

New Zealand.

## ANALYSIS.

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## 1923, No. 33.

AN ACT to amend the West Coast Settlement Reserves Amendment Act, 1913. Title.

[29th August, 1923.]

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 West Coast Settlement Reserves Amendment Act, 1923. Short Title.

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

Interpretation.

“The said Act” means the West Coast Settlement Reserves Amendment Act, 1913:

“Existing lease” means the lease for ten years granted pursuant to section three of the said Act, and includes a lease granted in substitution for any such lease:

“Lessees” means the persons for the time being entitled respectively to the existing leases, and includes the executors, administrators, and assigns of any such person.

3. In lieu of paying any compensation to which the lessee may be entitled as provided by section seventeen of the said Act, the Native Trustee may, with the consent of the Native owners or of a majority in interest of the Native owners of any land comprised in an existing lease, grant to the lessee a new lease of the land or any part of the land comprised in his existing lease for a further term

New leases may be granted to existing lessees.

not exceeding five years from the date of the expiration of such existing lease, subject to the same terms and conditions as are contained therein, save only as the same are altered or modified by this Act.

Native Trustee to ascertain wishes of Native owners.

4. The Native Trustee shall, as soon as practicable after the passing of this Act, take steps to ascertain whether the Native owners, or a majority in interest of the Native owners, of any land comprised in an existing lease are willing that the same or any part thereof should be again leased under the provisions of this Act. The finding of the Native Trustee in this behalf shall be final, and shall be binding on the Native owners of any such land, and shall be communicated to the lessee by writing posted to his last known place of abode.

Lessee desiring a new lease to give notice.

5. (1.) Every lessee who desires to take a new lease under the provisions of this Act shall, at least three months before the expiration of his existing lease, give notice in writing to the Native Trustee of his desire to obtain a new lease under the provisions of this Act, and in such case the Native Trustee shall, subject to the consent of the Native owners as required by the last preceding section, execute a memorandum of lease of the land comprised in the existing lease, or of such part thereof as the Native Trustee may think fit, for a term of five years computed from the expiration of the existing lease.

(2.) If any lessee fails to give notice of his desire to obtain a new lease under this section within the time limited in that behalf he shall be deemed to have elected not to take a new lease.

(3.) If the lessee does not elect to take a new lease in accordance with the provisions of this Act, the Native Trustee may lease the land comprised in such lease to any other person by public tender or by private contract for the period provided in the case of new leases under this Act, and upon such other terms and conditions as the Native Trustee shall think fit.

Rental payable under new lease.

6. The annual rental payable under any such new lease shall be such sum as the Native Trustee may determine, not exceeding five per centum of the unimproved value according to the existing Government valuation at the date of the expiry of the present lease of the land included in such new lease, but in no case shall the annual rental be less than that reserved in the existing lease.

On expiration of new lease lessee to be entitled to compensation.

7. (1.) On the expiration or sooner determination of the term of any new lease given by the Native Trustee as aforesaid the lessee shall be entitled to be paid the value of the improvements upon the land comprised therein and existing at the expiration or sooner determination of such new lease. The value of such improvements shall be ascertained by three valuers to be appointed in the manner provided by section fourteen of the said Act, and the decision of such valuers or a majority of them shall be final and conclusive.

(2.) The Native Trustee shall take such steps as he considers necessary to ascertain the person whom the Native owners of the land comprised in any lease desire to have appointed as their valuer for the purposes of section fourteen of the said Act and for the purposes of new leases under this Act, and the appointment of any such valuer by the Native Trustee shall be binding on the Native owners.

Collection and disposal of rentals.

8. The provisions of section sixteen of the said Act, as affected by section fourteen of the Native Trustee Act, 1920, shall apply, with

the necessary modifications, to all new leases granted under this Act.

9. Section eighteen of the said Act, as affected by section fourteen of the Native Trustee Act, 1920, is hereby amended by adding the following as subsection two thereof:—

“(2.) The principal moneys secured under any such memorial of charge shall be due on a date to be named therein, being not later than five years from the date of the signing thereof, and interest shall be payable thereon at the current rate charged from time to time by the Native Trustee for moneys advanced on the security of freehold lands, such interest to be payable quarterly on days to be specified therein.”

Further provision as to money advanced by Native Trustee for payment of compensation on behalf of Native owners.

10. (1.) The Native Trustee shall, prior to the expiration of any existing lease, lodge with the District Land Registrar and the Registrar of the Native Land Court of the district wherein the lands to be leased under the provisions of this Act are situated a list of such lands, and thereupon, notwithstanding anything contained in the said Act, no partition order affecting lands in such list shall take effect, nor shall the land comprised in any such partition order vest in the Native owner or owners thereof, until the expiration of the new lease, unless the Native Trustee otherwise directs; but upon such direction, or upon the expiration of the said new lease, the land comprised therein shall vest at law in the Native owner or owners thereof in accordance with the partition orders of the Native Land Court.

Effect of grant of new lease on coming into force of partition orders.

(2.) Notwithstanding anything in the last preceding subsection, the Native Trustee may apply to the Native Land Court to cancel any partition order affecting any of the lands in such list, or to partition any of such lands as aforesaid, for the purpose of separating the interests of those beneficial owners who dissent from again leasing their interests from the interests of those found by him to consent thereto. Upon any such partition order in favour of dissenting beneficial owners being made and completed by survey, then, with the consent in writing of the Native Trustee, the same may, at the cost of the beneficial owners thereof, be registered, and shall thereafter take effect according to its tenor. Until the completion of such an order by registration the Native Trustee may grant an extension of the term of an existing lease over the whole of such land (including the interests of such dissentient owners) up to the completion by registration of such order as aforesaid on the same conditions as are contained in the existing lease, or on such other conditions as may be agreed upon between the lessee and the Native Trustee, but subject to the provision that upon completion by registration of the order for the interests of the dissentient owners such extension of the existing lease shall absolutely cease and determine. Upon such determination the Native Trustee may lease the balance of the land (representing the interests of the consenting beneficial owners) in accordance with the provisions of this Act, but so that the term of such new lease shall not exceed five years computed from the original date of expiry of the existing lease.

11. (1.) The second proviso to subsection one of section fifteen of the said Act is hereby repealed, and the following proviso substituted therefor:—

Powers of Native Trustee with respect to persons under disability.

“ Provided further that if at the time of vesting as aforesaid any owner of a share or interest in any of the lands subject to this Act is under any disability, then during the disability of such owner no alienation of such share or interest by way of sale, lease, mortgage, or otherwise shall be capable of being confirmed under the Native Land Act, 1909, unless the consent in writing of the Native Trustee is first endorsed on the instrument of alienation. This proviso shall not apply with respect to any alienation in favour of a State Loan Department.”

(2.) Notwithstanding anything to the contrary in Part XVIII of the Native Land Act, 1909, any owner under disability shall for the purposes of the said Part XVIII be represented, so far as lands subject to this Act are concerned, by the Native Trustee (although any other trustee may be in office under Part X of the Native Land Act, 1909), and in respect of each such person under disability the Native Trustee may attend, vote, and act at any meeting, either personally or by proxy, in the same manner and on the same conditions as if he were an owner.

Native Trustee to hold portion of rent to pay charges.

12. In order to provide for payment of land-tax, stamp duty, and registration fees incidental to the transfer to the beneficial owners of the lands comprised in any existing lease (where a new lease is not being issued under this Act) or incidental to the registration of memorials of charge and all other fees and expenses in connection therewith, the Native Trustee is hereby authorized and directed to retain the whole of the rent received in respect of the last six months of the term of the existing lease, and to pay such charges out of the same, and shall pay the balance to the owners.

Compensation payable under Act to be advanced from Consolidated Fund.

13. (1.) For the purpose of providing funds to pay any compensation for improvements payable under the existing leases according to the provisions of the said Act, there shall be paid out of the Consolidated Fund to the Native Trustee such sums of money as may be required therefor, without further appropriation than this section.

(2.) Any such payment out of the Consolidated Fund shall be by way of advance only, and upon such terms and conditions as shall be agreed upon between the Minister of Finance and the Native Minister.