



ANNO VICESIMO OCTAVO

ELIZABETHAE II REGINAE

A.D. 1979

No. 51 of 1979

An Act to amend the Real Property Act, 1886-1978.

[Assented to 22nd March, 1979]

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, 1979". Short titles.

(2) The Real Property Act, 1886-1978, is hereinafter referred to as "the principal Act".

(3) The principal Act, as amended by this Act, may be cited as the "Real Property Act, 1886-1979".

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

3. Section 3 of the principal Act is amended—

(a) by inserting before the definition of "Assurance Fund" the following definition:—

"appropriate form" in relation to an instrument means a form that conforms with section 54a of this Act;

and

(b) by striking out the definition of "Court" and inserting in lieu thereof the following definition:—

"Court means—

(a) the Supreme Court;

and

(b) in sections 52, 64, 71, 80, 87, 105, 108, 110, 142a, 165, 166 and 167 of this Act includes any other court or tribunal constituted under the law of this State or the Commonwealth.

Amendment of principal Act, s. 3—
Interpretation.

Repeal of ss. 13, 14, 15, 16, 17 and 18 of principal Act and enactment of sections in their place.

Officers for administration of this Act.

4. Sections 13, 14, 15, 16, 17 and 18 of the principal Act are repealed and the following sections are enacted and inserted in their place:—

13. (1) There shall be a Registrar-General.

(2) The Registrar-General shall be responsible for the administration of this Act.

(3) There shall be such deputies of the Registrar-General as may be necessary or expedient for the administration of this Act.

(4) There shall be such other officers as may be necessary or expedient for the administration of this Act.

(5) The Registrar-General, every Deputy Registrar-General and the other officers referred to in this section shall be appointed, and shall hold office, subject to and in accordance with the Public Service Act, 1967-1978.

Acting Registrar-General.

14. (1) The Governor may appoint any person who is an officer within the meaning of the Public Service Act, 1967-1978, to be the Acting Registrar-General.

(2) The Acting Registrar-General shall act in the absence of the Registrar-General from the duties of his office.

(3) The Acting Registrar-General shall have all the powers, authorities, duties and obligations of the Registrar-General.

(4) The Acting Registrar-General shall cease to occupy his position as such upon resumption by the Registrar-General of the duties of his office.

(5) If no person is appointed to be the Acting Registrar-General, the Senior Deputy Registrar-General shall be the Acting Registrar-General.

Acting Deputy Registrar-General.

15. (1) The Governor may appoint any person who is an officer within the meaning of the Public Service Act, 1967-1978, to be an Acting Deputy Registrar-General.

(2) An Acting Deputy Registrar-General shall have all the powers, authorities, duties and obligations of a Deputy Registrar-General.

Exercise of powers of Registrar-General.

16. Any power or function conferred on, or assigned to, the Registrar-General by this or any other Act may be exercised or carried out—

(a) by any Deputy Registrar-General;

or

(b) by any person to whom that power or function has been delegated by the Registrar-General.

Amendment of principal Act, s. 23a—
Payment of moneys received in trust.

5. Section 23a of the principal Act is amended—

(a) by striking out from subsection (1) the passage “absent mortgagees or other persons” and inserting in lieu thereof the passage “a mortgagee or other person”;

and

(b) by inserting after subsection (1) the following subsection:—

(1a) Before making payment to any person under subsection (1) of this section the Treasurer may require the production of such evidence as he thinks fit to the effect that—

(a) succession duties that may be payable out of, or in respect of, the moneys have been paid;

and

(b) any other claim to which the moneys may be liable has been satisfied.

6. Section 35 of the principal Act is amended by striking out the passage “by registered letter marked outside ‘Lands Titles Office’, through the post office” and inserting in lieu thereof the passage “by registered or certified post”.

Amendment of principal Act, s. 35—
Notice of application to be published.

7. Section 36 of the principal Act is amended by striking out the passage “by registered letter”.

Amendment of principal Act, s. 36—
Second and third classes brought under this Act.

8. Section 54 of the principal Act is amended by striking out subsection (1) and inserting in lieu thereof the following subsection:—

Amendment of principal Act, s. 54—
Instruments to be according to Act.

(1) Subject to this Act, the Registrar-General shall not register any instrument purporting to transfer or otherwise deal with or affect any estate or interest in land under the provisions of this Act unless—

(a) the instrument is in the appropriate form;

and

(b) the instrument is otherwise in accordance with this Act.

9. The following section is enacted and inserted in the principal Act after section 54 thereof:—

Enactment of s. 54a of principal Act.
Form of instruments.

54a. Every instrument—

(a) that is lodged or issued before the first day of January, 1981, must be in a form approved by the Registrar-General;

and

(b) that is lodged or issued on or after the first day of January, 1981, must be in a form prescribed by regulation.

10. Section 71 of the principal Act is amended by striking out from paragraph I the passage “writ of *feri facias* or other writ of execution” and inserting in lieu thereof the passage “a writ of execution”.

Amendment of principal Act, s. 71—
Saving of certain rights and powers

11. Section 73 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Repeal of s. 73 of principal Act and enactment of section in its place.

73. The registered proprietor of an estate of freehold in land, other than a leasehold for a life or lives, shall be entitled to receive a certificate for that estate in the appropriate form.

Certificate of title.

Amendment of principal Act, s. 79—
Substituted certificate.

12. Section 79 of the principal Act is amended—

- (a) by striking out subsection (2);
(b) by striking out from subsection (6) the passage “, after giving notice similar to that provided in subsection (2) hereof,”;
and
(c) by inserting after subsection (7) the following subsection:—

(8) Before issuing a substituted certificate or a new certificate or a tenant's copy of a Crown lease the Registrar-General may, where in his opinion it is necessary or desirable, give notice of his intention to do so in the *Gazette* or in any newspaper circulating in the State.

Amendment of principal Act, s. 96—
Transfers.

13. Section 96 of the principal Act is amended by striking out the passage “the form of the sixth schedule hereto” and inserting in lieu thereof the passage “the appropriate form”.

Amendment of principal Act, s. 105—
Sale under writ of *feri facias* or decree, warrant or order of court.

14. Section 105 of the principal Act is amended by striking out the passage “writ of *feri facias* or other”.

Amendment of principal Act, s. 107—
Transfer on sale under writ, warrant, decree or order.

15. Section 107 of the principal Act is amended by striking out the passage “such one of the forms of the seventh schedule hereto as shall be applicable” and inserting in lieu thereof the passage “the appropriate form”.

Amendment of principal Act, s. 116—
Lands, how leased.

16. Section 116 of the principal Act is amended by striking out the passage “the form of the eighth schedule hereto” and inserting in lieu thereof the passage “the appropriate form”.

Repeal of s. 120 of principal Act and enactment of section in its place.

17. Section 120 of the principal Act is repealed and the following section is enacted in its place:—

Lease may be surrendered by separate instrument.

120. (1) A registered lease may be surrendered by instrument in the appropriate form, signed by the lessee and lessor.

(2) Upon registration of an instrument under subsection (1) of this section, the Registrar-General shall enter a memorial recording the date of surrender in the Register Book and may, where in his opinion it is necessary or desirable to do so, endorse the date of the surrender on the lease registered in his office, the duplicate certificate and on the lessor's and lessee's copy of the lease.

Amendment of principal Act, s. 122—
Effect of entry of surrender.

18. Section 122 of the principal Act is amended by striking out the passage “, and production of the lease or duplicate bearing such endorsement or memorandum shall be sufficient evidence that the lease has been so surrendered”.

Amendment of principal Act, s. 128—
Lands, how mortgaged or encumbered.

19. Section 128 of the principal Act is amended—

- (a) by striking out the passage “the form of the ninth schedule hereto” and inserting in lieu thereof the passage “the appropriate form”;

and

(b) by striking out the passage “the form of the tenth schedule hereto” and inserting in lieu thereof the passage “the appropriate form”.

20. Section 129 of the principal Act is amended by striking out from subsection (2) the passage “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” and inserting in lieu thereof the passage “the Registrar-General may require that a copy of the plans and specifications or the document concerned be attached to the mortgage or encumbrance or be deposited in the General Registry Office or in any other public registry in the State”.

Amendment of principal Act, s. 129—
Contents of mortgage or encumbrance.

21. Section 143 of the principal Act is amended by striking out the passage “a receipt or memorandum” and inserting in lieu thereof the passage “an instrument in the appropriate form”.

Amendment of principal Act, s. 143—
Discharge of mortgages and encumbrances.

22. Section 144 of the principal Act is repealed.

Repeal of s. 144 of principal Act.

23. Section 150 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Repeal of s. 150 of principal Act and enactment of section in its place.

150. A registered mortgage, lease or encumbrance may be transferred by execution of a transfer in the appropriate form.

Transfer of mortgage lease and encumbrance.

24. Sections 153 and 154 of the principal Act are repealed and the following section is enacted and inserted in their place:—

Repeal of ss. 153 and 154 of principal Act and enactment of section in their place.

153. (1) A mortgage, encumbrance or lease may be renewed or extended by registration of an instrument in the appropriate form.

Renewal or extension of mortgage, etc.

(2) An instrument renewing or extending a lease must be lodged with the Registrar-General not later than one month after the day on which the lease would, but for the renewal or extension, expire.

25. Section 155 of the principal Act is amended by striking out the passage “and for that purpose may, if he thinks fit, use the form in the thirteenth schedule hereto”.

Amendment of principal Act, s. 155—
Power of attorney.

26. Section 157 of the principal Act is amended—

Amendment of principal Act, s. 157—

(a) by striking out the passage “the form of the fourteenth schedule hereto” and inserting in lieu thereof the passage “the appropriate form”;

Revocation of power of attorney.

and

(b) by striking out the passage “, except in any case where a registration abstract is outstanding,”.

Repeal of s. 189 of principal Act and enactment of section in its place.

27. Section 189 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Application to alter name, etc., of registered proprietor.

189. The Registrar-General may, on application made by a registered proprietor in the appropriate form and supported by such evidence as he may require, alter any entry in the Register Book relating to the name, address, occupation or status of that registered proprietor.

Repeal of s. 190 of principal Act.

28. Section 190 of the principal Act is repealed.

Amendment of principal Act, s. 191—
Caveats.

29. Section 191 of the principal Act is amended by striking out from paragraph I the passage “A caveat may be in the form or to the effect of the twelfth schedule hereto” and inserting in lieu thereof the passage “A caveat shall be in the appropriate form”.

Amendment of principal Act, s. 220—
Powers of Registrar-General.

30. Section 220 of the principal Act is amended by striking out subsection (3b) and inserting in lieu thereof the following subsection:—

(3b) If a requisition made under paragraph (3a) of this section is not complied with within two months, the Registrar-General may serve on the person lodging the instrument and the parties to the instrument notice that he intends to reject the instrument, and if, after the expiration of two months or such further period as the Registrar-General may allow, the requisition is not complied with, the Registrar-General may reject the instrument if, in his opinion, it cannot be registered under this Act, and any fees paid in respect of any rejected instrument shall be forfeited.

Amendment of principal Act, s. 223a—
Applications for amendment

31. Section 223a of the principal Act is amended by striking out subsection (3) and inserting in lieu thereof the following subsection:—

(3) Every application under this section shall be made in the appropriate form.

Amendment of principal Act, s. 274—
No person except solicitors and land brokers entitled to recover fees for work done under this Act.

32. Section 274 of the principal Act is amended by striking out the word “No” being the first word of that section and inserting in lieu thereof the passage “Except as allowed by statute, no”.

Repeal of s. 276 of principal Act and enactment of section in its place.

33. Section 276 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Service of notices.

276. Where this Act makes no provision for the manner in which a notice is to be served on or given to any person the notice may—

(a) be served personally or by certified post;

or

(b) be served by publication of the notice in a manner directed by the Registrar-General.

Repeal of fourth schedule of principal Act.

34. The fourth schedule to the principal Act is repealed.

35. The sixth to the fourteenth schedules (inclusive) to the principal Act are repealed.

Repeal of sixth to fourteenth schedules of principal Act.

36. The twenty-third schedule to the principal Act is repealed.

Repeal of twenty-third schedule of principal Act.

37. The twenty-fourth schedule to the principal Act is repealed.

Repeal of twenty-fourth schedule of principal Act.

38. The twenty-fifth schedule to the principal Act is repealed and the following schedule is enacted and inserted in its place:—

Repeal of twenty-fifth schedule of principal Act and enactment of schedule in its place.

THE TWENTY-FIFTH SCHEDULE

Schedule to Deposited Strata Plan No.....

Unit Entitlement	
Unit No.	Unit Entitlement
Aggregate . . .	

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

K. D. SEAMAN, Governor