

Hon. Mr. Mason.

MORTGAGORS AND LESSEES REHABILITATION
AMENDMENT.

ANALYSIS.

Title.	4. Restricting exercise of powers under adjusted mortgages.
1. Short Title.	5. As to liability of applicant to guarantor in respect of payments made under guarantee.
2. Application of principal Act to subsequent mortgage when power of sale exercised under prior mortgage.	6. Extending time for recovery of rates where commencement of proceedings prohibited.
3. Vesting-orders may be made by Adjustment Commissions.	

A BILL INTITULED

AN ACT to amend the Mortgagors and Lessees Rehabilitation Act, 1936. Title.

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 Mortgagors and Lessees Rehabilitation Amendment Act, 1937, and shall be read together with and deemed part of the Mortgagors and Lessees Rehabilitation Act, 1936 (hereinafter referred to as the principal Act). Short Title. 1936, No. 33

2. Where the property that was subject to any mortgage ceased before the passing of the principal Act to be subject to the mortgage by reason of the sale of the property under a power conferred otherwise than by that mortgage, and the mortgagor or any other person Application of principal Act to subsequent mortgage when power of sale exercised under prior mortgage.

remained liable to the mortgagee or any other person after the sale (whether in a representative capacity or otherwise) for any moneys formerly secured by the mortgage (including any moneys expended or costs incurred by the mortgagee in relation to the mortgage or to the sale), that liability shall be deemed to be and to have always been a liability under a guarantee in respect of an adjustable mortgage, and the provisions of the principal Act shall be deemed to have always applied accordingly with respect thereto. 5 10

Vesting-orders may be made by Adjustment Commissions.

3. (1) Where any Adjustment Commission has heretofore made or hereafter makes an order under section forty-six or section forty-seven of the principal Act for the sale of any property to any specified person it may by the same or a subsequent order vest the property in the purchaser. 15

(2) All orders made by any Adjustment Commission before the passing of this Act for the vesting of any property in any person are hereby validated and declared to have been lawfully made, subject to any right of appeal conferred by the principal Act. 20

Restricting exercise of powers under adjusted mortgages.

4. (1) Where (whether before or after the passing of this Act) the amount secured by any adjustable mortgage has been reduced under section forty-two of the principal Act, or the terms and conditions of any adjustable mortgage have been varied or a new mortgage has been substituted therefor under section forty-three of the principal Act, no power of sale, rescission, or entry into possession conferred by the mortgage shall become or be deemed to have become exercisable, and no moneys secured by the mortgage shall become or be deemed to have become payable, by reason of any default (whether made before or after the passing of this Act) in payment of any moneys so secured or in performance or observance of any other covenant expressed or implied in the mortgage unless the mortgagee serves on the mortgagor in accordance with section sixty-one of the principal Act a notice specifying the default complained of and a date on which the power will become exercisable or the moneys will become payable if the default is not sooner remedied, and requiring the mortgagor to remedy the default, and the mortgagor fails to remedy the default before the date so specified. 25 30 35 40

(2) The date to be specified in the notice as aforesaid shall not be earlier than one month from the service of the notice nor earlier than the date on which the power would have become exercisable or the moneys would have become payable if this section had not been passed. A notice under this section may be served before the last-mentioned date.

(3) The provisions of this section shall apply notwithstanding any stipulation or agreement to the contrary, whether made before or after the passing of this Act.

(4) Nothing in this section shall be construed to affect any sale, rescission, or entry into possession made before the passing of this Act, or any judgment obtained before the passing of this Act.

5. (1) Where the liabilities of any applicant have been adjusted under the principal Act (whether before or after the passing of this Act), no guarantor under a guarantee in relation to any adjustable debt, adjustable lease, or adjustable security shall have any claim against the applicant in respect of any amount paid by the guarantor under the guarantee after the date of adjustment (and whether before or after the passing of this Act), except to the extent to which the payment reduces the liability (if any) of the applicant under the adjustable debt, adjustable lease, or adjustable security as adjusted as aforesaid, or except (in any other case) to the extent to which provision for the payment or satisfaction of the guarantor's claim is made by an order under section forty-nine of the principal Act.

As to liability of applicant to guarantor in respect of payments made under guarantee.

(2) Nothing in this section shall be construed to restrict the operation of section forty-nine of the principal Act with respect to the liability of the applicant in relation to any amount that may have been paid by the guarantor under the guarantee before the date of adjustment (and whether before or after the passing of this Act).

(3) For the purposes of this section the term "date of adjustment", in relation to any applicant, means the date fixed by the Adjustment Commission under subsection one of section forty-nine of the principal Act for the discharge of his adjustable debts.

