

New Zealand.



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1902, No. 17.

Title. AN ACT to amend "The Land Transfer Act, 1885."
[1st October, 1902.]

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

Short Title. 1. (1.) The Short Title of this Act is "The Land Transfer Amendment Act, 1902"; and it shall form part of and be read together with "The Land Transfer Act, 1885" (hereinafter referred to as "the principal Act").

(2.) This Act shall come into operation on the first day of January, one thousand nine hundred and three.

Form of mortgage. 2. Notwithstanding anything in the principal Act, the form in the First Schedule hereto may be used in lieu of the Form E in the Second Schedule to that Act.

Covenants and conditions implied in mortgage. 3. (1.) In every mortgage under the principal Act executed after the coming into operation of this Act there shall be implied the covenants and conditions set forth in the Second Schedule hereto, except in so far as is otherwise expressed in the mortgage.

(2.) The covenant relating to insurance contained in the Fourth Schedule to the principal Act shall not apply to such mortgages.

(3.) Sections ninety-five, ninety-eight, and ninety-nine of the principal Act are hereby repealed, except in so far as they affect mortgages executed prior to the coming into operation of this Act.

Indorsements on mortgages. 4. (1.) (a.) The amount secured by any mortgage may be increased or reduced; and

(b.) The term or currency of any mortgage may be renewed or extended; and

(c.) The interest of a mortgagee under any mortgage may be transferred—

by a memorandum indorsed on or annexed to the mortgage.

(2.) The memorandum may be in such one of the forms in the Third Schedule hereto as is applicable.

(3.) Every such memorandum may be registered in like manner as the original mortgage.

(4.) Upon registration of any memorandum of transfer the estate or interest of the transferor as set forth in the memorandum, together with all the rights, powers, and privileges attaching thereto, shall pass to the transferee.

5. "The Mortgages of Land Act, 1901," is hereby repealed in so far as the same relates to any mortgage executed under the principal Act after the coming into operation of this Act. Repeal.

SCHEDULES.

Schedules.

FIRST SCHEDULE.

MEMORANDUM OF MORTGAGE.

- (a.) Mortgagor :
- (b.) Estate :
- (c.) Land : [*Area and particulars.*]
- (d.) Reference to title in Register :
- (e.) Mortgagee :
- (f.) Principal sum :
- (g.) Date of advance :
- (h.) Rate of interest :
- (i.) How payable :
- (j.) How and when principal sum to be repaid :
- (k.) Special covenants or conditions.

And for the better securing to the said (e) the payment of the said principal sum, interest, and other moneys, I [*or we*] hereby mortgage to the mortgagee all my [*or our*] estate and interest in the said land above described.

As witness my hand [*or our hands*], this day of , 19 .

(l)
Mortgagor.

Signed by the said (m) as mortgagor, in the presence of (n)
A. B.,
[*Occupation and address*].

Directions for filling up above Form.

- (a.) Here insert full name, residence, and occupation of mortgagor [*or mortgagors*], as thus : "A. B., of Wellington, farmer."
- (b.) Here insert "freehold in fee-simple" or "leasehold," as the case may be.
- (c.) Here insert acreage, number of section and block, and name of survey district, city, town, or township in which the land is situated.
- (d.) Here insert number and folio of register.
- (e.) Here insert full name of mortgagee [*or mortgagees*].
- (f.) Insert amount.
- (g.) Fill in date.
- (h.) State rate agreed upon.
- (i.) Here insert "yearly," "half-yearly," "quarterly," or otherwise, as the case may be.
- (j.) Here insert date and mode of payment agreed upon.
- (k.) Here insert special covenants or conditions.
- (l.) Signature of mortgagor [*or mortgagors*].
- (m.) Name of mortgagor [*or mortgagors*].
- (n.) Signature of witness, stating place of abode and calling or description of witness.

SECOND SCHEDULE.

IMPLIED COVENANTS, POWERS, AND CONDITIONS.

Firstly, that the mortgagor will pay the principal sum mentioned in the mortgage, with interest thereon, in accordance with the provisions of such mortgage.

Secondly, that the mortgagor will forthwith insure, and, so long as any money remains owing on the security, will keep insured, all buildings and erections for the time being situate on the said land against loss or damage by fire, in the name of the mortgagee, to their full insurable value, in some insurance office in New Zealand to be approved by the mortgagee, and will duly and punctually pay all premiums and sums of money necessary for the purpose of keeping every such insurance on foot. And will, not later than the forenoon of the day on which any premium falls due, deliver or cause to be delivered the receipt therefor to the mortgagee, who shall also be entitled to the exclusive custody of all policies of insurance.

Thirdly, that the mortgagor will from time to time, so long as any money remains owing on the security, well and substantially repair, and keep in good and substantial repair and condition, all buildings or other improvements erected and made upon the said land: And that the mortgagee may at all reasonable times be at liberty, by himself, his agents or servants, to enter upon the said land to view and inspect the said buildings and improvements.

Fourthly, that if the mortgagor fails or neglects to insure or keep insured the said buildings and erections as aforesaid, or to deliver or cause to be delivered any premium receipt as aforesaid, or to repair the said buildings and improvements, or to keep them in good and substantial repair and condition as aforesaid, then and in any such case, and as often as the same shall happen, it shall be lawful for but not obligatory on the mortgagee, at the cost and expense in all things of the mortgagor, to insure the said buildings or any of them in such sum as aforesaid, or in any less sum, or to pay such premium, or to repair the said buildings and improvements and keep them in good and substantial repair and condition.

Fifthly, that in the event of the said buildings and erections or any of them being destroyed or damaged by fire, all moneys received by the mortgagee under any insurance in respect of such destruction or damage shall be applied, at his sole option, either in or towards rebuilding or repairing the buildings and erections so destroyed or damaged, or in or towards payment of the principal, interest, and other moneys for the time being covered by the security, notwithstanding that the same or any of them may not have accrued due under the terms of the mortgage. If the mortgagee applies such moneys in or towards payment of the principal and other moneys as aforesaid, the mortgagor shall have the option of paying off the whole amount due under the mortgage at any time within two months after the mortgagee has exercised his option of applying the insurance-money towards paying off the mortgage.

Sixthly, that all moneys expended by the mortgagee in and about effecting or keeping on foot any insurance as aforesaid, or in repairing or keeping in repair any of the said buildings and improvements as aforesaid, or in lawfully exercising or enforcing any power, right, or remedy in the mortgage contained or implied in favour of the mortgagee, shall be payable to him by the mortgagor on demand, and until paid shall be charged on the said land, together with interest at the rate agreed upon in the mortgage, computed from the date or dates of such moneys being expended.

Seventhly, that where the mortgagor makes default for the space of two months in payment of the principal sum and interest, or in the observance of any other covenant expressed or implied in the mortgage, and at least one month's notice in writing of his intention to do so has been given by the mortgagee to the mortgagor, or has been left upon the said land or at the usual or last known place of abode in the colony of the mortgagor, the mortgagee may sell the said land, or any part thereof, either altogether or in lots, by public auction or by private contract, or partly by either of such modes of sale, and subject to such conditions as the mortgagee thinks fit, and may exercise such other incidental powers in that behalf as are conferred upon mortgagees by "The Land Transfer Act, 1885."

Eighthly, that if and whenever the mortgagor makes any such default as in the last preceding covenant mentioned, it shall be lawful for the mortgagee to call up and compel payment of all principal, interest, and other moneys for the time being owing under the mortgage, notwithstanding that the time or times therein appointed for the payment thereof respectively may not have arrived.

Ninthly, that the mortgagor will forthwith insure, and, so long as any moneys remain owing on the security, will keep insured, the mortgagee against any worker's

charge under "The Workers' Compensation for Accidents Act, 1900," on the said land obtaining priority over the mortgage, in the name of the mortgagee; such policy or policies in either case to be expressed to be an absolute indemnity of the mortgagee against such risk: And will, seven days at least before the same becomes due, pay all premiums and other moneys necessary for keeping such insurance on foot, and will forthwith deliver to the mortgagee the policy or policies of such insurance or insurances, and from time to time the receipt for every such premium.

Tenthly, that if the mortgagor fails to insure or keep insured the mortgagee against any worker's charge as aforesaid, it shall be lawful for but not obligatory on the mortgagee to pay all such sums of money as may be requisite to effect such policy or policies as, in the opinion of the mortgagee, are necessary for the purpose of insuring the mortgagee against any worker's charge obtaining priority over the mortgage, and to pay all such sums as may be necessary for the purpose of effecting such insurance, or paying the premium thereon or any renewal premium in respect thereof: And the mortgagor will, whenever called upon to do so (but not at intervals of less than three months), supply a list of all wages paid by the mortgagor in connection with the said land.

Eleventhly, the mortgagor will forthwith, without any demand, pay to the mortgagee all sums of money expended by the mortgagee in paying and satisfying any such worker's charge as aforesaid, or in effecting such insurance, or paying the said premium or renewal premiums thereon, with interest for the same respectively at the rate agreed on in the mortgage, computed from the time or respective times of the mortgagee's paying the same until repayment thereof, and in the meantime such sums of money, with interest at the rate aforesaid, shall be added to the sum expressed to be secured by the mortgage.

THIRD SCHEDULE.

(1.) MEMORANDUM OF INCREASE OR REDUCTION OF MORTGAGE DEBT.

The principal sum intended to be secured by the within- [or above-] written [or annexed] mortgage is hereby increased [or reduced] to £ : : .

Dated this day of , 19 .

Witness : E. F.,
[Occupation and address].

A. B., Mortgagor.
C. D., Mortgagee.

Witness : G. H.,
[Occupation and address].

(2.) MEMORANDUM OF RENEWAL OR EXTENSION OF TERM OR CURRENCY OF MORTGAGE.

The term or currency of the within- [or above-] written [or annexed] mortgage is hereby renewed or extended to the day of , 19 [or as the case may be].

Dated this day of , 19 .

Witness : E. F.,
[Occupation and address].

A. B., Mortgagor.
C. D., Mortgagee.

Witness : G. H.,
[Occupation and address].

(3.) TRANSFER OF MORTGAGE.

In consideration of £ , the receipt whereof is hereby acknowledged, the estate or interest of the mortgagee in the within- [or above-] written [or annexed] mortgage is hereby transferred to , of .

Dated this day of , 19 .

Witness : E. F.,
[Occupation and address].

A. B., Mortgagee.