

## New Zealand.



### ANALYSIS.

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### 1938, No. 11.—*Local and Personal.*

- Title.** AN ACT to confer Further and Additional Powers on the Wellington City Corporation in relation to Housing. [16th September, 1938.]
- 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. This Act may be cited as the Wellington City Housing Act, 1938.
- Interpretation.** 2. In this Act, if not inconsistent with the context,—
- “Building society” means a society formed under or subject to the Building Societies Act, 1908:
- “City” means the City of Wellington:
- “City Valuer” means the officer of the Council for the time being acting as City Valuer:
- “Corporation” means the Corporation of the Mayor, Councillors, and Citizens of the City of Wellington:

“ Council ” means the Wellington City Council:

“ Financial institution ” means any company, building society, or association empowered to lend money on mortgage of land, and includes the State Advances Corporation of New Zealand and every other State or Government lending institution in New Zealand:

“ House ” means any house, or part of a house, occupied as a separate dwelling, and includes outbuildings, paths, and fences.

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3. (1) With respect to any person approved by the Council who owns any land in the City and is desirous of erecting a house thereon, or who is desirous of purchasing land in the City and erecting a house thereon, and has arranged a loan by way of mortgage to the approval of the Council in respect thereof from any financial institution up to at least two-thirds of the value of such land and any house to be erected thereon, and who is unable to find the whole cost of building on such land a house, the following provisions shall apply:—

Council empowered to guarantee housing mortgages in part and to combine with financial institutions in advances for housing purposes.

(a) No person shall be entitled to benefits as mortgagor under this section unless he has by the purchase of the land proposed to be mortgaged (whether such land is fully paid for or not) or by cash deposit provided not less than ten pounds per centum of the total estimated cost of such land and the house to be erected:

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(b) To assist such person the Council may out of loan-moneys, raised as hereinafter provided, advance and lend such sum, not exceeding one-fourth of the total mortgage-moneys to be advanced on such land and house as it thinks fit, by depositing the same with the financial institution conditionally on the same, together with the advance from the financial institution to such person, being secured in a first mortgage to such financial institution over the land, upon such terms in all respects as the Council shall approve:

(c) The Council and such financial institution may at the time of any such advance to any person enter into and execute such

agreements as they think fit in regard to the application and appropriation, as between the Corporation on the one hand and such financial institution on the other hand, of the moneys to be paid by such person in reduction of the principal moneys advanced to him under the mortgage, and in regard to the method of apportioning between the parties any loss which may arise or be incurred on any default being made by such person and otherwise in regard to any other incidental matters concerning such advance:

- (d) In any case where such financial institution is prepared to advance by way of mortgage on terms approved by the Council to any person up to ninety per centum of the valuation of such land and any house to be erected thereon conditionally on the Council guaranteeing to such financial institution portion of such advance, the Council may, in lieu of depositing with such financial institution the moneys referred to in paragraph (b) of this subsection, by deed or other instrument, guarantee to such financial institution payment of any portion of the money secured under such mortgage not exceeding one-third of the total amount thereof. Such deed or instrument shall also contain such provisions as the Council and such financial institution may agree upon at the time when the advance is made in respect of the application and appropriation of the payments to be made by the mortgagor under such mortgage in repayment of the portion of the advance guaranteed by the Council and the portion not subject to such guarantee, and also in respect of the method of appropriating as between the parties any loss that may arise or be incurred on any default by the mortgagor and in respect of any other incidental matters arising out of the advance, as the circumstances of each case may require:

(e) Any deposit or guarantee made or executed by the Council shall only be made or executed after a valuation has been made on behalf of the Council of the land and of the house proposed to be erected and the Council approves of such valuation.

(2) The principal moneys secured by any mortgage to which this section relates shall not exceed, apart from moneys required for the insurance fund, as hereinafter provided, the sum of one thousand three hundred and fifty pounds.

(3) Every such mortgage shall be for a period of not more than thirty years.

(4) The total liability of the Corporation for principal moneys in respect of guarantees as aforesaid shall not at any time exceed twenty-five thousand pounds.

(5) For the purpose of providing funds out of which advances as aforesaid may be made and out of which amounts payable in respect of the aforesaid guarantees may be paid, the Council may from time to time raise money, not exceeding in the aggregate fifty thousand pounds, under the Local Bodies' Loans Act, 1926, by way of special loan by special order and without taking the steps prescribed in sections nine to thirteen of that Act.

4. (1) (a) The Council shall, when any mortgagor is in default under a mortgage subject to the provisions of this Act, have the right, if it so desires, to call for a transfer of the mortgage, or to require the financial institution concerned to exercise its power of sale and other remedies under the mortgage, and on the exercise of such remedies the Council may purchase the mortgaged property and shall have the right to bid for any such property at any such sale by auction:

Special provisions relating to guaranteed mortgages.

Provided that when any mortgagor is in default for a period of not less than three months the financial institution may call upon the Council to elect whether or not it desires to call for a transfer of the mortgage under this section, and the Council shall make such election within two months of being called upon so to do. If the Council does not elect within that period to take a transfer of the mortgage, it shall not thereafter have the right under this section to call for such a transfer.

(b) Where the Council calls for or elects to call for a transfer of any mortgage on default of the mortgagor it shall pay to the mortgagee as from the date of calling for the transfer or election, as the case may be, interest on the amount due to the mortgagee for the principal sum at the rate provided in the mortgage, but it shall not be liable to pay to the mortgagee in respect of interest more than six months' arrears, except in cases where the Council and the mortgagee have previously otherwise agreed.

(2) Notwithstanding any rule of law or any statutory or other provision to the contrary, any financial institution may advance moneys by way of mortgage to the limit of value hereinbefore mentioned, and on the terms and conditions in this Act provided.

(3) Every mortgage executed in pursuance of this Act shall contain a covenant by the mortgagor that on any sale or transfer of the property encumbered by such mortgage he will by a cash payment reduce the principal sum secured by such mortgage to seventy per centum of the original advance, or to such less extent as the Council may approve in the circumstances of any particular case.

(4) Collateral security may be taken over any life-insurance policy on the life of the mortgagor.

Power of Corporation to lease land for housing purposes.

5. (1) The Council may lease to any person any land other than public reserves on which no buildings are erected which it has power to lease under the Municipal Corporations Act, 1933, or any other Act, on the terms set out in section one hundred and fifty-eight of such Act, but the provisions of section one hundred and fifty-nine of that Act shall not apply to any such lease.

(2) The rental for the term of any terminating lease, or for the first term of any renewable lease shall be not less than four pounds per centum of the unimproved value of the land to be fixed by the City Valuer and approved by the Council.

(3) The rentals for renewal terms of any such lease shall be fixed by valuation as provided in the said section one hundred and fifty-eight, but shall in no case be less than four pounds per centum of the unimproved value of such land according to the Government valuation roll for the time being in force.

(4) Every such lease may contain a provision whereby the lessee shall have the right at any time to purchase the fee-simple of the land comprised therein, at a price equal to twenty-five times the annual rental payable under the lease at the time of the tenant's election to purchase. Every such purchase shall be completed within six months of the date of the election.

(5) Notwithstanding any rule of law, or any statutory or other provision to the contrary, any financial institution may advance by way of mortgage to any person, on the security of any such lease, any sum not exceeding ninety per centum of the value of any house erected on the land so leased.

6. (1) If the owner of any house or building in the city applies to the Council for assistance for the purpose of carrying out works for the reconstruction, enlargement, repair, or improvement thereof, and the Council is of opinion that only after the works are carried out the house or building would be in all respects fit for habitation as a house, and that the area in which the house or building is situated is in regard to housing accommodation such as to make it desirable that the work should be carried out, and if the owner of such property and the mortgagees thereof are unable, in the opinion of the Council, to provide the moneys necessary to carry out such work, the Council may, with the consent in writing of the mortgagee, advance to the owner the whole or any part of such sum as may be necessary to defray the cost of the work and any expenses incidental thereto.

Loan by Council for the improvement of existing housing accommodation.

(2) Before the works are commenced full particulars of the works and plans and specifications thereof shall be submitted to the Council for its approval, and before any advance is made the Council shall satisfy itself that the works in respect of which the advance is to be made have been carried out in a satisfactory and efficient manner.

(3) For the purposes of this section "owner of any property" means the person for the time being entitled to receive the rack-rent thereof, or who would be so entitled if the same were let to a tenant at a rack-rent.

(4) The Council and the owner may agree that the amount of any advance shall be repayable in one sum at a fixed time, with interest at a rate to be fixed by the Council at the time when the advance is made, or by instalments extending over a number of years, with interest at a rate fixed as aforesaid. Such agreement may contain any incidental provisions and may provide for the earlier payment of instalments, or any of them, on terms to be mentioned in the agreement, provided that where an agreement makes no provision as aforesaid for early payment of instalments the Council shall accept the whole of the unpaid instalments at any time when the same is tendered, and for the purpose of any such tender interest shall be calculated and paid only up to and including the day of such tender.

(5) Such agreement may, where the moneys are repayable in one amount, contain provisions for securing the repayment thereof, and where the moneys are repayable by instalments each such instalment shall, for all purposes, be deemed to be a rate subject nevertheless to the following conditions:—

(a) The owner for the time being of the premises in question shall in all cases be deemed the person primarily liable for payment:

(b) A separate rate-book shall be kept by the Collector of Rates to the Council, in which particulars of such instalments (distinguishing capital and interest) and of the lands in respect whereof they are payable, and of the dates for payment thereof, and all the names of persons paying the same shall be entered; and such book shall be *prima facie* evidence of the correctness of its contents.

(6) The capital moneys advanced by the Council under this section may, when repaid, be advanced to other owners for the purposes aforesaid, and, subject thereto, all such capital moneys shall be applied in or towards the repayment of any special loan raised as hereinafter mentioned, either by payment into the sinking fund in addition to the annual sinking fund payments required, if any, or in any such other manner as the Council, with the sanction of the Audit Office, determines.

(7) Interest-moneys on any advances shall be applied in or towards payment of the interest or other annual charges in respect of the special loan aforesaid.

(8) For the purpose of providing funds out of which advances as aforesaid may be made the Council may borrow moneys by way of special loan, not exceeding in the aggregate ten thousand pounds, under the Local Bodies' Loans Act, 1926, by special loan, and without taking the steps prescribed in sections nine to thirteen of that Act.

(9) All moneys payable to the Council by the owner of any property in respect of any such advances shall be a charge on that property.

7. To provide a fund for insuring the Council against losses arising out of any mortgage to which section three hereof relates the Council may require the principal moneys under any such mortgage to be increased one per centum, and such increase shall, on the execution of the mortgage, be deducted from the principal moneys and paid by the financial institution to the Corporation and shall form part of a fund to be invested and held by the Corporation as a trust fund to insure itself against losses arising out of mortgages, subject to the provisions of this Act.

Insurance  
Fund.

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