

New Zealand.

## ANALYSIS.

Title.

1. Short Title.

2. Conferring on mortgagor a right to apply for relief where mortgagee has failed to exercise accrued right of sale for three months.

3. Mortgagor debarred from contracting out of benefits provided by principal Act.

4. Lessor not entitled to obtain or execute judgment for rent while application for relief of lessee pending.

## 1932-33, No. 34.

AN ACT to amend the Mortgagors Relief Act, 1931. Title.  
[28th February, 1933.]

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 Tenants Relief Amendment Act, 1932-33, and shall be read together with and deemed part of the Mortgagors Relief Act, 1931 (hereinafter referred to as the principal Act). Short Title.

2. (1) Section two of the Mortgagors and Tenants Relief Act, 1932, is hereby amended, as from the passing of that Act, by repealing subsection five thereof, and substituting the following subsection:—

“(5) Where, whether before or after the passing of this Act, any mortgagee has received from the Court Conferring on mortgagor a right to apply for relief where mortgagee has failed to exercise accrued right of sale for three months.

authority to exercise any power or to do any act referred to in section four of the principal Act, but such power has not in fact been exercised or has not been fully exercised, or such act has not been done, the mortgagor may, by leave of the Court, at any time after the expiration of three months from the date of the order of the Court conferring such authority, make application for relief under the provisions of this section."

(2) For the purposes of section two of the Mortgagors and Tenants Relief Act, 1932, as amended by the last preceding subsection, a mortgagee shall be deemed to have received from the Court authority to exercise any power or to do any act notwithstanding that the order of the Court may not in terms have conferred such authority if such order, by refusing, whether absolutely or conditionally, to grant a mortgagor's application for relief, has in effect conferred on the mortgagee authority to exercise any such power or to do any such act.

(3) Where before the passing of this Act application for relief has been made by a mortgagor which would have been in order if this Act had been passed before such application was made, the application shall be deemed to be in order and to enure for the purposes of this section, notwithstanding that before the passing of this Act the Court may have dismissed the application on the ground of want of jurisdiction or on any other grounds not relating to the merits of the application. Until any such application has been disposed of by the Court after the passing of this Act, the mortgagee shall be bound by the provisions of subsection four of section five of the principal Act.

**3.** No covenant or condition contained in any mortgage or lease, or in any deed or other instrument, whether executed before or after the passing of this Act, shall have or be deemed heretofore to have had any force or effect to deprive any mortgagor or lessee of any right, power, privilege, or other benefit provided for by the principal Act or by any amendment thereof.

4. Section six of the Mortgagors and Tenants Relief Act, 1932, is hereby amended by inserting, after paragraph (b) of subsection six thereof, the following:—

“ or

“ (c) Be entitled to obtain judgment for any rent due and payable under the lease or, where judgment has been obtained, to issue or be concerned in the issue of any process of execution in pursuance thereof, or to continue or be concerned in the continuance of any such process of execution; or

“ (d) File a bankruptcy petition against the lessee.”

Lessor not entitled to obtain or execute judgment for rent while application for relief of lessee pending.