

[AS REPORTED FROM THE COMMITTEE OF THE WHOLE.]

House of Representatives, 8th October, 1912.

Hon. Mr. Herdman.

PUBLIC TRUST OFFICE AMENDMENT.

ANALYSIS.

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A BILL INTITULED

AN ACT to amend the Public Trust Office Act, 1908.

Title.

BE IT 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 Public Trust Office Amendment Act, 1912, and shall form part of and be read together with the Public Trust Office Act, 1908 (hereinafter referred to as the principal Act).

Short Title.

2. (1.) The Governor may from time to time appoint fit persons (not exceeding four in all) to be Local Deputy Public Trustees, and with respect to every such Local Deputy the following provisions shall apply:—

Appointment of Local Deputy Trustees.

(a.) He shall have such of the functions and powers and shall perform such of the duties of the Public Trustee as are from time to time delegated to him by writing under the hand of the Public Trustee:

(b.) He shall be subject to the direction and control of the Public Trustee:

(c.) He shall be stationed in the city of Auckland, Christchurch, or Dunedin, or in some specified town in the Provincial District of Wellington:

(d.) He shall have a seal of office which shall have the same force and effect as the Public Trustee's seal, but shall be distinguished therefrom by the addition of the words "[Auckland] Local Deputy":

(e.) All deeds and instruments which, if executed by the Public Trustee, would be signed by him and sealed with his seal of office shall, when executed by the Local Deputy, be signed by him thus:—

"THE PUBLIC TRUSTEE,

"By A.B.,

"Local Deputy Public Trustee at [Auckland]," and be sealed with his seal of office.

(2.) The appointment of the Local Deputy, his seal of office, and the signature of the person for the time being holding that office shall be judicially taken notice of without further proof.

(3.) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorizing the Local Deputy to act in that capacity; and all things done or omitted by him shall have the same consequences and effect as if the same had been done or omitted by the Public Trustee.

Temporary advances to Public Trustee.

3. (1.) In order to admit of the moneys in the common fund being kept more closely invested than is at present possible, the Public Trustee may, with the approval of the Minister in each case, obtain advances from the Treasury or the New Zealand State-guaranteed Advances Office or the bank at which the Public Trustee's account is kept, by hypothecating securities held by him in respect of investments of the common fund.

(2.) All such advances (other than those obtained from the bank) shall be made out of moneys available for temporary investment, and under the control of the Treasury or the Superintendent of the New Zealand State-guaranteed Advances Office, as the case may be.

(3.) Every such advance shall be for such period, not exceeding four months, and at such rate of interest as are approved by the Minister:

Provided that on the expiration of the said period the advance may be renewed for the same or any shorter period, and so on from time to time.

(4.) The total amount of advances under this section outstanding at any one time shall not exceed sixty thousand pounds.

Struck out.

Advances from common fund to estate, on security of land, to constitute mortgage for purposes of assessment of land-tax.

4. Where the assets of an estate in the Public Trust Office comprise land the title to which is vested in the Public Trustee and duly registered, and out of moneys in the common fund he makes advances to the estate on the security of the assets, then in the assessment of that land for purposes of land-tax a certificate under the hand and seal of the Public Trustee stating the amount of the advance and the fact that the land is a security for it, shall be accepted by the Commissioner of Taxes as if it were a duly registered mortgage of the land, and the land shall be assessed accordingly.

Administration by Public Trustee of benefit funds.

5. (1.) In any case where a fund is raised by public or private subscriptions for the benefit or relief of any person or class of persons, the following provisions shall apply:—

(a.) The fund may be placed in the Public Trust Office to be administered by the Public Trustee and to be invested in the common fund:

(b.) The Public Trustee may recognize as a committee any persons whom he believes to have been appointed or authorized in that capacity by a substantial number of the subscribers:

(c.) The Public Trustee, after conferring with the committee, may apply to the Supreme Court for directions as to the administration of the fund, and for that purpose shall submit a scheme:

(d.) The Court may approve the scheme with or without modification as the Court thinks fit:

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(e.) The Public Trustee shall administer the fund in accordance with the scheme so approved :

(f.) On the application of the Attorney-General, or of the Public Trustee, or of any member of the committee, or of any person claiming an interest in the fund, the Court may at any time vary the scheme or give directions on any point or question relating to the scheme or the fund :

(g.) The Public Trustee shall obey all such directions.

(2.) This section shall apply to funds heretofore raised as aforesaid as well as to funds hereafter so raised, and to those funds raised as aforesaid which at the commencement of this Act are being administered in the Public Trust Office.

6. (1.) Where an intestate estate is in the Public Trust Office and there are infants entitled, the following special provisions shall apply in the case of each infant's share :—

Payments out of infant's share of intestate estate for the infant's maintenance, &c.

(a.) The Public Trustee may out of the infant's share make periodical or other payments towards the maintenance, education, or advancement of the infant, not exceeding ~~six pounds in any one month or~~ eighty pounds in any one year.

(b.) The payments authorized by this section may be made by the Public Trustee to such person and in such manner as he thinks fit without seeing to the application thereof or being responsible for the non-application thereof.

(2.) The powers by this section conferred upon the Public Trustee may be exercised without obtaining any order of a Judge of the Supreme Court, and are irrespective of and in addition to all other powers exercisable by him.

(3.) The Supreme Court may in any case authorize the making of payments for any of the purposes aforesaid in excess of the limit hereinbefore prescribed.

(4.) All payments heretofore made by the Public Trustee in respect of the maintenance, education, or advancement of any infant shall be as valid as if this section had been in operation when they were made.

7. (1.) Where an intestate estate is in the Public Trust Office and any person entitled to a share of that estate desires an advance against his share the Public Trustee may, out of the Public Trustee's Account, make advances to that person not exceeding in the whole one-half of the value of the share as estimated by the Public Trustee and approved by the Board.

Advances against beneficiary's share of estate.

(2.) All such advances with interest thereon at such rate as is agreed on, not exceeding six per centum per annum, shall by force of this Act and without any instrument of assignment be a first charge on the share against which the advances are made.

(3.) A certificate under the hand and seal of the Public Trustee stating the amount owing for advances and interest on any specified date, the person to whom the advances were made, and the share against which they were made shall, according to its tenor, be sufficient evidence of the facts until the contrary is proved.

(4.) All such advances heretofore made by the Public Trustee shall be as valid as if this section had been in operation when they were made.

Section 29 of  
principal Act  
amended.

8. Section twenty-nine of the principal Act is hereby amended by omitting from the proviso to subsection one thereof the words "five hundred," and substituting therefor the words "one thousand."

Section 32 of  
principal Act  
amended.

9. Subsection three of section thirty-two of the principal Act is hereby repealed, and the following subsection is substituted therefor:— 5

"(3.) On the moneys arising from one estate the rate of interest shall not exceed five per centum per annum on the first six thousand pounds, and four and a quarter per centum per annum on the excess." 10

Section 34 of  
principal Act  
amended.

10. (1.) Section thirty-four of the principal Act is hereby amended by adding the following paragraph:—

"(e.) In advances by way of first mortgage on the security of any of the following classes of leasehold estate, free from incumbrances, to an amount not exceeding three-fifths of the mortgagor's interest in the estate, according to a valuation approved by the Board:— 15

(i.) Crown land held under perpetual lease, lease in perpetuity, renewable lease, or occupation with right of purchase: 20

(ii.) Native land held under lease granted by a Maori Land Board or *by or on behalf of* the Native owners, of which the unexpired term (including in the computation thereof all periods for which there is a right of renewal) is for a period not less than twenty-one years." 25

(2.) The expression "incumbrances" in the aforesaid section thirty-four shall be construed as from the passing of the principal Act not to have included leases or easements.