



ANNO DUODECIMO

ELIZABETHAE II REGINAE

A.D. 1963

No. 46 of 1963**An Act to amend the Real Property Act, 1886-1961.**

[Assented to 28th November, 1963.]

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

Short titles.

1. (1) This Act may be cited as the "Real Property Act Amendment Act, 1963".

(2) The Real Property Act, 1886-1961, as amended by this Act, may be cited as the "Real Property Act, 1886-1963".

(3) The Real Property Act, 1886-1961, is hereinafter referred to as "the principal Act".

Incorporation.

2. This Act is incorporated with the principal Act and that Act and this Act shall be read as one Act.

Amendment of principal Act, s. 2.

3. Section 2 of the principal Act is amended—

(a) by striking out the words "twenty-one" therein ;

(b) by inserting therein after the line "PART VII.—Certificates of title, sections 73 to 80." the line "PART VIIA.—Title by possession to land under this Act, sections 80a to 80i." ;

(c) by striking out the figures "127" therein and inserting in lieu thereof the figures "126" ; and

(d) by inserting therein after the lines "PART XIX.—Special powers and duties of Registrar-General, sections 220 to 223." the line "PART XIXA.—Rectification of certificates, sections 223a to 223l."

4. Section 129 of the principal Act is amended by inserting at the end thereof the following subsection (the preceding portion of the section being designated as subsection (1) thereof):—

Amendment of
principal Act,
s. 129.

- (2) Where, in any such mortgage or encumbrance—
- (a) the rate of interest the manner of repayment of the principal sum and interest or any other term that, in the opinion of the Registrar-General, relates to the substance of the transaction is determined by reference to some other document; or
- (b) the mortgagor or encumbrancer is required to—
- (i) build in accordance with any plans and specifications which are in existence at the date of the mortgage or encumbrance; or
- (ii) do or refrain from doing any other act or thing by reference to some other document and the requirement is not, in the opinion of the Registrar-General, adequately set forth in the instrument lodged for registration,

the other document, the plans and specifications or a copy thereof shall be attached to the instrument, unless it is or they are or will be available for public inspection in some other public registry and the instrument contains a statement to that effect specifying the registry in which it is or they are so available or will be so available within twenty-eight days of the date of execution of such instrument.

5. Section 220 of the principal Act is amended by inserting therein after paragraph (3) the following paragraphs:—

Amendment of
principal Act,
s. 220.

- (3a) If in respect of any instrument or other matter arising under this Act the Registrar-General is of opinion that—
- (a) the production of any other instrument or document;
- (b) the giving of any information evidence or notice; or
- (c) the doing of any act,

is necessary or desirable, the Registrar-General may—

- i. require the person lodging the instrument or some other person concerned in the matter to

produce the other instrument or document, give the information evidence or notice or do the act ; and

II. until the requirement is complied with, refuse to proceed with the registration of the first-mentioned instrument or with the other matter or to do any act or make any entry in connexion therewith.

(3b) If any such requirement is not complied with within two months after the making of a requisition under paragraph (3a) of this section :—

(a) the Registrar-General shall give notice in writing of his intention to reject the firstmentioned instrument and any other instrument or instruments lodged subsequently thereto and dependent thereon to the person or persons lodging and to each of the parties to such instrument or instruments ; and

(b) if any such requirement is not complied with within one month after the giving of the notice under subparagraph (a) of this paragraph, the Registrar-General may reject the firstmentioned instrument and any other instrument or instruments lodged subsequently thereto and dependent thereon and return any instruments or other documents lodged in connection therewith in such manner as he thinks fit ; and

(c) any fees paid in respect of any instrument so rejected shall be forfeited :

Provided that the rejection of any instrument in pursuance of the provisions of this paragraph shall not prevent the relodgement of that instrument for registration after compliance with the requisition referred to in paragraph (3a) of this section.

Any instrument rejected or returned in pursuance of this paragraph shall, if the party or parties deriving an estate or interest thereunder lodges a caveat to protect such estate or interest before the expiration of the period mentioned in subparagraph (b) of this paragraph, retain the priority to registration which it would have had if it had not been rejected or returned.

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

EDRIC BASTYAN, Governor.