

**4—**(1) On and after the date of the reprinting of the Principal Act this Act is to have effect as if from section three the symbols “ I ” and “ II ” were omitted and the symbols “ (a) ” and “ (b) ” were respectively substituted therefor, and the Principal Act, as amended by this Act, shall be construed accordingly.

Adaptation of amendments to reprint of Principal Act.

(2) The Principal Act and this Act are, by force of this section, amended to such extent as may be necessary to give effect to the foregoing provisions of this section.

(3) In this section, “ date of the reprinting of the Principal Act ” means the date of the giving of the certificate printed pursuant to section six of the *Reprint of Statutes Act 1954* in the volume of reprinted Acts published pursuant to that Act in which the reprint of the Principal Act is included.

(4) Section six of the *Supreme Court Civil Procedure Act 1963* has effect, and shall be deemed always to have had effect, as if in paragraph (a) of subsection (1) thereof the symbol “ (i) ” were substituted for the symbol “ (i) ”.

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## CONVEYANCING AND LAW OF PROPERTY.

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No. 37 of 1965.

### AN ACT to amend the *Conveyancing and Law of Property Act 1884*. [10 November 1965.]

**BE** it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

**1—**(1) This Act may be cited as the *Conveyancing and Law of Property Act 1965*.

Short title and citation.

(2) The *Conveyancing and Law of Property Act 1884*, as subsequently amended, is in this Act referred to as the Principal Act.

**2** After section seventy-five C of the Principal Act the following section is inserted in Part XI:—

Irregular  
boundary  
with highway.

“75CA—(1) Where a building is built on land a boundary of which is a boundary of an adjoining highway and the building extends—

(a) under that highway without causing any nuisance thereto; or

(b) over—

(i) a footpath of that highway and at least eight feet above it; or

(ii) the carriage-way of that highway and at least fourteen feet above it,

the authority having the care and management of that highway may declare by deed that the extensions or any of them (in all cases specifying them) may remain so long as the building remains.

“(2) On the registration of such a deed in the Registry of Deeds or the office of the Recorder of Titles, in whichever the title to the land is registered, the extensions therein specified shall be deemed to have been granted by whoever was capable of granting them to the owner of the land in fee simple so long as the building remains.

“(3) This section applies similarly to land subject on the relevant boundary to part of the highway, in respect of extensions beyond that boundary.”

Stratum  
plans.

**3** Section seventy-five F of the Principal Act is amended by inserting, after subsection (3), the following subsections:—

“(3A) Where the site in a stratum plan is part of a piece of land subject to a highway adjoining the site, both the external surface boundary of the site and the boundary of the piece under the highway may be shown on the plan.

“(3B) Where the building shown on a stratum plan extends beyond an external surface boundary of the site and the extension is—

(a) under or over a highway to which the title stated on the plan is subject; or

(b) deemed to be granted to the owner of that title under section seventy-five CA,

the certificate mentioned in paragraph (a) of subsection (3) of this section shall be modified accordingly.”

**4** Section seventy-five M of the Principal Act is amended by omitting subsection (7).

**5** After section seventy-five P of the Principal Act the following section is inserted:—

“75PA—(1) The Registrar of Deeds or the Recorder of Titles may amend a stratum plan by alteration of boundaries or otherwise—

Amendment  
of stratum  
plans.

- (a) in accordance with a conveyance of common property under section seventy-five M; or
- (b) upon the application of all owners concerned.

“(2) No conveyance is necessary between owners before an application under paragraph (b) of subsection (1) of this section is given effect to, but where there is no conveyance the application shall be deemed to be a conveyance for the purposes of the *Stamp Duties Act 1931*.

“(3) For the purposes of paragraph (b) of subsection (1) of this section the company may by unanimous resolution act on behalf of all owners in respect of the common property.

“(4) Before an amendment may be made under this section the applicant shall satisfy the Registrar or the Recorder, as the case requires, that—

- (a) the council has approved the amendment; or
- (b) the amendment is not—
  - (i) to do something that would have entitled the council to refuse to approve the original plan if it had previously been made to it; or
  - (ii) to give effect to something done on the land illegally or which the council can have altered or undone.”.

**6** Section seventy-five Y of the Principal Act is amended— Voting.

- (a) by omitting from paragraph (b) of subsection (6) the words “or in the case of land not under the *Real Property Act 1862* subject to a legal mortgage by the owner’s mortgagor”; and
- (b) by adding at the end the following subsection:—

“(8) Where a flat is not under the *Real Property Act 1862* and is subject to a registered legal mortgage, a power of voting conferred by or under this Part on an owner may, except where a unanimous resolution is required or the owner is in possession as mortgagee, be exercised by the owner’s mortgagor unless the owner is present personally or by proxy.”.

**7** Section seventy-five ZA of the Principal Act is amended by omitting from subsection (5) the word “carrying” and substituting therefor the word “varying”.

Bringing  
previously  
divided  
buildings  
under this  
Part.

**8** The seventh schedule to the Principal Act is amended by omitting from paragraph 2 of Part II the words “a proprietor” and substituting therefor the words “an owner”.

Seventh  
schedule.