



ANNO TRICESIMO QUARTO

ELIZABETHAE II REGINAE

A.D. 1985

No. 20 of 1985

An Act to amend the Real Property Act, 1886.

[Assented to 14 March 1985]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. (1) This Act may be cited as the "Real Property Act Amendment Act, 1985". Short title.

(2) The Real Property Act, 1886, is in this Act referred to as "the principal Act".

2. This Act shall come into operation on a day to be fixed by proclamation. Commencement.

3. Section 56 of the principal Act is amended by inserting after its present contents (now to be designated as subsection (1)) the following subsections: Amendment of s. 56—
Priority of instruments.

(2) The Registrar-General may, on application in the appropriate form, vary the order of priority between two or more registered mortgages or encumbrances.

(3) An application for the variation of an order of priority in accordance with subsection (2)—

(a) must be made by every holder of a mortgage or encumbrance that is to have its order of priority varied;

(b) where a registered mortgage or encumbrance is, by virtue of the proposed variation of order of priority, to be postponed to a mortgage or encumbrance over which it has had priority—must be made with the consent of the holder of the mortgage or encumbrance that is to be so postponed;

and

(c) must be made with the consent of the mortgagor.

(4) A memorandum of the variation of an order of priority under subsection (2)—

(a) shall be endorsed on every mortgage or encumbrance affected;

and

(b) shall be endorsed on the certificate of title affected by those mortgages or encumbrances.

Insertion of new
s. 129a.

4. The following section is inserted after section 129 of the principal Act:

Standard terms
and conditions of
mortgage.

129a. (1) A person may deposit with the Registrar-General for filing in his office a document containing terms and conditions for incorporation as standard terms and conditions in mortgages under this section.

(2) A mortgage may provide that standard terms and conditions, as contained in a document deposited with the Registrar-General under subsection (1)—

(a) are incorporated in the mortgage;

or

(b) are incorporated in the mortgage subject to exclusions or amendments specified in the mortgage,

and, in that event, the mortgage has effect as if those terms and conditions were (subject to any exclusions or amendment specified in the mortgage) contained in the mortgage.

(3) Where a mortgage makes provision for incorporation of standard terms and conditions (either with or without exclusions or amendments), the mortgagee shall, before execution of the mortgage by the mortgagor, provide him with a copy of the standard terms and conditions.

Penalty: Five hundred dollars.

(4) Non-compliance with subsection (3) does not affect the validity or effect of a mortgage.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor