

**Reprint
as at 3 June 2017**

**Mortgagors and Lessees Rehabilitation Amendment Act
1937**

Public Act 1937 No 30
Date of assent 22 December 1937

Mortgagors and Lessees Rehabilitation Amendment Act 1937: repealed, on 3 June 2017, pursuant to section 3(1) of the Statutes Repeal Act 2017 (2017 No 23).

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this eprint. See the notes at the end of this eprint for further details.

This Act is administered by the Department of Justice.

An Act to amend the Mortgagors and Lessees Rehabilitation Act 1936

1 Short Title

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).

2 Application of principal Act to subsequent mortgage when power of sale exercised under prior mortgage

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 remained liable to the mortgagee or any other person after the sale (whether in a representative capacity or otherwise) for any money formerly secured by the mortgage (including any money 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.

3 Defining date of adjustment in relation to adjustable debts

- (1) For the purposes of the principal Act the term **date of adjustment**, in relation to any applicant, means the date on which his adjustable debts are deemed to be discharged under subsection (1) of section 49 of the principal Act.
- (2) Where, whether before or after the passing of this Act, the Adjustment Commission has made an order adjusting the liabilities of any applicant but has not fixed the date of adjustment, the date on which the order is sealed by the Court shall be deemed to be the date of adjustment. Where the Adjustment Commission has made 2 or more orders as aforesaid this subsection shall be deemed to relate to the last of those orders, unless the Adjustment Commission orders that it shall relate to any other order.
- (3) *This subsection amended section 49(2) of the principal Act*

4 Only specified adjustable debts deemed to be discharged

No adjustable debt of any applicant shall be deemed to have been discharged under subsection (1) of section 49 of the principal Act (whether before or after the passing of this Act) unless it is specified in an order of the Adjustment Commission providing for its discharge or is specified in the statement of the applicant's assets and liabilities filed under the principal Act or in any amended statement thereof filed before the date of adjustment.

5 Power to vary certain orders under which rates are payable, or are secured on any property

- (1) Where before the passing of this Act an Adjustment Commission has made an order providing for the payment or satisfaction by any applicant of any rates as an adjustable debt, whether by instalments or otherwise, the applicant may within 2 months after the passing of this Act apply to the Adjustment Commission for a variation of the order. On any application so made the Adjustment Commission may make such order as it deems just and equitable for the variation or discharge of the first-mentioned order, whether by remitting the rates or any part thereof or otherwise.
- (2) Where before the passing of this Act an Adjustment Commission or the Court of Review has made an order the effect of which, by reason of any rates secured on the property, is that the total amount remaining secured on any property of an applicant by any adjustable security or adjustable securities exceeds the basic value or the value of the property as mentioned in subsection (1) or in subsection (2) of section 42 of the principal Act, as the case may be, the applicant may within 2 months after the passing of this Act apply to the Adjustment Commission for a variation of the order. On any application so made the Adjustment Commission may make such orders as it deems necessary for the purpose of making the first-mentioned order comply with the principal Act and for the purpose of making any other provisions consequential thereon.

6 Vesting orders may be made by Adjustment Commissions

- (1) Where any Adjustment Commission has heretofore made or hereafter makes an order under section 46 or section 47 of the principal Act for the sale of any property or an order under paragraph (e) of subsection (4) of section 49 of that Act for the application of any property in or towards the satisfaction of any adjustable debt it may by the same or a subsequent order vest the property in the purchaser or creditor, as the case may be.
- (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.

Subsection (1) was amended, as from 15 March 1938, by section 22(a) Statutes Amendment Act 1937 (1937 No 38), by inserting the words “or an order under paragraph (e) of subsection (4) of section 49 of that Act for the application of any property in or towards the satisfaction of any adjustable debt”.

Subsection (1) was further amended, as from 15 March 1938, by section 22(b) Statutes Amendment Act 1937 (1937 No 38), by inserting the words “or creditor, as the case may be”.

7 *[Repealed]*

Section 7 was repealed, as from 18 September 1950, by section 5 Property Law Amendment Act 1950 (1950 No 27).

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

- (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 49 of the principal Act.
- (2) Nothing in this section shall be construed to restrict the operation of section 49 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).

9 Review of liability of guarantor who loses his rights against applicant

- (1) Where as a result of the adjustment of the liabilities of any applicant any guarantor has, whether before or after the passing of this Act, lost a right to make a claim against the applicant in respect of any amount paid or to be paid by the guarantor under the guarantee before or after the date of adjustment, the Adjustment Commission may, either at the time of the adjustment of the applicant's liabilities (without formal application by the guarantor), or subsequently (upon application made by the guarantor under this section), make such order for the variation or for the complete or partial discharge of the liability of the guarantor under the guarantee as it deems just and equitable on account of the loss of the guarantor's rights against the applicant, having regard to the relative hardship on all the parties concerned and to any other relevant consideration.
- (2) No application by a guarantor under this section shall be heard by the Adjustment Commission unless it is filed within 2 months after the date of adjustment of the liabilities of the applicant against whom the guarantor has lost any right as aforesaid or, where the date of adjustment was before the passing of this Act, within 2 months after the passing of this Act.
- (3) The provisions of this section shall apply with respect to every guarantor, whether or not he is an applicant under the principal Act, and shall be in addition to and not in derogation of the provisions of the principal Act relating to the adjustment or the discharge of the liabilities of guarantors.

10 Extending time for recovery of rates where commencement of proceedings prohibited

- (1) The period during which the commencement or continuation of proceedings in any Court for the recovery of any rates is prohibited by the operation of section 55 of the principal Act shall not be taken into account for the purposes of section 79 of the Rating Act 1967.
- (2) This section shall not apply in any case where the time limited by the said section 79 for the giving of judgment for the rates has expired before the passing of this Act.

In subsection (1), “section 79 of the Rating Act 1967”, being the corresponding enactment in force, has been substituted for “section 77 of the repealed Rating Act 1925”, and in subsection (2), “section 79” has similarly been substituted for “section 77”.

Eprint notes**1 *General***

This is an eprint of the Mortgagors and Lessees Rehabilitation Amendment Act 1937 that incorporates all the amendments to that Act as at the date of the last amendment to it.

2 *About this eprint*

This eprint is not an official version of the legislation under section 18 of the Legislation Act 2012.

3 *Amendments incorporated in this eprint*

Statutes Repeal Act 2017 (2017 No 23): section 3(1)