

## New Zealand.



### ANALYSIS.

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| <p>Title.</p> <p>1. Short Title.</p> <p>2. Relief of lessee against inequitable refusal of lessor to grant renewal of lease on ground of lessee's breach of covenant.</p> |  | <p>3. Limitation of time within which application for relief may be made under this Act.</p> |
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1928, No. 13.

AN ACT to amend the Property Law Act, 1908.

Title.

*[19th September, 1928.]*

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 Property Law Amendment Act, 1928, and shall be read together with and deemed part of the Property Law Act, 1908 (hereinafter referred to as the principal Act).

Short Title.

2. (1) In this section, unless the context otherwise requires, the terms "lease," "lessee," and "lessor" have the same meanings respectively as in section ninety-three of the principal Act.

Relief of lessee against inequitable refusal of lessor to grant renewal of lease on ground of lessee's breach of covenant.

(2) This section applies to leases made either before or after the coming into operation of this Act, and shall have effect with respect to any lease notwithstanding any stipulation to the contrary and notwithstanding the expiry of the term of such lease.

*Cf.* 1908, No. 152, s. 94; 1927, No. 41, s. 13

(3) Where by any lease to which this section applies the lessor has covenanted with the lessee that, subject to the performance or fulfilment of certain covenants, conditions, or agreements by the lessee, the lessor will on the expiry of the lease grant to the lessee a renewal of the lease or a new lease of the demised premises, and the lessor has refused to grant such renewal or such new lease, as the case may be, on the ground that the lessee has failed to perform or fulfil the said covenants, conditions, and agreements, or any of them, the lessee may in any action (whether brought by the lessor or the lessee and whether brought before or after the commencement of this Act), or on motion, apply to the Court for relief, and the Court, having regard to all the circumstances of the case, may grant or refuse relief as it thinks fit, and in particular may decree, order, or adjudge that the lessor shall grant to the lessee a renewal of

his lease or a new lease, as the case may require, on the same terms and conditions in all respects as if all the covenants, conditions, and agreements aforesaid had been duly performed and fulfilled; and in case of relief may grant the same on such terms, if any, as to costs, expenses, damages, compensation, penalty, or otherwise as the Court in the circumstances of each case thinks fit. Failure by a lessee to give to the lessor notice of his intention to require or to accept a renewal of a lease or a new lease within the time or in the manner, if any, prescribed by the original lease shall not limit the rights of the lessee or the powers of the Court under this section.

(4) The fact that the lessor may have granted any estate or interest in the demised land to any person other than the lessee, which estate or interest would be defeated or prejudicially affected by the grant of relief to the lessee, shall not affect the power of the Court under this section, but in any such case the Court may if it thinks just grant relief to the lessee and cancel or postpone any such estate or interest and may if it thinks fit assess damages or compensation to be paid to such person in respect of the defeat of or prejudicial effect upon such estate or interest. Any damages or compensation to be paid in accordance with this subsection shall as the Court may determine be payable either by the lessor or by the lessee, or partly by the lessor and partly by the lessee in proportions to be fixed by the Court.

(5) Where pursuant to this section an order is made by the Court for the renewal of a lease of any Native land, or for the grant of a new lease of any such land, confirmation of the renewal or of such new lease, as the case may be, shall be granted under the Native Land Act, 1909, as a matter of right.

3. (1) Application for relief in accordance with this Act may be made as follows:—

(a) In the case of a lease which has expired before the commencement of this Act, at any time within three months after such commencement:

(b) In the case of any other lease, within three months after the refusal of the lessor to grant a renewal of such lease or to grant a new lease, as the case may be, has been first communicated to the lessee; or within three months after the commencement of this Act, whichever period of limitation is the last to expire.

(2) For the purposes of paragraph (b) of the last preceding subsection, communication to the lessee of notice in writing of the lessor's intention to refuse at the appropriate time to grant a renewal of a lease or to grant a new lease shall be deemed to be equivalent to communication of his refusal to grant such renewal or new lease, and where such notice of intention is given in any case the period of limitation fixed by the said paragraph shall begin to run from the date of the communication of such notice accordingly.

Limitation of time within which application for relief may be made under this Act.