

## New Zealand.



### ANALYSIS.

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| <p>Title.</p> <ol style="list-style-type: none"> <li>1. Short Title.</li> <li>2. Interpretation.</li> <li>3. Leases to be of uniform term of twenty-one years.</li> <li>4. Separate values of improvements made by lessee and sublessee, also annual value of land without improvements, to be ascertained.</li> <li>5. Extension of term of subleases expiring within twelve months of original lease.</li> <li>6. Extension of term of subleases in other cases. (1.) Provision for contract in writing for such extension. (2.) Nomination of Valuers. (3.) On refusal of lessee, Public Trustee may sign. (4.) Power of Public Trustee to sign necessary documents. (5.) Lessee's improvements considered in valuation of rack-rent. (6.) Lessee and sublessee entitled to amount of improvements.</li> <li>7. Leases may be surrendered.</li> <li>8. Board to direct how leases to be offered for competition.</li> <li>9. Power to increase or diminish area of holdings when again leased.</li> </ol> | <ol style="list-style-type: none"> <li>10. Upset rent.</li> <li>11. Purchaser to pay value of improvements.</li> <li>12. If new lease not completed within one month, valuation to be paid to person entitled.</li> <li>13. Provision with respect to Arahura and Motucka Reserves.</li> <li>14. Condition for perpetual renewal on readjustment of rent.</li> <li>15. Valuation for improvements, to whom paid.</li> <li>16. Public Trustee to execute leases.</li> <li>17. And to have power to sue.</li> <li>18. Reserves in mining district.</li> <li>19. The taking of Native land for mining to be a public work.</li> <li>20. Whom to be treated with on such taking.</li> <li>21. Tenants entitled to compensation.</li> <li>22. Compensation to be held on same trusts as theretofore.</li> <li>23. Public Trustee not compellable to take over improvements.</li> <li>24. Greymouth Reserve to be managed by Public Trustee.</li> <li>25. Maoris may exchange lands with Governor's consent.</li> <li>26. Repeal.</li> </ol> |
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1887, No. 29.

AN ACT to provide for the Management of the Westland and Nelson Native Reserves in the South Island.

[23rd December, 1887.]

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

1. The Short Title of this Act is "The Westland and Nelson Native Reserves Act, 1887." Short Title.

2. In this Act, if not inconsistent with the context,— Interpretation.

"Board" means the Board constituted under "The Public Trust Office Act, 1872," and any Acts amending the same, together with the two Natives interested in the said reserves who may from time to time be appointed under "The Native Reserves Act, 1882:"

"Improvements" includes buildings, fencing, planting, draining, reclamation of land, laying down in grass or pasture, and any other improvement of a substantial and permanent character:

“ Lessee ” includes assignee, executor, and administrator ;  
 “ Public Trustee ” means the Public Trustee appointed under  
 “ The Public Trust Office Act, 1872, ” or other Act for the  
 time being in force.

Leases to be of  
 uniform term of  
 twenty-one years.

3. The following alterations are made in section fifteen of “ The Native Reserves Act, 1882, ” so far as relates only to Native reserves in Westland and Nelson : The words “ thirty years ” and “ sixty-three years, by renewable terms not exceeding twenty-one years each, subject to a new assessment of ground rent at every such renewal, ” shall be and the same are hereby repealed, and in their respective places and stead shall be inserted the words “ twenty-one years. ”

Separate values of  
 improvements made  
 by lessee and sub-  
 lessee, also annual  
 value of land with-  
 out improvements  
 to be ascertained.

4. The Public Trustee shall, not more than twelve months nor less than six months before the expiration of the several leases now subsisting of any, or any part of any, Native reserve in Westland and Nelson, and also forthwith, in the case of any Native reserve situate as aforesaid, in lawful and recognised occupation by any person whose occupation originated in a lease by deed or memorandum of lease which shall have expired, obtain a valuation of all improvements on each parcel of land so leased or occupied so as to ascertain the value,—

- (1.) Of lessee’s improvements ;
- (2.) Of sublessee’s improvements ;
- (3.) The rack-rent of each parcel of land as then separately held, as if no improvements existed thereon.

Such valuations of (1) lessee’s improvements, and (3) the rack-rent of each parcel of land as then separately held as if no improvements existed thereon, shall be made by two valuers, one to be appointed by the Public Trustee, and one by the lessee, (2) such valuation of sublessee’s improvements shall be made by two valuers, one to be appointed by the Public Trustee and one by the sublessee ; but should the lessee or sublessee fail to appoint a valuator within two weeks of his being requested by the Public Trustee in writing so to do, then the Public Trustee shall appoint the valuator in lieu of the appointment the lessee or sublessee has failed to make. In the event of such valuers not being able to agree they shall appoint an umpire, whose decision shall be final and conclusive. The fees to be paid to the valuers shall be charged to the incoming lessee : Provided always that it shall not be necessary to make any such valuations if the amount thereof shall be agreed to by the Public Trustee and the lessee or the sublessee as the case may be.

Extension of term  
 of subleases expiring  
 within twelve  
 months of original  
 lease.

5. In all cases where the lessee shall have subleased the whole or any part or parts of the land demised to him, and such sublease shall exist or shall have existed for a term which would expire or has expired by effluxion of time within twelve months of the expiry by effluxion of time of the original lease, then and in every such case the said sublease shall, by virtue of this Act, be extended to the day of the date of the expiry of the said original lease, subject to the following conditions, namely,—

- (1.) This provision shall not extend to mortgagees by sublease for their personal benefit.
- (2.) This provision shall extend to mortgagees of sublessees if and when they shall notify in writing to the Public

Trustee their wish that it should be so extended; but, in such case, they shall be trustees for their respective mortgagors, and liable to account accordingly.

- (3.) All the powers, provisions, and covenants (including the proviso respecting rent) contained in such subleases respectively, and the rights and remedies for enforcing and obtaining the benefit of the same, shall be extended in the same manner.
- (4) This provision shall not extend to sublessees who shall have, by express proviso, declaration, or covenant, negatived and disclaimed their right to claim from their respective lessors the benefit or value of any improvements made by them or any part thereof.

6. In the case of all other subleases which but for this provision would expire by effluxion of time at a day earlier than twelve months before the like expiry of the original lease, the several sublessees shall be entitled to the rights and privileges conferred by section five of this Act, upon the following conditions (except as to such of them as shall disclaim the same in writing given to the lessee and also to the Public Trustee) :—

Extension of term of subleases in other cases.

- (1.) That each sublessee enter into a good and valid deed with his lessor extending the term of the sublease to the term of the original lease, and providing for the payment of a rack-rent, to be mutually agreed upon by them and, in case of disagreement, to be ascertained by arbitration or valuation of three indifferent persons, one to be chosen by either party and the third by the two chosen before entering upon the ascertainment of the said rent.
- (2.) If either party neglect or refuse to name his arbitrator or valuator within ten days after notice in writing given him by the other party so to do, then the other party to name him.
- (3.) In case the said lessor shall neglect or refuse, for one month after notice in writing, to be served on him or posted to his last-known place of abode in New Zealand, to comply on his part with these provisions, then the Public Trustee shall thereupon be empowered, if and when requested by the sublessee, to perform the duties hereby imposed upon the said lessor, but only so far as is necessary to complete the said valuation and deed respectively.
- (4.) Any such deed, and all other acts necessary to be done in the premises, shall be signed, done, and performed by the Public Trustee in his own individual name, and for and on behalf of the lessor therein named or thereby affected.
- (5.) In the valuation and computation of such rack-rent the lessee's improvements shall be taken into consideration.
- (6.) Both lessee and sublessee shall remain and be entitled to receive the amount of the improvements respectively made and to be made by them respectively, so to be ascertained by valuation before the end of the term of the lease in which they or either of them are interested.

Provision for contract in writing for such extension.

Nomination of Valuators.

On refusal of lessee Public Trustee may sign.

Power of Public Trustee to sign necessary documents.

Lessee's improvements considered in valuation of rack-rent.

Lessee and sublessee entitled to amount of improvements.

Leases may be surrendered.

7. It shall be lawful for the Public Trustee (with the consent of the Board) to accept any surrender of any lease now or hereafter existing, on such terms and conditions as may appear necessary in each case: Provided also that the Public Trustee may (with the consent of a majority of the Native owners of the reserves under this Act), in any case where the rents fixed under any existing lease appear to him to be excessive, reduce the rents so fixed, and thereafter the reduced rent shall be the rent charged under the said lease.

Board to direct how leases to be offered for competition.

8. When and so soon as the respective valuations hereinbefore directed shall have been ascertained, the Public Trustee shall lay the same before the Board, who shall direct the time and mode of sale, and upon what terms and conditions (if any), besides those imposed by "The Native Reserves Act, 1882," the new leases shall be offered for competition.

Power to increase or diminish area of holdings when again leased.

9. Each parcel of land to be put up for sale or tender shall be of the same dimensions as coincides with the holding of the lessee or sublessee, as the case may be, whose term shall be then about to expire, whenever practicable; but it shall be lawful for the Public Trustee to increase or diminish the size and area of any parcel of land submitted for lease, provided that not more than one interest shall be put up or submitted in one parcel, except in the case of subdivision.

Upset rent.

10. The upset rent shall be the valuation of the land without improvements, to be ascertained as hereinbefore provided.

Purchaser to pay value of improvements.

11. The purchaser of the lease shall pay to the Public Trustee, at the time of auction, or within one week of his tender being accepted and notification to him by post thereof, the value of all improvements, to be ascertained as hereinbefore provided, unless he be himself the person entitled thereto or to any part thereof, and, if the latter, then he shall pay so much only as he shall not be entitled to receive.

If new lease not completed within one month, valuation to be paid to person entitled.

12. The purchaser of the right to a lease of any parcel of land shall with all reasonable speed complete his lease, and, if he shall neglect or refuse for one month so to do, the Public Trustee shall pay the amount of any valuation then in his hands received from any such purchaser to the person or persons entitled thereto, without being liable to refund the same or any part thereof; but this provision shall not prevent the Public Trustee, when submitting the land again for lease, from requiring from the successful bidder or tenderer the amount of such valuation, which shall be subject to the like conditions as to time, and may be paid over to the previous defaulter, less any costs and expenses that may have been incurred by his conduct and in and about such second putting up to sale or tender.

Provision with respect to Arahura and Motueka Reserves.

13. The foregoing provisions respecting the sale of new leases shall not apply to the Native reserves in the Provincial District of Nelson known as the "Arahura and Motueka Reserves;" and as to these lands it shall be the duty of the Public Trustee to offer to the several persons now in lawful occupation a new lease for twenty-one years of their several parcels of land, at a rental ascertained or to be ascertained in manner hereinbefore provided; and only in the event

of such tenants or such of them as shall refuse or neglect, for one month after notice in writing served upon each of them or left at their holdings, to accept such new lease shall the said parcels of land held by them so refusing or neglecting become subject to the provisions of this Act respecting sale and tender: Provided that in any case in which no buildings have been erected, and the land has not, in the opinion of the Court, been substantially improved, the tenant shall not be entitled to a renewal of his lease: Provided that any tenant unsatisfied with the decision of the Commissioner may apply to the Governor in Council, whose decision shall be final.

14. In all leases to be hereafter granted there shall be a condition for a new ascertainment of the rent at the expiry or surrender of every such lease, and that the then holder shall have the right of renewal for a like term upon the same conditions and covenants (including the right of renewal), subject only to the difference that the rent shall be the rent so ascertained as hereinbefore provided.

Condition for perpetual renewal on readjustment of rent.

15. The money to be paid to and received by the Public Trustee as valuation for improvements shall be paid to the several persons entitled thereto in manner hereinbefore provided.

Valuation for improvements, to whom paid.

16. The Public Trustee shall, in his own name and under his corporate seal, execute the leases to be granted under this Act, and the same shall be valid and effectual against Her Majesty and all persons whomsoever.

Public Trustee to execute leases.

17. The Public Trustee, by his corporate name of "The Public Trustee," has and shall have full power and authority to commence and carry on any action, suit, or other proceeding which he may think fit in relation to or connected with any contract, tort, or offence heretofore or hereafter to be made, done, or committed in respect of any land subject to the provisions of any former Act or this Act.

And to have power to sue.

18. Such of the said reserves as are situated in a mining district constituted under "The Mining Act, 1886," shall be deemed to be subject to the provisions thereof respecting Native reserves and Native lands.

Reserves in mining district.

19. Whenever the Governor in Council shall exercise the powers given by section thirty-five of "The Mining Act, 1886," the exercise of such power shall be a taking of the land thereby affected within the meaning of Part III. of "The Public Works Act, 1882," and be deemed to be a taking for a public work within the meaning of the same Act.

The taking of Native land for mining to be a public work.

20. The Public Trustee or other person or body in whom any land so taken is vested, whether by title or by statute for administrative purposes only, shall be the person or body to be treated with for the acquisition of the freehold thereof.

Whom to be treated with on such taking.

21. All persons in lawful occupation of the said lands, or any part thereof, as lessees, tenants, or otherwise, shall, according to their respective estates and interests, be entitled to claim and receive compensation in manner provided by Part III. of "The Public Works Act, 1882."

Tenants entitled to compensation.

22. All moneys to be received by the Public Trustee or other person or body for compensation in respect of the freehold shall be held by and vested in him or them respectively for the use and

Compensation to be held on same trusts as theretofore.

benefit of the Natives for whom the land in respect of which the same was received was held, and the same shall be invested from time to time in Government securities or in first mortgages of real estate to an amount not exceeding fifty per centum of the value of the land mortgaged as valued by a competent valuator, and the income and proceeds thereof shall be paid to the Natives entitled thereto respectively according to their respective interests.

Public Trustee not compellable to take over improvements.

23. Nothing in this Act shall be deemed to imply that the Public Trustee shall be compelled to pay for any improvements erected, built, or made upon any leasehold, or take over any such improvements at a valuation at the expiration or surrender of any of the subsisting leases or tenancies or of any future lease.

Greymouth Reserve to be managed by Public Trustee.

24. All that parcel of land, containing five hundred acres, more or less, in the County of Grey, known as "the Greymouth Native Reserve," shall, notwithstanding the grant thereof made in pursuance of "The South Island Native Reserves Act, 1883," be under the control and management of the Public Trustee, and, subject to the special provisions of this Act, shall be managed, and leased, or otherwise dealt with under and in accordance with the law for the time being in force in relation to Native reserves, and not otherwise.

Maoris may exchange lands with Governor's consent.

25. The second paragraph of section three of "The South Island Native Reserves Act, 1883," shall be read as if the word "exchange" had been omitted therefrom, and it shall be lawful for one Maori to exchange his land with another for his land if the consent of the Governor be first obtained to any such exchange.

Repeal.

26. "The South Island Native Reserves Act, 1883," excepting section three and the two Schedules, is hereby repealed, and so much of "The Native Reserves Act, 1882," as is inconsistent with or repugnant to this Act.