office Acts Amendment Act, 1891," is hereby repealed. 40

When a testate or intestate estate is under administration, and such administration could be properly closed in a less time than is required by the existing law, the Public Trustee, after giving notice once each week for two weeks in two newspapers at least published or circulating in the county, borough, city, or other district or locality where the deceased shall have resided or carried on business immediately preceding his decease; or, if the deceased died out of the colony, then in such manner as a Judge of the Supreme Court may direct, requiring creditors and others to send in to the Public Trustee their claims against the said estate, may at the expiration of the time limited in such notice, being not less than two 45 50

calendar months from the first publication thereof, or in the case of a person dying out of the colony, within such time as a Judge of the Supreme Court may direct, distribute the assets of the deceased, or any part thereof, amongst the persons entitled thereto, having regard to the claims of which the Public Trustee has then notice; and he shall not be liable for the assets, or any part thereof so distributed to any person of whose claims he shall not have had notice at the time of distribution of the said assets, or a part thereof as the case may be; but this provision shall not prejudice the rights of any subsequent claimant to establish his right to receive payment from the persons who shall have been paid any distributive shares, or the whole residue of the estate by the Public Trustee, or, in the case of real property, who may have received a conveyance or assurance thereof, or any part thereof from the Public Trustee: Provided that if any such estate shall be of less value than fifty pounds it may be distributed or conveyed and assured and dealt with without giving any such notices as aforesaid.

The word "distribute" shall as to real estate mean "convey and assure the real estate to the person or persons entitled thereto," and the words "distributed" and "distribution" shall mean as to real estate "conveyed and assured the real estate to the person or persons entitled thereto."

Provided that nothing herein contained shall prevent the Public Trustee, as executor or as administrator with or without a will annexed or otherwise, from making distribution under any other law or statute, or prejudice the protection thereby afforded where he makes distribution pursuant to such law or statute.

14. When any Court or Judge, except upon the application of the Public Trustee, makes any order directing property to be paid to the Public Trustee or into the Public Trust Office, or makes any order vesting property in the Public Trustee, or appoints the Public Trustee trustee, executor, administrator, guardian, or committee, it shall be the duty of the person who obtains such order forthwith thereafter to serve upon the Public Trustee or his agent a copy thereof, and to deliver to the Public Trustee or his agent a statement of the property affected by the order, and where such property is situated or by whom held, so far as the same is known to such person; and in default thereof such person shall be liable to a penalty of not exceeding pounds unless such person proves that such default was due to accident or was unavoidable.

Any person obtaining order placing property in Public Trust Office to serve same with particulars of property affected on Public Trustee.

Penalty for non-compliance.

15. It shall be the duty of the Registrar or Deputy-Registrar of the Supreme Court, and of all Courts and Judges (except the Court of Appeal or the Judges thereof, and the Supreme Court or the Judges thereof) to see that a copy of such order is delivered or posted by registered letter to the Public Trustee or his agent, together with a statement of the property affected by such order, and where such property is situated, or in whose possession it is, so far as the Court, Judge, Registrar, or Deputy-Registrar can ascertain; and the Court, Judge, Registrar, or Deputy-Registrar shall at the time of making an order, ascertain, by such ways and means as it or he thinks best (and jurisdiction is given hereby for that pur-

Court and Registrar to see that orders, with particulars of property, sent to Public Trustee.

pose), the property affected by the order, and where such property is situated, and in whose possession it is.

Existence of property, in the hands of any person or corporation, belonging to deceased person whose estate is being administered by the Public Trustee to be notified, with particulars thereof, by such person or corporation to the Public Trustee.

16. When any corporation, association, or person is in possession of any real or personal property of a deceased person, or where there is to the credit of any deceased person in the books or accounts or otherwise of any corporation, association, or partnership any property or money, or where under any partnership or association any deceased person is entitled to a share in the assets thereof, or his representatives are entitled to any payment as the share in such assets, or where any deceased person is the registered proprietor of any shares in any corporation or association, or where any person is indebted to any deceased person, if such property, money, shares, or debts are vested in or belong to the Public Trustee, or if the Public Trustee has any right or claim thereto, and such corporation, association, or person becomes aware or has good reason to believe that such property is vested in or belongs to the Public Trustee or that the Public Trustee has any right or claim thereto, and does not within a reasonable time after becoming so aware or after such belief (and it shall lie upon the corporation, association, or person to show that it or he was not aware or had not such belief, and that it or he has complied with this provision) give notice to the Public Trustee or his agent of the extent, nature, and situation of such property, then, whether such corporation, association, or person has or has not any right in or title to such property or any claim thereover, such corporation, association, or person shall be liable to pay to the Public Trustee as from the time when such notice ought to have been given interest upon the value of such property after the rate of not exceeding per centum per annum as shall be determined by the Court in which any proceeding may be taken to enforce the same, unless such corporation, association, or person proves to the satisfaction of the Court that the failure to give such notice was due to accident or was unavoidable, and that no loss or damage has been occasioned to the Public Trustee in consequence of such notice not having been given: Provided that the Public Trustee may in any case remit such payment of interest either before or after any proceeding taken. This provision shall not apply to any officer of the Government as such officer.

In default of application by person entitled thereto for grant of probate or administration within of death, Public Trustee may apply for and obtain grant of administration.

17. When any person dies testate or intestate, and application for probate or letters of administration is not made within after the death of such person, the Public Trustee may apply for letters of administration, and the Court shall grant such letters of administration unless the person entitled thereto shall, before the Public Trustee makes such application, apply for such probate or administration, or show to the satisfaction of the Court that the delay in making such application has been and still is unavoidable or accidental. Upon such an application no costs shall be awarded against the Public Trustee.

Preservation of existing powers, except as otherwise hereby provided.

18. Except in so far as by this Act it is expressly otherwise provided all powers and authorities conferred by the said Acts or by any other statutes or laws upon any Court or Judge, or upon the Public Trustee shall remain unrestricted, and the provisions of this

1175

Act shall be read and construed as conferring upon such Courts, Judges, and the Public Trustee the powers and authorities hereby provided by way of addition to and not in derogation of any powers and authorities conferred by the said Acts or by any other statutes or laws, and so that the powers and authorities conferred by the said Acts, statutes, or laws, and by this Act, shall be capable of being exercised independently the one of the other, or in aid the one of the other; but, nevertheless, the provisions of this Act shall not be restricted by the said Acts, statutes, or laws.