

New Zealand.



ANALYSIS.

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| <p style="text-align: center;">Title.</p> <p>1. Short Title.</p> <p>2. Repeal.</p> <p>3. Repeal.</p> <p>4. Repeal.</p> <p>5. Grant of leave by Supreme Court.</p> | <p>6. Procedure.</p> <p>7. Consent by mortgagor to exercise of powers of mortgagee.</p> <p>8. Application of principal Act to extension of the term of a mortgage.</p> <p>9. Repeal. Duration of Acts.</p> |
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1915, No. 59.

Title. AN ACT to amend the Mortgages Extension Act, 1914.
[11th October, 1915.]

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

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| Short Title. | 1. This Act may be cited as the Mortgages Extension Amendment Act, 1915, and shall be read together with and deemed part of the Mortgages Extension Act, 1914 (hereinafter referred to as the principal Act). |
| Repeal. | 2. Section three of the principal Act is hereby amended by repealing subsection two thereof. |
| Repeal. | 3. Section four of the principal Act and section three of the Mortgages Extension Amendment Act, 1914 (No. 2), are hereby repealed. |
| Repeal. | 4. Subsection four of section seven of the principal Act is hereby repealed. |
| Grant of leave by Supreme Court. | 5. (1.) In determining whether leave shall be granted under section three of the principal Act the Supreme Court may take into consideration— |
| | (a.) The effect of the continuance of the mortgage upon the security thereby afforded to the mortgagee: |
| | (b.) The inability of the mortgagor to redeem the property either from his own moneys or by borrowing at a reasonable rate of interest: |
| | (c.) The ability of the mortgagor to pay a reasonably increased rate of interest in consideration of the continuance of the mortgage: |

(d.) The conduct of the mortgagor in respect of any breaches by him of the covenants of the mortgage:

(e.) Any hardship that would be inflicted on the mortgagee by the continuance of the mortgage or upon the mortgagor by the enforcement thereof.

(2.) If, having regard to these and to all other relevant considerations, the Court is of opinion that it is just and equitable that leave should be granted, leave shall be granted accordingly.

(3.) Such leave may be granted on such terms and conditions (if any) as the Court thinks fit.

(4.) In any case where after the date fixed by the mortgage for repayment of the principal sum, the principal sum or any part thereof remains unpaid, and the Court is of opinion that the interest payable under the mortgage is inadequate, the Court may grant such leave subject to a condition that it shall be suspended so long as interest is paid punctually at a rate fixed by the Court as fair and equitable.

6. (1.) Application for leave of the Supreme Court under the principal Act may be made by motion, with notice to such persons as the Court considers entitled thereto, or *ex parte* in any case in which by reason of special circumstances the Court considers such procedure to be just and equitable. Except with the consent of the mortgagor every such application shall be made and heard in the Supreme Court office nearest to the place where the land or other property to which the application relates is situated. Procedure.

(2.) Any such application may be made to and disposed of by a Judge in Chambers or by a Registrar in Chambers.

(3.) Proceedings pending at the commencement of this Act may be continued as if this Act had not been passed.

(4.) There shall be no appeal from any order granting such leave if made by a Judge, but an appeal shall lie to a Judge in Chambers from an order made by a Registrar.

7. (1.) When a mortgagor is entitled to the protection of the principal Act, he may consent to the exercise by the mortgagee of any power, but such consent shall not take away the necessity of the leave of the Supreme Court unless such consent is in writing and witnessed by a solicitor of the Supreme Court, who certifies in writing that such consent is given by his advice. Consent by mortgagor to exercise of powers of mortgagee.

(2.) If consent is so given and certified, the leave of the Supreme Court shall, so far as such consent extends, be unnecessary.

8. Nothing in the principal Act shall apply to any mortgage the term of which has been extended for a period not less than one year by the agreement of the parties thereto, if it is expressly declared in such agreement that the provisions of the principal Act are excluded. Application of principal Act to extension of the term of a mortgage.

9. (1.) Section twelve of the principal Act is hereby repealed. Repeal.

(2.) The principal Act and all amendments thereof shall continue in force until the thirty-first day of December, nineteen hundred and sixteen, and no longer. Duration of Acts