

Act No. 38, 1900.

ADMINISTRATION
(VALIDATING.)

An Act to validate certain orders of the Supreme Court giving power or leave to sell, mortgage, or lease real estate of deceased persons and all acts done in pursuance thereof; to validate certain sales, mortgages, and leases of such estate; to provide for the granting of power to sell, mortgage, or lease such estate; and to authorise the postponement of the realization of any estate of any such person used in any business, trade, or occupation, and the continuation of the use of the same for those purposes, and the carrying on of the said business, trade, or occupation.
[26th October, 1900.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Incorporation and
short title.

1. This Act shall be construed as one with the Wills, Probate and Administration Act, 1898, and may be cited as the "Administration (Validating) Act, 1900."

Validation of orders
giving power or leave
to sell.

2. Where before the commencement of this Act, and under the ecclesiastical or probate jurisdiction of the Supreme Court, that Court or any Judge thereof—

- (a) has granted administration with power or leave to sell, mortgage, or lease all or any real estate of the deceased person; or
- (b) by order has granted to an administrator power or leave to sell, mortgage, or lease all or any real estate of the deceased person.

Such power or leave shall be deemed to have been legally conferred by such grant or order, and all acts done before or after the commencement of this Act in pursuance of such power or leave shall be deemed to have been and to be lawfully done.

Administration (Validating).

3. Where any person has, after the commencement of the Real Estate of Intestates Distribution Act of 1862, and before the commencement of the Probate Act of 1890, died intestate as to any real estate, and the administrator or, in case of partial intestacy, the executor (whether administration or probate was granted before or after such commencement) has, before the commencement of this Act, sold, mortgaged, or leased such estate or any part thereof, or has entered into a contract for the sale, mortgage, or lease of any such estate or any part thereof, such sale, mortgage, or lease or such contract for sale, mortgage, or lease shall be deemed to have been and to be as valid as if made in pursuance of a power or leave to sell, mortgage, or lease granted by the Supreme Court under its ecclesiastical or probate jurisdiction.

Validation of sales,
&c., by
administrator.

4. The Court as defined in the Wills, Probate and Administration Act, 1898, may in any grant of administration or by other order, authorise the administrator, or in case of partial intestacy, the executor, in such manner, at such times, and subject to such conditions as to the Court may seem fit, or without prescribing any such manner, times or conditions, to sell, mortgage, or lease all or any of the real estate of the deceased person.

Power of court to
authorise sale,
mortgage, or lease.

5. Where the gross value of the estate of any person dying, before or after the commencement of this Act, does not exceed one thousand pounds, and such person has died intestate as to any real or personal estate used by him at the time of his death in any business, trade, or occupation, the Court, on application made under section fifty-seven of the Wills, Probate and Administration Act, 1898, or the Supreme Court, on application made in any suit before such Court in its equitable jurisdiction, may authorise the administrator or, in case of partial intestacy, the executor (whether administration or probate has been granted before or after the commencement of this Act) to postpone the realization of the estate so used or any part thereof for such time as the Court thinks fit, and in the meantime to carry on the said business, trade, or occupation, and to use therein such estate or such part thereof, subject to such conditions as the Court may think fit to impose.

Court may authorise
business of intestate
to be carried on.

6. Nothing in this Act shall apply to the matter in issue in the suit of Kelly and others against J. T. and J. Toohey, Limited, and others, or any action, suit, or proceeding pending at the commencement of this Act.

Savings.