

1895.

## NEW ZEALAND.

“THE PUBLIC TRUST OFFICE CONSOLIDATION ACT, 1894”  
(REGULATIONS UNDER).

*Laid on the Table of the House pursuant to Section 55 of “The Public Trust Office Consolidation Act, 1894.”*

[From *New Zealand Gazette*, 24th January, 1895.]

REGULATIONS UNDER “THE PUBLIC TRUST OFFICE CONSOLIDATION ACT, 1894,” AND OTHER ACTS.

GLASGOW, Governor.

ORDER IN COUNCIL.

At the Government House, at Wellington, this twenty-third day of January, 1895.

Present: HIS EXCELLENCY THE GOVERNOR IN COUNCIL.

In pursuance and in exercise of the powers and authorities conferred by “The Lunatics Act, 1882,” “The Native Reserves Act, 1882,” “The West Coast Settlement Reserves Act, 1892,” “The Unclaimed Lands Act, 1892,” “The Public Trust Office Consolidation Act, 1894,” and of any other Act or law, His Excellency the Governor of the Colony of New Zealand, by and with the consent and advice of the Executive Council, hereby makes the following regulations:—

1. In these regulations, if not inconsistent with the context,—

“The Act” means “The Public Trust Office Consolidation Act, 1894”:

Property shall be deemed to be placed in the Public Trust Office when the Public Trustee becomes trustee, executor, administrator, guardian, committee, agent, or attorney in respect of such property:

“Native” means an aboriginal native of New Zealand, and includes half-castes and their descendants:

“The Board” means the Public Trust Office Board, as constituted by this Act:

“Institution” includes an association, society, corporation, bank, savings-bank, and any department of the General Government of the colony:

“Common fund” means the common fund mentioned in section 29 of the Act.

2. The Public Trust Office shall be situate in the City of Wellington. Any premises which the Public Trustee from time to time occupies for the purpose of carrying on the business of the Public Trust Office shall be the Public Trust Office for the purposes of the Act and these regulations.

3. The office shall be open from 9 a.m. to 1 p.m. and from 2 p.m. to 5 p.m., except on Saturdays, when it shall close at 1 p.m.; and it shall not be open at all on Sundays, Good Friday, and Christmas Day, nor on such other days or times as shall be duly declared or appointed by Government to be general public holidays.

4. The Board shall meet for the despatch of business at such times and places as shall be appointed by the Public Trustee, or by adjournment of a previous meeting.

5. The seal of the Public Trustee, as existing immediately prior to the passing of the Act, shall be the seal thereunder: Provided that the Board may, with the consent of the Governor in Council, from time to time alter the form of such seal.

6. The seal shall be kept at the Public Trust Office, and in the custody of the Public Trustee, under lock.

7. Minutes of the proceedings or resolutions of the Board shall be recorded in such manner as the Board may direct, and shall, either at the meeting when the business is done, or at the next succeeding meeting, be confirmed by the Board, with such alterations or variations as the Board thinks proper, and, when confirmed, shall be signed by the Chairman or presiding member at such meeting.

8. The minutes of the meetings of the Board held under the provisions of “The Native Reserves Act, 1882,” or its amendments, shall be kept in both the English and Maori languages, and the latter shall be certified by a competent interpreter to be a true translation of the former; and all such minutes, and all proceedings of such Board connected therewith, shall, when required by any member thereof, be interpreted by some competent interpreter to the Native members of the Board present at such meeting.

9. When it is desired to place property in the Public Trust Office, written application shall be made to the Public Trustee stating the nature of the property proposed to be placed therein, and describing shortly the trusts and powers declared and conferred respecting such property: Provided that this shall not apply where Parliament or the Crown, the Governor in Council or the Governor, or a Court or Judge, appoints the Public Trustee trustee of any property, or places any property in the Public Trust Office.

10. Before any moneys are advanced on the security of real estate or on the rents and profits thereof, the Public Trustee shall require a valuation to be made, to be approved of by the Board. The cost of such valuation shall be borne by the person applying for such advance. Before the Public Trustee shall entertain any such application, such reasonable sum as he may require shall be paid to him by the applicant to cover the cost of such valuation.

All applications for advances shall be made in such form, and with such particulars, as the Public Trustee may either generally or specially require.

11. The Public Trustee may fix the charges to be paid to solicitors, land-brokers, and others in respect of the preparation of securities.

12. Wherever the Public Trustee is entitled to any of the charges under the scale hereinafter set forth, he may deduct the same from any funds in his hands or under his control; and, where the funds in an estate have been distributed, he may recover any charges from the person receiving such funds.

13. The Public Trustee shall from time to time, at such convenient intervals as he thinks proper, but not exceeding twelve calendar months at any one time, render accounts showing the position and state of every estate in the Public Trust Office to every person who is entitled thereto or interested therein; and all such accounts shall be so rendered free of charge. If any person shall require extra copies of such accounts, or a copy thereof at any other time than the fixed period for rendering the same, such person shall pay the charge prescribed in respect thereof: Provided also that the Public Trustee shall have the sole discretion as to who are the proper persons to whom such accounts shall be rendered.

14. For the purposes of section 29 of the Act, the interest payable to the respective estates on moneys which shall form the common fund shall be computed at the following rates:—

(1.) Where the moneys arising from one estate do not exceed £3,000, £5 per cent. per annum.

(2.) Where the moneys arising from one estate are in excess of £3,000, £5 per cent. per annum on an amount not exceeding £3,000, and £4 per cent. per annum on any amount in excess of £3,000.

Provided always,—

(a.) That where moneys are paid to the Public Trustee, or into the Public Trust Office, for the purpose of being forthwith paid to the persons entitled, then no interest shall be payable thereon; and where any question shall arise whether any moneys come under this provision, the decision of the Public Trustee shall be conclusive.

(b.) That where moneys in the Public Trustee's Account, forming part of a testate or intestate estate, are not payable as mentioned in paragraph (a), but are payable, or should be distributed, invested, or otherwise disposed of in the due course of administration, then so soon as the Public Trustee has, or should in the due course of administration have, ascertained what is the net balance to be paid, distributed, invested, or otherwise disposed of, interest shall thereafter be payable on such balance as follows:—

At the rate of £4 per cent. per annum in respect of intestate estates for all sums of £50 and upwards; and in respect of testate estates, after the rates provided by paragraphs (1) and (2) aforesaid: Provided, further, that this limitation shall not apply to the rate of interest payable to persons entitled under intestacy where such persons are minors, and such persons shall be entitled to the rates of interest as provided by paragraphs (1) and (2) hereof on all sums of £20 and upwards.

Interest shall be computed on every complete pound from the first day of the month following the day of the receipt of such moneys into the Public Trustee's Account up to the first day of the calendar month in which the capital or interest or both is paid to the person entitled, and shall be allowed clear of any charges for the receipt or collection thereof.

Interest shall only be payable on the capital, and shall not be computed upon interest unless where such interest is expressly directed to be accumulated and form part of the capital, and then only on an amount of £20 and upwards.

No capital moneys paid into the Consolidated Fund under section 76 of "The Public Revenues Act, 1891," shall be deemed to have borne interest while the same remained in the Public Trust Office.

15. Where as attorney or agent the Public Trustee is authorised to invest moneys upon securities, but such moneys do not form part of the common fund, then the Public Trustee shall pay to the Principal the interest arising from such investments, which the Public Trustee may receive.

No money received or collected by the Public Trustee as agent or attorney which is not expressly directed in writing to be invested shall bear interest.

Any money received or collected by the Public Trustee as attorney or agent which is expressly directed to be invested, and would form part of the common fund, shall bear such rate of interest only as shall from time to time be agreed upon between the Public Trustee, with the consent of the Board and the Principal. The Public Trustee, with the consent of the Board, may enter into such agreements with the Principal as to the rate of interest, the periods when such interest shall be payable, and as to the time for the repayment of the capital, as may be agreed upon: Provided always that no greater rate of interest shall be payable under any such agreements than such as is provided by sub-paragraphs (1) and (2) of paragraph 14 of these regulations.

16. The custody of the moneys in the Public Trustee's Account shall be intrusted to the Bank of New Zealand, hereinafter referred to as "the bank."

17. The withdrawal of moneys from the Public Trustee's Account shall be effected by cheques upon such account, signed by the Public Trustee, and countersigned by the Chief Clerk of the Public Trust Office, or, in his absence, whether temporary or permanent, by the Accountant.

18. The manager of the bank shall make up daily, at the close of business, the pass-book of the Public Trustee's Account, and send the same to the Public Trustee, and at the same time send to the Auditor-General a statement showing the total receipts into, payments out of, and the balance of such account at the close of each day.

19. The Public Trustee shall keep a cash-book, which shall be made up daily, and in which shall be entered the receipts and payments made by or reported to the Public Trustee.

20. The Public Trustee shall keep the following separate accounts:—

(a.) A "Profit and Loss" or "Expenses Account," which shall be charged with all salaries and other expenses incurred in the general management of the Public Trust Office, and the interest allowed to the properties placed in such office; and shall be credited with all fees, interest on investments, and other moneys paid into the Public Trustee's Account, but not belonging to or forming part of any property placed in the Public Trust Office.

(b.) An account showing in detail the receipts and payments made on account of each separate property placed in the Public Trust Office.

21. Any moneys payable to the Public Trustee's Account may be lodged for credit of that account with such Postmasters as the Postmaster-General may authorise and the Public Trustee may direct; and the amount of such lodgements shall be transferred by the Postmaster-General to the credit of the Public Trustee's Account as often as the Public Trustee and the Postmaster-General may arrange.

22. The amounts payable within the colony out of the Public Trustee's Account may be forwarded by the Public Trustee to the Postmaster-General for payment by the Postmasters at such towns or places in the colony as the Public Trustee may request, and the Postmaster-General may direct, to make such payments.

23. It shall not be necessary that any claims which, in the opinion of the Public Trustee, are correct and payable out of the Public Trustee's Account shall be audited before they are paid, otherwise than by an officer of the Public Trust Office, appointed to examine and audit such accounts.

24. Every claim upon the Public Trust Office must be made in the form required by the Public Trustee.

25. Where any moneys are payable to any person unable to sign his name, then no such payment shall be made except upon a receipt purporting to bear the mark of the person entitled to receive the money, and attested by some adult person other than the paying officer. It shall not be necessary for the Public Trustee, unless he thinks proper, to inquire whether such person is an adult or not, and notwithstanding that such person may afterwards be discovered not to be an adult person, the receipt shall be valid.

26. A claimant may authorise by a special or general order, in such form as may from time to time be approved of by the Public Trustee, that any payment may be made to any other person. The special order shall be on or attached to the claim. In the case of a general order it shall be sufficient if such general order is sent to the Public Trustee; and, notwithstanding that such general order may be revoked by death or otherwise, any payment made pursuant thereto shall be good and valid unless prior to the payment the Public Trustee shall have received actual notice in writing of such death or revocation. The provisions of Regulation 25 as to attestation of receipts shall, *mutatis mutandis*, apply to such orders.

27. Where a Native gives a special or general order it shall purport to be attested by a licensed Native interpreter, appointed under any law relating to the licensing of Native interpreters, who shall certify in attesting that he has explained the order to the Native, and the Native understood it: Provided that the Public Trustee may dispense with any such attestation. It shall not be necessary for the Public Trustee, unless he thinks proper, to ascertain whether the person so attesting is a licensed Native interpreter or not, and notwithstanding that it may afterwards be discovered that the person attesting was not a licensed Native interpreter, the order, and all acts and things done thereunder, shall be valid.

28. One month's pay at an annual salary must be calculated at one-twelfth of such salary. Pay for a period less than a month must be computed by multiplying the month's pay by the number of days in such period, and dividing it by the number of days in the month.

29. Where wages or allowances are fixed by the day, the total number of days within the period must be taken, unless it is stated that the working-days only are to be allowed.

30. The officer or agent authorised to pay a claim on the Public Trust Office must be satisfied before paying it that the applicant for payment is entitled to receive the amount, and that any necessary document has been produced.

31. No claim on the Public Trust Office shall be paid until it has been, to the satisfaction of the Public Trustee, or the paying agent, proved and certified to be correct, as may be required by the Public Trustee, and receipted by the claimant or by the claimant's duly-authorised agent, and until the signature of the payee has been attested when such attestation is required by the Public Trustee.

32. The officers and agents of the Public Trustee will be held responsible for all errors in calculation in the accounts or claims which they certify to be correct, and for any loss due to their neglect of these regulations or of the instructions given by the Public Trustee.

33. In any case which is not provided for by the Act, or the Acts thereby repealed, or by these regulations, or in which the strict observance of these regulations would be injurious to the interest of the Public Trust Office, or in which there may be doubt or difficulty, the special instructions of the Public Trustee must be applied for and followed.

34. All securities for the investment of moneys out of the Public Trustee's Account shall be kept under two keys, in the custody respectively of the Public Trustee and of the Chief Clerk of the Public Trust Office.

SCHEDULE OF CHARGES TO BE MADE BY THE PUBLIC TRUST OFFICE.

The following fees, sums of money, and charges shall be payable to the Public Trustee:—

- (a.) Upon the gross capital or corpus of any estate other than an intestate estate realised by the Public Trustee,—
- |                         |                  |
|-------------------------|------------------|
| On any sum up to £1,000 | ... £5 per cent. |
| On the next £3,000      | ... £4 per cent. |
| On the next £6,000      | ... £3 per cent. |
| On all over £10,000     | ... £2 per cent. |
- Upon the gross income of such estate, realised or unrealised ... £5 per cent.
- (b.) Upon the gross capital or corpus of any intestate estate realised by the Public Trustee,—
- |                                 |                  |
|---------------------------------|------------------|
| Any sum up to £250              | ... £7 per cent. |
| On the amount in excess of £250 | ... £5 per cent. |
- Upon the gross income of such estate, realised or unrealised ... £5 per cent.
- Where the Public Trustee acts under section 16 of the Act, the charges shall be the same as if he had been appointed administrator of an intestate estate.
- (c.) Upon all moneys collected by or paid to or coming under the control of the Public Trustee under "The Lunatics Act, 1882," and its amendments ... £5 per cent.
- Provided that with respect to moneys received by the Public Trustee, consisting of balances to credit of any current accounts in any institution, or with respect to any fixed deposits in any institution, or with respect to moneys received under any policy of life or accident assurance, there shall be charged only a percentage of one-half the amount fixed under clauses (a), (b), and (c).
- (d.) Upon the gross capital and income from any real property administered under "The Unclaimed Lands Act, 1894" ... £7½ per cent.
- (e.) Upon the gross produce of rents, income, or revenue received from and under the administration of any property pursuant to "The Native Reserves Act, 1882," and its amendments ... £7½ per cent.
- (f.) Upon the gross proceeds of rents, income, or revenue received from and under the administration of any property pursuant to "The West Coast Settlement Reserves Act, 1892," and its amendments ... £7½ per cent.
- (g.) Upon the real or personal property (not being money) transferred or delivered in specie to any person entitled thereto, being a devisee, legatee, next-of kin, *cestui que trust*, beneficiary, or other person of a like character, but not including a person entitled as principal under any power of attorney or agency, upon the value of such property as fixed by the Public Trustee:—
- |                                |                   |
|--------------------------------|-------------------|
| Up to but not exceeding £1,000 | ... £2½ per cent. |
| On the next £3,000             | ... £2 per cent.  |
| On the next £6,000             | ... £1½ per cent. |
| On all over £10,000            | ... £1 per cent.  |
- Provided that the charge hereby made shall be payable by the person to whom such property is transferred or delivered, and, if more than one, then such charge shall be made against each person, and computed in respect of the value of the property transferred or delivered to him.
- (h.) In all other cases not otherwise hereby provided, on all sums lodged in the Public Trust Office under or in pursuance of the provisions of any Act, rule, or law in that behalf at the time of lodging the same (provided that where no interest is allowed no commission shall be charged) ... £1 per cent.
- (i.) Where the Public Trustee is appointed agent or attorney, his charges shall be £5 per cent. upon all moneys, whether capital or income, received by the Public Trustee.
- (j.) For any application to the Court relating to any property in the Public Trust Office (other than for grant of probate or administration), where the Public Trustee or the office solicitor moves in person, and where the value of the property in respect to which the application is made does not exceed £250 as determined by the Public Trustee ... £1
- Where such value exceeds £250 as determined by the Public Trustee ... £2

- (k.) For the preparation of the necessary instruments, and application to a Judge in Chambers for an order of administration or grant of probate when made by the Public Trustee in person or by the office solicitor.

7s. 6d. per cent. on the gross realised value of the property, but so that in no estate shall the charge be less than £1 or exceed £10; and in case the estate shall not have been or be, in its nature, realisable, then the charge to be made shall be based on the value of the estate upon which duty is paid or payable under the Acts relating to duty on estates of deceased persons.

- (l.) For the filing of election to administer—

Where the value of the estate is £50 or under	...	...	...	2s. 6d.
Over £50 and under £100	...	...	...	5s.
Over £100	...	...	...	10s.
The value to fixed by the Public Trustee.				

- (m.) For preparing and passing stamp accounts under "Deceased Persons Estates Duties Act, 1881," and any amendment thereof, and lodging duty

2s. 6d. per cent., based on the value of the estate upon which duty is paid or payable under the Acts relating to duty on estates of deceased persons, but so that in no estate shall the charge be less than 5s. or exceed £2.

- (n.) For preparing land- and income-tax returns under any Act in force relating thereto, and paying tax,—

Where value of property does not exceed £500	...	...	...	5s.
Where value exceeds £500, then 5s. for every £500 of value; but not in any case to exceed in all	...	...	...	£2

- (o.) For investment of money,—

On every separate investment	...	...	...	10s. per cent.
------------------------------	-----	-----	-----	----------------

- (p.) For every lease (except leases under "The West Coast Settlement Reserves Act, 1892," and its amendments) prepared by the Public Trustee, and executed in favour of any lessee, exclusive of stamp duty and registration fee, to be paid by the lessee

£1.

- (q.) For the Public Trustee's consent to, or execution of, any assignment, or other disposition of any leasehold, not being an assignment consequent upon a sale by the Public Trustee

10s.

- (r.) In addition to any other charge, upon each leasing or letting of land or houses, if leased for twelve months or upwards, on one year's rent

£5 per cent.

If let for less than a year, as may be arranged.

- (s.) For conditions of sale of any realty

10s.

- (t.) For conditions of sale of any personality

5s.

- (u.) Preparing each separate transmission under "The Land Transfer Act, 1885," or registering each separate order of administration or will against any estate or interest registered as a title in any Deeds Register Office

10s.

(v.) For application to be registered proprietor under "The Unclaimed Lands Act, 1894" ... ..	£1
(w.) For preparing power of attorney or exemplification of a will for dealing with any property ... ..	10s.
And where both the power and exemplification require to be registered	£1
Provided that all sums lodged in the Public Trust Office, or coming under the control of the Public Trustee, which arise out of the provisions of, or come within the meaning of "wages and effects of deceased seamen" in "The Shipping and Seamen's Act, 1877," shall be exempted from the charge hereby imposed.	
Upon any receipt under section 50 of "The Property Law Consolidation Act, 1883," or section 100 of "The Land Transfer Act, 1885," a charge shall be made, whether against the estate or not, of ... ..	10s.
For making any copy of any document, 6d. per folio, but no charge less than 1s.	

In addition to the above-mentioned charges, estates or persons will be liable to all expenses to which the Public Trustee may be put in postage, exchange, telegrams, legal assistance or legal proceedings or charges, fees payable in any Court or public department, surveys, the collection of rents, auctioneer's charges, and any other services or expenses whatever which, in the opinion of the Public Trustee, may be necessary or expedient to be provided or incurred in the management of such estates :

Provided always that the Public Trustee may, with the consent of the Board, reduce any of the charges hereinbefore authorised.

All regulations in force under the Acts repealed by the Act, except regulations made by the Governor or the Public Trustee, under "The West Coast Settlement Reserves Act, 1892," and "The West Coast Settlement Reserves Act Amendment Act, 1893," on the 27th day of October, 1892, the 31st day of October, 1892, the 14th day of December, 1892, the 13th day of February, 1893, and the 7th day of April, 1894, are hereby revoked.

ALEX. WILLIS,  
Clerk of the Executive Council.  
J. K. WARBURTON,  
Public Trustee.

[From *New Zealand Gazette*, 28th March, 1895.]

REGULATIONS REDUCING RATE OF INTEREST ON COMMON FUND, PUBLIC TRUST OFFICE.  
GLASGOW, Governor.  
ORDER IN COUNCIL.

At the Government Buildings, at Wellington, this nineteenth day of March, 1895.

Present: THE HONOURABLE THE PREMIER PRESIDING IN COUNCIL.

In pursuance and exercise of the powers and authorities conferred by "The Public Trust Office Consolidation Act, 1894," "The Lunatics Act, 1882," and of all other powers and authorities enabling him in this behalf, His Excellency the Governor of the Colony of New Zealand, by and with the consent and the advice of the Executive Council of the said colony, doth hereby revoke so much of the regulations made by an Order in Council of the twenty-third day of January, one thousand eight hundred and ninety-five, as is contained in regulation fourteen thereof: such revocation to come into force and take effect as on and from the thirty-first day of March, one thousand eight hundred and ninety-five; and by and with the consent and advice of the Executive Council as aforesaid doth hereby make the following regulation in lieu thereof, namely:—

14. For the purposes of section 29 of "The Public Trust Office Consolidation Act, 1894," on and from the 1st day of April, 1895, the interest payable to the respective estates on moneys which, belonging to the said estates or any of them, form the common fund, shall be computed at the following rates and in the following manner, namely:—

(1.) Where the moneys arising from one estate do not exceed £3,000, £4 10s. per cent. per annum.

(2.) Where the moneys arising from one estate are in excess of £3,000, £4 10s. per cent. per annum on an amount not exceeding £3,000, and £4 per cent. per annum on any amount in excess of £3,000.

Provided always,—

(a.) That, where moneys are paid to the Public Trustee, or into the Public Trust Office, for the purpose of being forthwith paid to the person entitled, then no interest shall be payable thereon; and where any question shall arise whether any moneys come under this provision, the decision of the Public Trustee shall be conclusive:

(b.) That, where moneys in the Public Trustee's Account, forming part of a testate or intestate estate, are not payable as mentioned in paragraph (a), but are payable, or should be distributed, invested, or otherwise disposed of, in the due course of administration, then, so soon as the Public Trustee has, or should in the due course of administration have, ascertained what is the net balance to be paid, distributed, invested, or otherwise disposed of, interest shall be payable on such balance as follows:—

At the rate of £3 10s. per cent. per annum in respect of lunatic and intestate estates for all sums of £50 and upwards; and in respect of testate estates, after the rates provided by paragraphs (1) and (2) aforesaid: Provided, further, that this limitation shall not apply to the rate of interest payable to persons entitled under intestacy where such persons are minors, but such persons shall be entitled to the rates of interest as provided by paragraphs (1) and (2) hereof on all sums of £20 and upwards.

Interest shall be computed on every complete pound from the first day of the month following the day of the receipt of such moneys into the Public Trustee's Account up to the first day of the calendar month in which the capital, or interest, or both is paid to the person entitled, and shall be allowed clear of any charges for the receipt or collection thereof.

Interest shall only be payable on the capital, and shall not be computed upon interest unless where such interest is expressly directed to be accumulated and form part of the capital, and then only on an amount of £20 and upwards.

No capital moneys paid into the Consolidated Fund under section 76 of "The Public Revenues Act, 1891," shall be deemed to have borne interest while the same remained in the Public Trust Office.

ALEX. WILLIS,  
Clerk of the Executive Council.  
J. K. WARBURTON,  
Public Trustee.

*Approximate Cost of Paper.*—Preparation, not given; printing (1,350 copies), £4 9s.

---

By Authority: SAMUEL COSTALL, Government Printer, Wellington.—1895.

Price 6d.]

