

NEW ZEALAND.

VICTORIÆ REGINÆ.

ANNO VICESIMO SEXTO

No. 7.

ANALYSIS.

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An Act for better securing Trust Funds and for the Relief of Trustees. Title.

[9th September, 1862.]

WHEREAS it is expedient to provide means for the better securing Trust Funds and for relieving Trustees from the responsibility of administering Trust Funds in cases where they are desirous of being so relieved: Preamble.

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

I. The short Title of this Act shall be "The Trustee Relief Act 1862." Short Title.

II. All Trustees Executors Administrators or other persons having in their hands any monies belonging to any Trust whatsoever or the major part of such Trustees shall be at liberty on filing an Affidavit shortly describing the instrument creating the Trust or the Warrant under which they may be acting according to the best of their knowledge and belief to pay the same (after notice thereof to the Registrar of the Supreme Court for the Province within which such Trustees or other persons or the major number of them shall reside) into the Colonial Treasury of New Zealand to the account of such Registrar in the matter of the particular Trust (describing the same by the names of the parties as accurately as may be for the purpose of distinguishing it) in Trust to attend the orders of the said Court And all Trustees or other persons having any Bonds Debentures Stocks or any other securities whatsoever standing in their names or in the names of any deceased persons of whom they shall be personal representatives upon any Trusts whatsoever or the major part of them shall be at liberty to transfer or deposit such securities Trustees may pay monies to and transfer or deposit securities with Colonial Treasurer and be relieved.

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into or in the name of the said Registrar after notice in the matter of the particular Trust describing the same as aforesaid in Trust to attend the order of the said Court and in every such case the certificate of the Colonial Treasurer of the payment of the said money or of the transfer or deposit of such securities shall be a sufficient discharge to such Trustees or other persons for the money so paid or the securities so transferred or deposited.

Supreme Court may direct the disposal of monies &c. paid or deposited.

III. Such Orders as shall seem fit shall be from time to time made by the Supreme Court of New Zealand in respect of the Trust monies or securities so paid in transferred and deposited as aforesaid and for the investment and payment of any such monies or of any dividends or interest on any such securities and for the transfer and delivery out of any such securities and for the administration of any such Trusts generally upon a Petition to be presented to any Judge of the said Court by such party or parties as to such Judge shall appear to be competent and necessary in that behalf and service of such Petition shall be made upon such person or persons as the Court shall see fit and shall direct and every Order made upon any such Petition shall have the same authority and effect and shall be subject to re-hearing and appeal in the same manner as if the same had been made in any suit regularly instituted in the Court and if it shall appear that any such Trust Funds cannot be safely distributed without the institution of one or more suit or suits such Judge may direct any such suit or suits to be instituted.

Supreme Court may on application of any Trustee order payment or deposit of Trust funds or securities to be made.

IV. Any Trustee as aforesaid may apply by Petition to any Judge of the Supreme Court of New Zealand for an Order or direction of the said Court for the transfer payment or delivery of any Trust monies or securities as aforesaid and upon service of such Petition and hearing of such parties as the Judge shall think fit it shall be in his discretion to order and direct such transfer payment or delivery to be made by any one or more of the Trustees in whom such Trust estate may be vested without the concurrence of the other or others of them and such Order shall fully protect and indemnify all Bankers Brokers Depositories or other persons acting under or in pursuance of such Order.

Accounts to be published.

V. The Colonial Treasurer shall from time to time publish together with the Public Accounts of the Colony a statement of the various monies and securities transferred paid or delivered to him as aforesaid and then remaining in his hands distinguishing the several estates and the amounts belonging to them respectively.

Expense of management may be paid out of estate.

VI. Such payments and allowances shall from time to time be made out of such Trust estates respectively to the Registrar and other persons employed by him in the management of such estates as a Judge of the Supreme Court shall order and direct.

After publishing notices executors or administrators may distribute estate.

VII. When an executor or administrator shall have given such notices as any Judge of the Supreme Court shall upon application by Petition to him direct for Creditors and others to

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send in to the executors or administrators their claims against the estate of the testator or intestate such executors or administrators shall at the expiration of the time named in such notices or the last of the said notices for sending in such claims be at liberty to distribute the assets of the testator or intestate or any part thereof amongst the parties entitled thereto having regard to the claims of which such executor or administrator has then notice and shall not be liable for the assets or any part thereof so distributed to any person of whose claims such executors or administrators shall not have had notice at the time of distribution of the said assets or a part thereof as the case may be but nothing in this Act shall prejudice the right of any Creditor or claimant to follow the assets or any part thereof into the hands of the person or persons who may have received the same respectively.

VIII. Any trustee executor or administrator shall be at liberty without the institution of a suit to apply by Petition to any Judge of the Supreme Court of New Zealand or by summons upon a written statement to any such Judge at Chambers for the direction of such Judge on any question respecting the management or administration of the Trust property or the assets of any testator or intestate such application to be served upon or the hearing thereof to be attended by all persons interested in such application or such of them as the said Judge shall think expedient And the trustee executor or administrator acting upon the direction given by the said Judge shall be deemed so far as regards his own responsibility to have discharged his duty as such trustee executor or administrator in the subject matter of such application Provided nevertheless that this Act shall not extend to indemnify any trustee executor or administrator in respect of any act done in accordance with such direction as aforesaid if he shall have been guilty of any fraud or wilful concealment or misrepresentation in obtaining such direction and the costs of such application as aforesaid shall be in the discretion of the Judge to whom such application shall be made.

Trustees &c. may
apply to Supreme
Court for directions.

IX. When a trustee executor or administrator shall not by some instruments creating his Trust be expressly forbidden to invest any Trust Fund on Real Securities in any part of New Zealand or on General or Provincial Government Loans Debentures or Securities it shall be lawful for such Trustee executor or administrator to invest such Trust Fund on such Securities Loans or Debentures and he shall not be liable on that account as for a breach of Trust provided that such investment shall in other respects be reasonable and proper.

Power of investment
by Trustees.