



NEW ZEALAND

ANALYSIS

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| <p>Title.</p> <p>1. Short Title.</p> <p>2. Constitution of new land registration districts.</p> <p>3. Register in respect of land transferred to another district.</p> <p>4. Amending provisions as to separate certificates of tenants in common.</p> | <p>5. Creation of estate by way of executory limitation.</p> <p>6. Variation of covenants of mortgage by memorandum.</p> <p>7. Amending provisions as to lapse of caveat against dealings.</p> <p>8. Amending provisions as to deposit of survey plans.</p> <p>9. Amending provisions as to fees. Repeal. Schedule.</p> |
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1950, No. 24

Title.

AN ACT to Amend the Land Transfer Act, 1915.

[18th September, 1950

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Short Title.

1. This Act may be cited as the Land Transfer Amendment Act, 1950, and shall be read together with and deemed part of the Land Transfer Act, 1915 (hereinafter referred to as the principal Act).

See Reprint of Statutes, Vol. VII, p. 1162

Constitution of new land registration districts.

2. Section three of the principal Act is hereby amended by adding to subsection two the words “or may declare any portion of any such district or any portions of two or more districts to be a new land registration district for the purposes of this Act under a name assigned to it by the Order in Council, and may

assign a new name to any existing district in which the land or any part of the land comprised in a new district was formerly comprised ”.

3. Section forty-four of the principal Act is hereby amended by repealing subsection one, and substituting the following subsections:—

Register in respect of land transferred to another district.

“(1) Where by an alteration of the boundaries of any districts or by the constitution of a new district, whether before or after the commencement of this subsection, any land formerly comprised in any district has become included in any other district, the Registrar of the district in which the land was formerly comprised shall deposit with the Registrar of the other district either the duplicates or copies of the duplicates of grants and certificates and documents of title in respect of that land, which shall thereupon be bound by the Registrar of the other district in the Register kept by him under section thirty-three of this Act, or, in the case of land comprised in any Provisional Register, under section forty-six of this Act, under such volume and folio numbers as he may assign thereto, and the Register of the district in which the land was formerly comprised shall be amended accordingly.

“(1A) All such copies of the Registers of the district in which any such land was formerly comprised as have been deposited with the Registrar of the said other district, whether before or after the commencement of this subsection, shall, for all the purposes of the Land Transfer Acts, have and be deemed to have had the force and effect of the original Registers.”

4. Section sixty-five of the principal Act is hereby amended by adding to the proviso the words “ and the Registrar, in his discretion, requires them to take separate certificates for those interests ”.

Amending provisions as to separate certificates of tenants in common.

5. Section eighty-seven of the principal Act is hereby amended as follows:—

Creation of estate by way of executory limitation.

(a) By inserting in paragraph (d) of subsection one, after the words “ in reversion ”, the words “ or by way of executory limitation ”:

(b) By inserting in subsection two, after the words “ reversion or remainder ”, the words “ or by way of executory limitation ”.

Variation of covenants of mortgage by memorandum.

6. (1) Section one hundred and four of the principal Act is hereby amended as follows:—

(a) By inserting in subsection one, after paragraph (c), the following paragraph:—

“(d) The covenants, conditions, and powers contained or implied in the mortgage may be varied, negatived, or added to—”:

(b) By omitting from subsection one the expression “or (3)”, and substituting the expression “(3), or (4)”.

(2) The Fifth Schedule to the principal Act is hereby amended by adding the form of Memorandum of Variation of Covenants, Conditions, and Powers of Mortgage set out in the Schedule to this Act.

Amending provisions as to lapse of caveat against dealings.

7. Section one hundred and fifty-four of the principal Act is hereby amended by omitting the words “by or on behalf of a beneficiary claiming under any will or settlement, or for the protection of any trust, or”.

Amending provisions as to deposit of survey plans.

8. (1) Section one hundred and seventy-eight of the principal Act is hereby amended by inserting, after the words “any such certificate or other instrument of title”, the words “or for the registration of any instrument affecting part only of the land comprised in any certificate or other instrument of title”.

(2) Section one hundred and seventy-eight of the principal Act is hereby further amended by adding the following subsections as subsections two and three thereof:—

“(2) Notwithstanding anything contained in the last preceding subsection, where the Registrar considers that, having regard to the value of the land to be comprised in the certificate of title or new certificate of title, as the case may be, it would be a hardship on the applicant to require him to deposit a plan of the land or subdivision or portion, as the case may be, the Registrar in his discretion, but only with the written consent of every registered mortgagee or lessee of the land, may exempt the applicant from complying with the provisions of that subsection and may issue to the applicant a certificate of title limited as to parcels. The provisions of the Land Transfer (Compulsory Registration of Titles) Act, 1924, relating to certificates which are limited as to

parcels shall, as far as they are applicable and with the necessary modifications, apply to every certificate issued by the Registrar under this subsection as if it were a certificate limited as to parcels issued under that Act.

“(3) Nothing contained in subsection one of this section shall apply with respect to any land comprised in a certificate which is limited as to parcels pursuant to the Land Transfer (Compulsory Registration of Titles) Act, 1924.”

See Reprint of Statutes, Vol. VII, p. 1253

9. (1) Section two hundred and nineteen of the principal Act is hereby amended by omitting from paragraph (a) the words “except only that the fees to be taken in respect of the several matters specified in the Ninth Schedule hereto shall not exceed the amounts specified in such Schedule”.

Amending provisions as to fees.

(2) The Ninth Schedule to the principal Act is hereby repealed.

Repeal.

(3) Notwithstanding anything contained in section two hundred and nineteen of the principal Act, all regulations which have been made or purport to have been made under that section prescribing or altering the fees which may be taken by Registrars under the principal Act, and which could have been made under that section as amended by this section, shall for all purposes be deemed, as from the making thereof, to have been made with full power and authority, and to be and to have been valid and of full effect.

SCHEDULE

Schedule.

“(4) MEMORANDUM OF VARIATION OF COVENANTS, CONDITIONS, AND POWERS OF MORTGAGE

Section 6

“THE covenants, conditions, and powers contained or implied in the within- [or above-] written [or annexed] mortgage are hereby varied as follows [*Here state any variations agreed upon*]:—

“Dated this day of , 19 .

“A. B., Mortgagor.

“Witness to the signature of the said A.B. as mortgagor:

“E.F.

“[*Occupation and address*].

“C. D., Mortgagee.

“Witness to the signature of the said C.D. as mortgagee:

“G.H.

“[*Occupation and address*].”