



## ANALYSIS

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1981, No. 1—*Local*

**An Act to amend the Hamilton Domain Endowment Act 1979**  
[26 August 1981]

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

**1. Short Title**—This Act may be cited as the Hamilton Domain Endowment Amendment Act 1981, and shall be read together with and deemed part of the Hamilton Domain Endowment Act 1979 (hereinafter referred to as the principal Act).

**2. Interpretation**—Section 2 of the principal Act is hereby amended by inserting, in their appropriate alphabetical order, the following definitions:

“‘Approved guarantor’ means any person, body, society, or corporation acceptable to the Council in its own discretion as a guarantor of the obligations of a mortgagor under a second mortgage of a fee simple estate:

“‘Community organisation’ means any body, society, or corporation or the trustee for any body, society, or corporation the activities of which are, in the opinion of the Council in its own discretion, not for the private pecuniary profit of any members of the body, society, or corporation, or trustee, as the case may be:”.

**3. Sale upon terms**—Section 5 of the principal Act is hereby amended by repealing subsections (4) to (6), and substituting the following subsections:

“(4) In subsection (2) of this section the terms ‘improvements’ and ‘land value’ shall have the same meanings as those contained in section 2 of the Valuation of Land Act 1951 save that in determining land value no reduction shall be made as a result of the existence of the lease to the purchaser at the time of sale and transfer.

“(5) Where the fee simple estate in the land is sold to the lessee under the provisions of this section, the Council at its own discretion may, subject to subsections (6) to (8) of this section, accept in lieu of a total cash payment a registerable mortgage of the said estate securing to the Council not more than 90 percent of the total amount payable by the lessee under subsection (2) of this section, but excluding therefrom the sums referred to in subsection (2) (b) of this section (the amount secured being hereinafter referred to as the principal sum).

“(6) Where the mortgagor under a mortgage that is accepted under subsection (5) of this section is a community organisation, the following provisions shall apply—

“(a) The Council at its own discretion may accept as security for the principal sum either a registerable first mortgage of the said estate or alternatively a registerable second mortgage of the said estate guaranteed by an approved guarantor:

“(b) The principal sum and all other money secured to the Council by the terms of any mortgage accepted by it shall at the option of the Council become due and payable and may forthwith be called up if during the term thereof the use of the said land is changed without the consent of the Council given in its capacity as mortgagee:

“(c) Any mortgage accepted by the Council shall otherwise be subject to such terms and conditions as may appear to the Council to be appropriate.

“(7) Where the land mortgaged under a mortgage that is accepted under subsection (5) of this section is land which, at the time of both the sale and transfer of the land to the mortgagor, is zoned by the Council as Residential I or Residential II or Residential III under the provisions of the

Town and Country Planning Act 1977 and in the opinion of the Council (whose decision shall be final) one (but not more than one) self-contained home or residence for the purposes of a single house-keeping unit to be used by the transferee is either then erected upon the said land or is likely to be erected thereon within 2 years after the date of the completion of the sale, the following provisions shall apply:

“(a) The Council at its own discretion may accept as security for the principal sum either a registerable first mortgage of the said estate or alternatively a registerable second mortgage of the said estate guaranteed by an approved guarantor:

“(b) The principal sum and all other money secured to the Council by the terms of any mortgage accepted by it shall at the option of the Council become due and payable and may forthwith be called up if—

“(i) Any self-contained home or residence for the purpose of a single house-keeping unit that the mortgagor covenants as a term of the mortgage to have erected upon the mortgaged land is not so erected within the prescribed time; or

“(ii) During the term thereof more than one self-contained home or residence for the purposes of a single house-keeping unit is erected upon the mortgaged land; or

“(iii) During the term thereof the one self-contained home or residence for the purposes of a single house-keeping unit erected upon the mortgaged land is not occupied as owner by the mortgagor or by the spouse or former spouse of the mortgagor:

“(c) Any mortgage accepted by the Council shall otherwise be subject to such terms and conditions as may appear to the Council to be appropriate.

“(8) In every other case where a mortgage is accepted under subsection (5) of this section, that mortgage shall be a registerable first mortgage of the fee simple estate.

“(9) Except as provided in subsections (5) to (8) of this section, any mortgage accepted by the Council shall be subject to such terms and conditions as may appear to the Council to be appropriate:

“Provided that—

- “(a) Where the mortgagor is not a community organisation and the land mortgaged is zoned by the Council as Residential II or Residential III under the provisions of the Town and Country Planning Act 1977, the rate of interest payable shall, while not more than one self-contained home or residence for the purposes of a single house-keeping unit is erected upon the mortgaged land and is occupied by the mortgagor or by the spouse or former spouse of the mortgagor, be not more than 0.5 percent per annum more than the rate of interest that would have been payable if subsection (7) of this section had been applicable; and
- “(b) Where the mortgagor is a community organisation, the rate of interest payable shall be the same as the rate of interest that would have been payable if subsection (7) of this section had been applicable.”

**4. Additions to Schedules—**(1) Part I of the Second Schedule to the principal Act is hereby amended by inserting, after item 58, the following items:

“58A. 4077 square metres, more or less, being Lots 1, 2, and 3, D.P. S. 3371, situated in Block XIII, Komakorau Survey District. All certificate of title, No. 13D/428.

“58B. 1542 square metres, more or less, being Lot 1, D.P. 30427, situated in Block XIII, Komakorau Survey District. Balance certificate of title, Volume 408, folio 11.”

(2) In relation to the land described in items 58A and 58B in Part I of the Second Schedule to the principal Act, section 3 (1) of the principal Act shall have effect as if there were substituted—

- (a) For the word “henceforth”, the words “as from the commencement of the Hamilton Domain Endowment Amendment Act 1981”; and
- (b) For the words “at the commencement of this Act”, the words “at the commencement of the Hamilton Domain Endowment Amendment Act 1981”.

(3) The Third Schedule to the principal Act is hereby amended by adding, after the words “All the above are situated in Block I, Hamilton Survey District”, the following items:

"77. 1574 square metres, more or less, being Lot 1, D.P. 20961, situated in Block XIII, Komakorau Survey District. Balance certificate of title, Volume 474, folio 155.

"78. 4046 square metres, more or less, being Allotment 303, Town of Hamilton East, situated in Block II, Hamilton Survey District. All certificate of title, Volume 379, folio 262 (S.O. Plan 201).

"79. 1401 square metres, more or less, being Lots 7 and 8, D.P. 34426, situated in Block II, Hamilton Survey District. All certificate of title, No. 6D/942."

(4) In relation to the land described in items 77 to 79 in the Third Schedule to the principal Act, section 3 (2) of the principal Act shall have effect as if, for the words "at the commencement of this Act", there were substituted the words "at the commencement of the Hamilton Domain Endowment Amendment Act 1981".

(5) In relation to the land described in items 58A and 58B in Part I of the Second Schedule to the principal Act and in items 77 to 79 in the Third Schedule to the principal Act, section 4 of the principal Act shall have effect as if, for the word "henceforth", there were substituted the words "as from the commencement of the Hamilton Domain Endowment Amendment Act 1981".

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