

New Zealand.



ANALYSIS.

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1921, No. 1.

AN ACT to amend the Mortgages Extension Act, 1919.

Title.

[21st March, 1921.]

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 Mortgages Extension Amendment Act, 1921, and shall be read together with and deemed part of the Mortgages Extension Act, 1919 (hereinafter referred to as the principal Act).

Short Title.

PART I.

MORTGAGES.

2. (1.) Section four of the principal Act, as amended by section seven of the Statutes Repeal and Expiring Laws Amendment and Continuance Act, 1920, is hereby further amended by omitting the words "thirtieth day of June, nineteen hundred and twenty-one," and substituting the words "thirty-first day of December, nineteen hundred and twenty-one."

Duration of principal Act extended.

(2.) Section seven of the principal Act, as amended by section seven of the Statutes Repeal and Expiring Laws Amendment and Continuance Act, 1920, is hereby further amended as follows:—

(a.) By omitting from subsection one the words "thirtieth day of June, nineteen hundred and twenty-one," and substituting the words "thirty-first day of December, nineteen hundred and twenty-one"; and

(b.) By omitting from subsection one the words "thirtieth day of June, nineteen hundred and twenty-two," and substituting the words "thirty-first day of December, nineteen hundred and twenty-two."

Consequential
repeal.

(3.) Section seven of the Statutes Repeal and Expiring Laws Amendment and Continuance Act, 1920, is hereby repealed.

PART II.

DEPOSITS AND OTHER SPECIAL CONTRACTS.

Special
provisions as to
the calling-up of
moneys lent on
contracts of
deposit, other
than moneys
deposited with
bank or
savings-bank.

3. (1.) In this section, unless inconsistent with the context,—
- "Bank" means and includes the Post Office Savings-bank, and any savings-bank established by statute in New Zealand, and any bank carrying on business in New Zealand and authorized by law to issue bank-notes:
- "Borrower" means and includes any firm of partners, company, or association, whether corporate or unincorporate (other than a bank), who or which at the commencement of this Act holds moneys upon contract of deposit, and also includes any public body authorized expressly or impliedly by law to receive moneys on deposit where such public body at the commencement of this Act holds moneys upon contract of deposit:
- "Contract of deposit" means any contract or agreement, written or verbal, express or implied, relating to the receipt of money by a borrower, upon the terms that the same shall be repaid either at a fixed date or by instalments or at call and bearing interest until repayment at an agreed rate, except that no contract or agreement shall be a contract of deposit for the purposes of this Act if—
- (a.) Such contract or agreement is expressed in a mortgage; or
- (b.) Such contract or agreement is expressed in debentures issued in series by an incorporated company or public body; or
- (c.) The borrower has, as part of the contract of deposit or as collateral thereto, made and delivered to the lender any negotiable bill of exchange or promissory note for further evidencing or securing the repayment of such money or any part thereof:
- "Due date" means the date (if any) fixed by a contract of deposit for the repayment of the principal sum deposited or any part thereof. Where the principal sum is repayable by instalments the due date, in respect of any instalment, means the date for repayment of that instalment. Where the principal sum is repayable at call the due date means the date of the commencement of this Act:
- "Lender" means any person, firm, company, or association who or which has lent money to a borrower on a contract of deposit.

(2.) When the due date in a contract of deposit falls before the thirty-first day of May, nineteen hundred and twenty-one, such due date is hereby extended to the thirty-first day of May, nineteen hundred and twenty-one.

(3.) A borrower may at any time before the thirty-first day of May, nineteen hundred and twenty-one, give notice in writing to the lender that he requires the due date, where such due date falls before the thirty-first day of December, nineteen hundred and twenty-one, to be extended to any day not later than the thirty-first day of December, nineteen hundred and twenty-one:

Provided that in and by the same notice the borrower shall offer to pay to the lender interest on the principal sum from the due date until repayment at a rate not less than one per centum in excess of the rate fixed by the contract of deposit.

(4.) Where the lender is resident in New Zealand such notice shall be deemed to be duly given if served personally on the lender or posted in a registered letter addressed to the lender at his last known place of abode or business in New Zealand.

(5.) Where the lender is absent from New Zealand such notice shall be deemed to be duly given if served personally upon any person who is the agent of the lender in New Zealand, or upon any person in New Zealand authorized to receive moneys on behalf of the lender, or if sent by telegram addressed to the lender at his last known place of residence or business beyond New Zealand.

(6.) Such notice if duly given shall, save as hereinafter provided, have the effect of postponing the due date until the date named therein and of fixing the rate of interest for the period intervening between the original due date and the date of payment at the rate named therein.

(7.) Save pursuant to an order of the Supreme Court as hereinafter provided for, it shall not be lawful for the lender to demand or sue for the payment of the principal sum named in a contract of deposit or any part thereof until the expiration of the period to which the due date is extended by this section, or is further extended by a notice duly given under this section.

(8.) Any lender who has been served with notice under this section may apply to the Supreme Court for relief, and the Supreme Court shall have full power and discretion upon such application to ascertain and determine whether the extension of the due date named in the notice is unreasonable having regard to the circumstances of the borrower and the lender respectively, and to any special hardship which the lender would thereby suffer, and to any other circumstances which the Court may deem to be relevant, and to determine whether any extension of the due date from the thirty-first day of May, nineteen hundred and twenty-one, but not later than the thirty-first day of December, nineteen hundred and twenty-one, should be granted to the borrower, and, if so, what extension should be so granted.

(9.) Such determination of the Supreme Court shall, according to its tenor, have the effect of fixing the due date in lieu of the due date named in the notice.

(10.) Sections eight and eleven of the principal Act, with the necessary modifications, shall apply in the case of an application by a lender under this section.

(11.) This section does not apply to a bank, or to any contract of deposit by or with a bank.

(12.) This section applies only to contracts of deposit existing at the date of the commencement of this Act.

4. Section seventeen of the War Legislation Act, 1917, is hereby amended as follows:—

(a.) By omitting the words “the fourth day of August, nineteen hundred and fourteen,” and substituting the words “the first day of March, nineteen hundred and twenty-one.”

(b.) By omitting the words “occasioned by the present war” after the words “the diversion or insufficiency of labour,” and by inserting after those words the following words: “or the disorganization of the markets, or financial stringency, occasioned by or consequent upon the late war with Germany.”

Extension of powers of Supreme Court under Section 17 of War Legislation Act, 1917 (conferring on Supreme Court jurisdiction to suspend or vary contracts affected by the war).