

**NORTHERN TERRITORY OF AUSTRALIA**

**MORTGAGORS' INTEREST REDUCTION ACT**

As in force at 21 September 1981

**Table of provisions**

1	Short title .....	1
2	Commencement .....	1
3	Definitions.....	1
4	Application of Act.....	1
5	Application for reduction of interest .....	2
6	Effect of order .....	3
7	Contracting out .....	3
8	Regulations.....	3

**ENDNOTES**



# NORTHERN TERRITORY OF AUSTRALIA

---

As in force at 21 September 1981

---

## MORTGAGORS' INTEREST REDUCTION ACT

**An Act to provide for the Reduction of the Rates of Interest payable in respect of certain fixed Liabilities and to enable Tribunals to give effect to such Reduction**

### 1 Short title

This Act may be cited as the *Mortgagors' Interest Reduction Act*.

### 2 Commencement

This Act shall commence on a date to be fixed by the Minister by notice in the *Gazette*.

### 3 Definitions

In this Act, unless the contrary intention appears:

***mortgage*** means any deed, memorandum of mortgage, instrument, or agreement whereby security for payment of money is granted over real or personal property or any interest therein, and includes an agreement for sale and purchase of real or personal property where payment of the unpaid purchase money and interest thereon is secured on such property.

***mortgagee*** means any person entitled to receive payment of any moneys payable under a mortgage.

***mortgagor*** means any person liable to payment of moneys secured by mortgage and any person who has guaranteed such payment.

***the Court*** means the Supreme Court.

### 4 Application of Act

This Act shall apply to all mortgages existing at the commencement of this Act.

---

## **5 Application for reduction of interest**

- (1) Any mortgagor, by application in the prescribed form, may apply to the Court at any time within 12 months after the commencement of this Act for reduction of the rate of interest payable under his mortgage.
- (2) A copy of every such application shall be served as prescribed upon the mortgagee, who shall be given an opportunity to show cause why the application should not be granted.
- (3) Where it is not shown to the Court that there are any special circumstances relating to the mortgage in respect of which the application is made, the Court shall make an order for the reduction of the rate of interest payable under such mortgage at the rate of 45 cents for every \$2 of such interest calculated as provided by such mortgage, but no such order shall have the effect of reducing the rate of interest under the mortgage below 5% per annum.
- (4) If the mortgagee satisfies the Court that there are any such special circumstances, the Court may make such reduction, not exceeding the rate of reduction specified in subsection (3), as in its opinion the circumstances require, or may refuse the application if in its opinion such refusal is warranted.
- (5) Where the Court is satisfied that:
  - (i) the mortgagor has requested the mortgagee to reduce his rate of interest in manner contemplated by this Act;
  - (ii) the mortgagee has refused to make a reduction reasonable in the circumstances; and
  - (iii) there are no special circumstances justifying such refusal,the Court may order the mortgagee to pay costs.
- (6) If the Court is satisfied that the application has been occasioned by the refusal of the mortgagor to accept a reasonable offer of reduction by the mortgagee, the Court may order the mortgagor to pay costs.
- (7) Any order made under this section for the payment of costs shall specify such sum as the Court thinks reasonable which shall be paid to the party in whose favour such order is made.
- (8) Any order made under this section shall be final and conclusive, and no appeal shall lie in respect thereof.

- 
- (9) If any mortgagee holds such mortgage as a trustee:
- (a) such mortgagee shall not be deemed to be guilty of a breach of trust by reason only of his bona fide making a reasonable offer of reduction of interest pursuant to subsection (6) or by reason of his bona fide failure to show cause why a reasonable application under subsection (1) should not be granted; and
  - (b) the Court, in considering any question as to the payment of costs under subsection (5) shall have regard inter alia to the fiduciary position of such mortgagee as trustee in determining whether or not his refusal to make the reduction applied for was reasonable in the circumstances.

## **6 Effect of order**

- (1) Any payment of interest made in accordance with an order made as provided by this Act shall be a full discharge of the mortgagor's liability under his mortgage for interest in respect of the period to which the payment relates.
- (2) Any order made under this Act shall apply only in respect of interest accruing due after the commencement of this Act.
- (3) Every such order shall continue in force during the continuance of the mortgage in respect of which it is made unless the Court, for special reasons, otherwise directs.
- (4) During the continuance of any order made under this Act a mortgagee shall not demand, sue for or enforce payment of interest in respect of any period to which the order relates at a rate greater than that allowed by such order.

## **7 Contracting out**

Any term or condition of a mortgage, instrument or agreement which, apart from this section, would operate so as to prevent the mortgagor from obtaining the benefit of this Act, shall to that extent be void.

## **8 Regulations**

The Administrator may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Act.

---

**ENDNOTES**
**1****KEY**

Key to abbreviations

<b>amd</b> = amended	<b>od</b> = order
<b>app</b> = appendix	<b>om</b> = omitted
<b>bl</b> = by-law	<b>pt</b> = Part
<b>ch</b> = Chapter	<b>r</b> = regulation/rule
<b>cl</b> = clause	<b>rem</b> = remainder
<b>div</b> = Division	<b>renum</b> = renumbered
<b>exp</b> = expires/expired	<b>rep</b> = repealed
<b>f</b> = forms	<b>s</b> = section
<b>Gaz</b> = <i>Gazette</i>	<b>sch</b> = Schedule
<b>hdg</b> = heading	<b>sdiv</b> = Subdivision
<b>ins</b> = inserted	<b>SL</b> = Subordinate Legislation
<b>lt</b> = long title	<b>sub</b> = substituted
<b>nc</b> = not commenced	

**2****LIST OF LEGISLATION*****Mortgagors' Interest Reduction Ordinance 1931 (Act No. 7, 1931)***

Assent date	6 August 1931
Commenced	1 September 1931

***Ordinances Revision Ordinance 1973 (Act No. 87, 1973)***

Assent date	11 December 1973
Commenced	11 December 1973 (s 12(2))

**Amending Legislation*****Ordinances Revision Ordinance 1974 (Act No. 34, 1974)***

Assent date	26 August 1974
Commenced	11 December 1973 (s 3(2))

***Ordinances Revision Ordinance (No. 2) 1974 (Act No. 69, 1974)***

Assent date	24 October 1974
Commenced	11 December 1973 (s 3)

***Ordinances Revision Ordinance 1976 (Act No. 27, 1976)***

Assent date	28 June 1976
Commenced	ss 1, 2 and 6: 28 June 1976 (s 6(2)); ss 3 and 4: 11 December 1973; s 5: 24 October 1974

***Statute Law Revision Act (No. 3) 1981 (Act No. 91, 1981)***

Assent date	21 September 1981
Commenced	21 September 1981

**3****LIST OF AMENDMENTS**

lt	amd No. 91, 1981, s 2
s 1	amd No. 58, 1978, s 4; No. 91, 1981, s 2
ss 2 – 4	amd No. 91, 1981, s 2

## ENDNOTES

---

- s 5                    amd No. 87, 1973, ss 2, 3 and 5; No. 91, 1981, s 2  
ss 6 – 7              amd No. 91, 1981, s 2  
8                        amd No. 87, 1973, s 6; No. 91, 1981, s 2