



Australian Capital Territory

Land Titles Act 1925

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About this republication

The republished law

This is a republication of the *Land Titles Act 1925* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 1 November 2020. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 1 November 2020.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register (www.legislation.act.gov.au). For more information, see the home page for this law on the register.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see the *Legislation Act 2001*, section 95.

Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$160 for an individual and \$810 for a corporation (see *Legislation Act 2001*, s 133).



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Land Titles Act 1925

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Australian Capital Territory

Land Titles Act 1925

An Act to provide for the registration of title to land, and for related purposes

Part 1 Preliminary

1 Name of Act

This Act is the *Land Titles Act 1925*.

2 Dictionary

The dictionary at the end of this Act is part of this Act.

Note 1 The dictionary at the end of this Act defines certain terms used in this Act, and includes references (*signpost definitions*) to other terms defined elsewhere in this Act.

For example, the signpost definition '*registrable form*, for an instrument—see section 4.' means that the term 'registrable form' is defined in that section.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see [Legislation Act](#), s 155 and s 156 (1)).

3 Notes

A note included in this Act is explanatory and is not part of this Act.

Note See the [Legislation Act](#), s 127 (1), (4) and (5) for the legal status of notes.

4 Meaning of *registrable form*

For this Act, an instrument is in *registrable form* if—

- (a) the instrument does not require a material correction, alteration or addition; and
- (b) the instrument is in the form (if any) approved under section 140 (Approved forms); and
- (c) any document that is required to be produced under section 14 (1) (a) or (c) for the instrument is produced when the instrument is lodged; and

- (d) certification under section 48BA or section 48BB, or verification under section 48BC, is provided for the instrument; and
- (e) any document for the instrument that is required to be provided under section 48BH (2) is provided when the instrument is lodged; and
- (f) the instrument is otherwise in accordance with this Act or another law in force in the ACT.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see [Legislation Act](#), s 104).

5 Application to married women's property

Nothing in this Act is taken to affect or control any other territory law which deals with married women's property.

Part 2 Administration

7 Registrar-general's seal of office etc

A reference in this Act to the seal of office, or the signature, of the registrar-general, deputy registrar-general or acting registrar-general includes a reference to a production by electronic means of the seal or signature, as the case may be.

Part 3 General powers of registrar-general

14 Powers of registrar-general

- (1) The registrar-general may—
- (a) require the proprietor or other person making application to have any land brought under this Act, or the proprietor or mortgagee or other person interested in any land under this Act, in respect of which any transfer, lease, mortgage, encumbrance or other dealing or any release from any mortgage or encumbrance has been presented to the registrar-general for registration under this Act, or in respect of which any transmission is about to be registered or which or any portion of which has been resumed or withdrawn, to produce any grant, conveyance, deed, mortgage, lease, will or other document or instrument in his or her possession or within his or her control affecting the land or the title thereto; and
 - (b) summon any such proprietor, mortgagee or other person mentioned in paragraph (a) to appear and give any explanation respecting the land or the documents or instruments affecting the title thereto; and
 - (c) for an instrument lodged under section 48BA or section 48BB—require the legal practitioner or mortgagee corporation to produce a document in relation to which certification under those sections was given; and

Note The registrar-general may also require documents in relation to an instrument from a legal practitioner or mortgagee corporation under s 48BH.

- (d) keep a record of administrative interests on the register;

Note **Administrative interest**—see s 69A.

- (e) administer oaths or may take a statutory declaration in lieu of administering an oath; and
- (f) correct or alter the register to the extent and in the manner provided by sections 160, 161 and 162A; and
- (g) on the application of a registered proprietor and on production of any evidence that the registrar-general requires—record in the register that an interest in land has been extinguished by merger; and
- (h) enter a caveat on behalf of any person under a legal disability or who is absent from Australia, or on behalf of the Commonwealth, to prohibit the transfer or dealing with any land belonging or supposed to belong to any such person, and also to prohibit the dealing with any land in any case in which it appears to him or her that an error has been made by misdescription of the land or otherwise in any document or instrument, or for the prevention of any fraud or improper dealing; and
- (i) without erasing or rendering illegible the original measurements, alter—
 - (i) grants, the register and entries made therein; and
 - (ii) any maps, plans, documents and instruments deposited or lodged with him or her, whether under this or any other Act;

so as to express in metric units, to the 3rd decimal place, any measurements contained therein that are expressed in imperial units.

- (2) The registrar-general has, and may exercise, if a notice of a determination made under the *Rates and Land Rent (Relief) Act 1970*, section 3, or a memorandum of discharge under that Act, section 18, is presented to him or her for registration, all or any of the powers conferred by subsection (1) as if the notice were a mortgage, or the memorandum of discharge were a discharge of a mortgage, presented to him or her for registration under this Act.
- (3) If notice in writing is given to the registrar-general that land, or an interest in land, is affected by—
- (a) a Territory or Commonwealth law; or
 - (b) anything done under a Territory or Commonwealth law;
- the registrar-general must make a record in the register that the land or interest has been so affected.
- (4) For subsection (3), the following provisions apply:
- (a) subject to any relevant provision of the Territory or Commonwealth law, a record made under that subsection takes effect accordingly;
 - (b) that subsection does not apply to a matter if a provision of a Territory or Commonwealth law makes provision (however expressed) for making a record in the register in respect of the matter.
- (5) If a record—
- (a) was made in the register before the date of commencement of subsection (3) (the *commencement date*); and
 - (b) was not, when made, authorised or required by a Territory or Commonwealth law to be made in the register; and

(c) could, on and after the commencement date, have been made under that subsection;

the record takes effect, on and after the commencement date, as a record made under that subsection.

(6) If—

(a) the register contains a record in relation to land or an interest in land; and

(b) the lease of the land is surrendered by the lessee; and

(c) a new lease of the land comprised in the surrendered lease is granted to the lessee;

the registrar-general must make a corresponding record in the register in relation to the new lease.

(7) The registrar-general may allow a document that is required or permitted to be presented or lodged with the registrar-general for this or any other Act to be presented by such means, including electronic means, as the registrar-general thinks fit.

(8) The registrar-general may deal with any document the registrar-general is required or permitted to deal with under this Act or another territory law electronically or by any other means the registrar-general considers fit.

15 Penalty for obstructing registrar-general

- (1) If any person upon requisition in writing made by the registrar-general under section 14 (1) (a), (b) or (c)—
- (a) refuses or neglects to produce any document or instrument or to allow it to be inspected; or
 - (b) refuses or neglects to give any explanation;
- he or she commits an offence.
- Maximum penalty:
- (a) for paragraph (a)—50 penalty units, imprisonment for 6 months or both; and
 - (b) for paragraph (b)—50 penalty units.
- (2) The registrar-general, if any document or instrument so withheld appears to him or her to be material, shall not be bound to proceed with the bringing of the land under this Act, or with the registration of the transfer or other dealing, as the case may be.

Part 4

Future grants of freehold and of certain Crown leaseholds

17 Crown grants and certain Crown leases under Act

- (1) Each grant of freehold and each grant for a term exceeding 5 years granted by or in the name of the Commonwealth or by the Territory after the commencement of this Act shall be in duplicate, and, in addition to proper words, shall refer to a map of the land.
- (2) Both parts of the grant shall be lodged with the registrar-general, who, after registration under this Act, shall deliver 1 part to the grantee.

Note A fee may be determined under s 139 (Determination of fees, charges and other amounts) for delivery of 1 part of a grant to the grantee.

- (3) The registration shall be deemed to be an enrolment of record of the grant, and the enrolment shall relate back to the date of the grant, and either part of the grant when registered under this Act shall be sufficient evidence of a duly enrolled grant of the land therein described to the person therein named on the date thereof.

Part 5 **Applications to bring land under Act and proceedings on applications**

Division 5.1 **Requirements of applications**

18 **Land brought under Act**

- (1) Land not subject to this Act may be brought under its provisions.
- (2) The registrar-general shall receive applications for that purpose if made by—

- (a) any person in Australia claiming to be the person in whom the fee simple is vested in possession either at law or in equity:

Provided that in any case where trustees, seized in fee simple, have no express power to sell the land which they seek to bring under the operation of this Act, the person claiming to be beneficially entitled for the first life estate, or other greater estate than a life estate in the land, shall join in the application; or

- (b) any person in Australia claiming a life estate in possession, or a leasehold for a life or lives, or having a term of not less than 25 years then current, and any person in Australia claiming a leasehold estate under a Crown lease having a term not less than 5 years then current:

Provided that all persons claiming to be beneficially entitled in reversion or remainder shall join in the application:

Provided further that nothing in the preceding proviso shall be construed as requiring the concurrence of a lessor in an application by a lessee; or

- (c) any person in Australia who has the power of appointing or disposing of the fee simple of any land absolutely; or

- (d) the attorney in the ACT, under a power of attorney, of a corporation having the power to hold or dispose of land in fee simple:

Provided that—

- (i) the power of attorney shall be under the common seal of the corporation, and shall authorise the attorney to apply; and
 - (ii) the application shall be made for and on behalf of the corporation; and
 - (iii) the requisite declaration shall be made by him or her to the best of his or her knowledge, information and belief; and
 - (iv) the application shall be subscribed in his or her own name as such attorney; and
 - (v) the interest in the land must be registered in the name of the corporation; or
- (e) the attorney in the ACT of any person absent Australia who would be entitled to apply if resident in Australia, provided that the attorney is constituted such by an instrument under seal authorising him or her, at his or her absolute discretion—
- (a) to sell and convey land for an absolute estate in fee simple, and to give effectual discharges to purchasers; or
 - (b) as regards applications in respect of a life estate or a leasehold, to deal with life estates and leaseholds respectively;
- and the requisite evidence of non-revocation of the power by the grantor's death or otherwise is furnished; or
- (f) a parent or guardian of an infant, in the name of the infant; or

- (g) the manager of a person's property under the *Guardianship and Management of Property Act 1991*.

Note If a form is approved under s 140 (Approved forms) for an application to bring land under this Act, the form must be used.

- (3) No such application shall be received—
- (a) from a person who has contracted to purchase any land unless either the vendor consents to or joins in the application or the whole of the purchase money has been paid to the vendor or his or her authorised attorney or agent; or
 - (b) from a person claiming to be entitled to an undivided share of any land unless the person who appears to be entitled to the other undivided share joins in the application with the view of bringing the entirety under this Act; or
 - (c) from the mortgagor of any land unless the mortgagee joins in the application; or
 - (d) from the mortgagee of any land except in the exercise of a power of sale contained in the mortgage deed; or
 - (e) in respect of any land subject to the lien of any judgment or execution creditor unless the creditor consents to the application.
- (4) The bringing of any leasehold under this Act shall not be held to extinguish the reversion expectant thereon.
- (5) In the event of land being brought under this Act under an application by any person mentioned in subsection (2) (c), the application shall be deemed, both at law and in equity, to be an exercise of the power vested in that person.

19 Judge may order production of deeds for purpose of application

- (1) The judge of the court may, on the application of any person seeking to bring land under this Act, order any specified person who has in his or her possession or under his or her control any deed, document, instrument or evidence of title relating to or affecting the land, to produce, at the office of the registrar-general, on a day to be named in the order, the deed, document, instrument or evidence for the perusal of the registrar-general.
- (2) Any order under subsection (1) shall be upon such terms and subject to such conditions as to costs or otherwise as the judge deems fit.

20 Applicant to surrender documents of title and to furnish abstract if required

- (1) Every applicant to bring land under this Act shall, when making his or her application—
 - (a) deposit with the registrar-general all documents in his or her possession or under his or her control constituting or in any way affecting his or her title, and in the case of a leasehold a duplicate or certified copy of the lease, and of any other document under which the applicant claims title, and furnish a schedule of those documents, and also, if required, an abstract of his or her title; and
 - (b) state in his or her application the nature of his or her interest, and of every interest held therein by any other person whether at law or in equity, in possession, or in futurity or expectancy, and whether the land be occupied or unoccupied (and, if occupied, the name and description of the occupant and the nature of his or her occupancy, and whether the occupancy be adverse or otherwise), and the names and addresses of the occupants and proprietors of all lands contiguous to the land in respect to which application is made so far as known to him or her, and that the schedule so furnished includes all documents

of title to the land in his or her possession or under his or her control; and

- (c) make and subscribe a declaration to the truth of the statement.
- (2) The applicant may in his or her application require the registrar-general, at the expense of the applicant, to cause notice of his or her application to be served upon any person whose name and address is for that purpose therein stated.

Division 5.2 Procedure on applications

21 Applications to be considered by registrar-general

- (1) Upon the receipt of an application, the registrar-general shall cause the title of the applicant, for such period as he or she considers sufficient, to be examined, and shall thereafter take the case into his or her consideration.
- (2) If it appears to the registrar-general that the applicant is the original grantee from the Crown of the land in respect of which the application is made, and that no sale, mortgage, or other encumbrance or transaction affecting the title of the land has at any time been registered in New South Wales or in the ACT, and that the applicant has not required notice of his or her application to be served upon any person, the registrar-general may bring the land under this Act forthwith by registering the applicant's interest in the land.

22 When applicant is not original grantee or any transactions registered

If it appears to the registrar-general that the land in respect of which application has been made is held by the applicant for the interest described in the application free from mortgage, encumbrance or other beneficial interest affecting the title thereto, or, if any such mortgage, encumbrance or interest remain unsatisfied, that the parties interested therein are also parties to the application, and that the applicant has not required notice of his or her application to be served on any person, the registrar-general must require public notice of the application to be given, and must further limit and appoint a time not less than 1 month nor more than 12 months from the date of notification of the application under the [Legislation Act 2001](#) (see section 24 (Notice of application to be published)) upon or after the expiration of which the registrar-general may, unless he or she has in the interval received a caveat forbidding him or her so to do, proceed to bring the land under this Act.

Note **Public notice** means notice on an ACT government website or in a daily newspaper circulating in the ACT (see [Legislation Act](#), dict, pt 1).

23 When evidence of title imperfect

- (1) If it appears to the registrar-general that any parties interested in any unsatisfied mortgage or encumbrance affecting the title to the land or beneficially interested therein are not parties to the application, or that the evidence of title set forth by the applicant is imperfect or that the applicant has required notice of his or her application to be served personally upon any person, the registrar-general may reject the application altogether, or require notice of the application to be served upon all persons who appear to him or her to have any interest in the land the subject of the application, and public notice of the application to be given and advertisements to be published in the official Gazettes of each of the States, at the times and intervals the registrar-general considers appropriate, and must also limit and appoint a time, not less than 2 months nor more than 2 years after the date of the earliest of

the Gazette advertisements, or notification of the application under the [Legislation Act 2001](#) (see section 24 (Notice of application to be published)), whichever is earlier, upon or after the expiration of which he or she may bring the land under this Act, unless he or she has in the interval received a caveat forbidding him or her to do so.

Note **Public notice** means notice on an ACT government website or in a daily newspaper circulating in the ACT (see [Legislation Act](#), dict, pt 1).

- (2) The registrar-general may, in his or her discretion, notwithstanding that certain persons are not parties to the application, or that the evidence of title set forth by the applicant is imperfect, take the steps provided in section 22, and may bring the land under this Act; but in that case he or she may require payment to him or her of such special fee as he or she considers adequate in addition to that provided under section 139.

24 Notice of application to be published

- (1) The registrar-general shall, of his or her own motion or under any order of the court, require notice to be published, in such manner as he or she determines or as the order prescribes, that application has been made for bringing the land therein referred to under this Act, and shall also cause a copy of the notice to be posted in a conspicuous place in his or her office and in such other places as he or she deems necessary, and shall forward by registered letter through the post office, a copy of the notice addressed to the persons (if any) who he or she thinks ought to be served with the notice, and to the persons (if any) stated in the declaration by the applicant to be in occupation of the land or to be occupiers or proprietors of land contiguous thereto, so far as his or her knowledge of the addresses of those persons may enable him or her, and, if the applicant has required any such notice to be personally served upon any person named in his or her application, the registrar-general shall require a copy of the notice to be so served upon that person.

- (2) The notice of the application is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act 2001](#).

- (3) The registrar-general must give additional public notice of the notice of application.

Note **Public notice** means notice on an ACT government website or in a daily newspaper circulating in the ACT (see [Legislation Act](#), dict, pt 1). The requirement in s (3) is in addition to the requirement for notification on the legislation register as a notifiable instrument.

25 Registrar-general bringing land under Act

If, within the time limited by the registrar-general or under any order of the court, any notice forwarded by registered letter in accordance with section 24 is not returned by the postmaster-general, and if within the time so limited the registrar-general has not received a caveat as described in this Act forbidding him or her so to do, and, in any case in which personal notice has been required as aforesaid, if the registrar-general has received proof to his or her satisfaction that the notice has been served, the registrar-general shall bring the land described in the application under this Act by registering the applicant's interest in the land.

26 On a return of notices or failure of personal service, registrar-general may proceed or give further directions

- (1) Whenever the registrar-general is made aware that any notice required by any applicant to be served personally has failed to be or cannot be so served, he or she shall notify that fact to the applicant, who may, by writing, withdraw the requisition.

- (2) Upon the withdrawal of the requisition, or upon the return to the registrar-general by the postmaster-general of any letter containing any notice, the registrar-general may reject the application altogether, or bring the land therein described under this Act forthwith, or after such further interval, notification or advertisement as he or she deems fit.

27 Applicant may withdraw application

Any applicant may withdraw his or her application at any time before the registrar-general registers the applicant's interest in the land, and the registrar-general shall in that case, upon request in writing signed by the applicant, return to him or her or the person (if any) notified in the application as having a lien upon the documents, the abstract and all documents of title deposited by the applicant for the purpose of supporting his or her application.

28 Land occupied may be brought under Act by different description from that in title on special application

On any application to bring land under this Act in which the land actually and bona fide occupied by or under the applicant differs in boundaries, area or position from the land described in his or her documents of title, the applicant may apply to bring under this Act the land so occupied; and in any such case the applicant shall state in his or her application, in addition to the other particulars required by this Act, that the land as so occupied and as to which he or she applies for registration is not correctly described in the documents of title lodged in support of the application, and shall specify to the best of his or her knowledge and belief the reasons for the discrepancy between the land as so occupied and the land as described in the documents of title.

29 Applications to bring land under Act may be granted for land occupied under, but not described in, title deeds

On an application to bring land under this Act by a description different from that in the documents of title or for the amendment of a grant or the register, the registrar-general may grant the application as to the land occupied by or under the applicant if the discrepancy between the land as so occupied and as described in the documents of title, grant or register appears to be due to the inaccuracy of any survey or plan or description on the sale of the land by the Crown or on any subsequent dealing therewith or to any discrepancy between the actual measurements or bearings at any time made or marked on the ground and those represented or mentioned in any plan or description.

Division 5.3 Caveats against original applications

30 Parties interested may enter caveat

- (1) Any person having or claiming an interest in any land advertised as provided in division 5.2, or the legal practitioner or agent in the ACT of any such person, may within the time limited by the registrar-general for that purpose lodge a caveat with the registrar-general, forbidding the bringing of the land under this Act, and every such caveat shall particularise the interest, lien or charge claimed by the caveator.

Note If a form is approved under s 140 (Approved forms) for a caveat, the form must be used.

- (2) No such caveat shall be received by the registrar-general unless some address within the ACT is appointed therein as the place at which notices and proceedings relating to the caveat may be served.

- (3) Any person lodging any caveat with the registrar-general without reasonable cause shall be liable to make to any person who has sustained damage thereby such compensation as is just, and the compensation shall be recoverable in an action at law by the person who has sustained damage from the person who lodged the caveat.

31 If caveat be received within time limited proceedings stayed

Upon receipt of any such caveat within the time limited by him or her for the purpose, the registrar-general shall notify the receipt thereof to the applicant, and shall suspend further action in the matter, and the lands in respect of which the caveat is lodged shall not be brought under this Act until the caveat has been withdrawn or has lapsed from any of the causes provided in section 32, or until a decision has been obtained from the court.

32 Caveats lapse unless proceedings taken within 3 months

After the expiration of 3 calendar months from the receipt thereof, every such caveat shall be deemed to have lapsed unless the caveator has, within that time—

- (a) taken proceedings in the court to establish his or her title to the interest, lien or charge therein specified, and given written notice thereof to the registrar-general; or
- (b) obtained from the court an order or injunction restraining the registrar-general from bringing the land therein referred to under this Act, either absolutely or until the further order of the court.

33 Special case

- (1) Where a caveat against an application to bring land under this Act has been lodged by a caveator claiming the land or a portion thereof or an interest therein adversely to the applicant, the applicant may state a case for the opinion and direction of the court upon the matter, and the caveator may under section 32 apply for an injunction until the further order of the court, and the court may direct the caveator to lodge in the court, on or before a certain day, a case on his or her own behalf, stating whether he or she claims in his or her own right or under another person, together with such other particulars (if any) as the court thinks fit to order.
- (2) The court shall thereupon direct issues to be tried as to any facts, or, should no fact be in contest, may decide the matter upon the case stated, and, for those purposes, may make all such orders as the court thinks fit.
- (3) The decision of the court finally upon the matter shall be conclusive on the parties and on the registrar-general.
- (4) The costs of every proceeding under this section shall be borne by the party finally unsuccessful.

34 Where caveator fails to prosecute proceedings

Where a caveator has under section 32 given notice to the registrar-general that he or she has taken proceedings to establish his or her title, but the proceedings have not, within 6 months after the date of writ or commencement of the proceedings, been continued to such a state as to have resulted in a decision, judgment or order by the court in which the proceedings are pending, the registrar-general, on giving 1 month's notice to the caveator or to the legal practitioner whose name appears on the caveat of his or her intention to proceed, or, if neither of such courses be practicable, then on posting or exhibiting the notice on the land for a period of 30 days, may proceed with the application, notwithstanding section 31, and may bring the land, the subject of the application and of the caveat, under this Act, unless in the meantime an order or injunction restraining the registrar-general from further proceeding with the application has been served on him or her.

Part 6 **Bringing land under the Act— miscellaneous**

35 **Documents of title how to be dealt with**

- (1) On registering an interest bringing land under this Act, the registrar-general shall cancel every document of title deposited by the applicant when making his or her application, and in the case of a leasehold shall endorse upon the lease so deposited a memorandum stating that the lease has been brought under this Act, and shall certify the memorandum by his or her signature and seal, and shall, in the case of a Crown lease, file the lease in his or her office, and, in other cases, return the lease to the applicant, and shall file in his or her office the duplicate or certified copy of such lease directed by section 20 to be furnished by the applicant.
- (2) If any such document relates to or includes any property, whether personal or real, other than the land included in the register, the registrar-general shall endorse thereon a memorandum cancelling the document in so far only as relates to the land included in the register, and shall return the document to the applicant.
- (3) The registrar-general shall retain in his or her office all documents so cancelled, except such documents as he or she is by this section directed to return to the applicant, and no person shall be entitled to the production of any such document so cancelled except upon the written order of the applicant or of some person claiming through or under him or her or upon the order of the judge of the court.

37 **Crown grants**

Where any person entitled to a grant dies before the grant has been made, the grant may be made to and issue in the name of that person, and the land, the subject of the grant, shall devolve in like manner as if the grant had been made prior to the death of that person.

Part 7

Land registered under Real Property Act 1900 (NSW)

38 Bringing under this Act of land to which State Act applies

- (1) This section applies to land in the ACT that is under the *Real Property Act 1900* (NSW) (*RPA land*).
- (2) The registrar-general may declare that RPA land described in the declaration is, by force of the declaration, brought under this Act.
- (3) For subsection (2), a description of land as the land comprised in a specified Crown grant or in a specified certificate of title under the *Real Property Act 1900* (NSW) is a sufficient description of the land.
- (4) A declaration under subsection (2) is a notifiable instrument.
Note A notifiable instrument must be notified under the *Legislation Act 2001*.
- (5) On notification under the *Legislation Act 2001* of the declaration, the land described in the declaration is under this Act.
- (6) The registrar-general may state in the declaration the folio of the register in which each grant or certificate of title, as the case may be, is to be registered.

39 Transfer of records

The Governor-General may arrange with the Governor of New South Wales for the handing over to the Commonwealth of all duplicate grants and certificates of title, and other documents registered or lodged with the registrar-general of that State in respect of land in the ACT, which, at the date of the commencement of this part, is under the *Real Property Act 1900* (NSW), or for the delivery to the Commonwealth of copies of those grants, certificates of title and documents duly certified by the registrar-general of the State as correct copies.

40 Recognition of transferred records

The duplicate grants and certificates of title and other documents or the certified copies thereof, as the case may be, handed over or delivered to the Commonwealth under section 39, shall be deemed for all purposes thereafter to be duplicate grants and certificates of title and other documents duly registered and authenticated by the registrar-general or lodged with the registrar-general under this Act.

41 Duplicate grant etc handed over to be deemed original grant

- (1) The original of any duplicate grant or certificate of title which, or a certified copy of which, is handed over or delivered to the Commonwealth under section 39 shall, as from the date of the handing over or delivery, be deemed to be an original grant or certificate of title delivered under this Act to the proprietor entitled to the land described therein.
- (2) Any instrument or document relating to land included in a grant or certificate of title (the duplicate or a certified copy of the duplicate of which is handed over or delivered to the Commonwealth under section 39) which—
 - (a) was executed prior to the date of the commencement of this part; and
 - (b) would have been entitled to registration under the *Real Property Act 1900* (NSW) if the land were under that Act;

may be registered under this Act notwithstanding that the instrument or document is not in the form prescribed by this Act.

42 Land referred to in pt 7 to be subject to certain reservations etc

All land referred to in this part which is subject to any reservation, exception, easement, obligation, trust, encumbrance, mortgage or charge at the time when this part commences shall continue subject thereto until it is lawfully removed or discharged.

Part 8 Register book and registration

43 Registrar-general to keep register

- (1) The registrar-general shall keep a register relating to land.
- (2) The registrar-general may—
 - (a) keep the register—
 - (i) in such form or combination of forms; and
 - (ii) on such medium or combination of media; and
 - (iii) in such manner;
as the registrar-general thinks fit; and
 - (b) at any time, vary the form or medium in which the register or part of the register is kept.
- (3) A reference to a medium in subsection (2) includes but is not limited to—
 - (a) a computer; or
 - (b) microfilm; or
 - (c) paper.
- (4) The register consists of folios of the register, instruments, plans and registered documents.
- (5) Where the registrar-general is satisfied—
 - (a) that the register contains an entry relating to an instrument or document affecting land; and
 - (b) that the land is no longer affected by the instrument or document;

the registrar-general may cancel the entry in the register.

44 Form of certificate of title

- (1) Every certificate of title shall set forth the nature of the estate of freehold or leasehold in respect of which it is issued.
- (2) The registrar-general shall note thereon in such manner as to preserve their priority the particulars of all unsatisfied mortgages or other encumbrances, and of any other interests to which the land is subject, and if the certificate of title be issued to an infant or to a person otherwise under disability he or she shall state the age of the infant or the nature of the disability so far as known to him or her, and shall cause a certificate of title to be delivered to the proprietor entitled to the land described therein.

Note 1 A fee may be determined under s 139 (Determination of fees, charges and other amounts) for the issue of a certificate of title.

Note 2 If a form is approved under s 140 (Approved forms) for a certificate of title, the form must be used.

45 One certificate may be issued for lands not contiguous

The registrar-general may issue 1 certificate of title for several parcels of land even if they are not contiguous.

46 Registering fee simple estate for which leasehold interest registered

Before bringing under this Act an estate in fee simple in relation to which a leasehold interest has been registered, the registrar-general must—

- (a) close the folio of the register for the leasehold interest; and
- (b) enter on the folio of the register for the estate in fee simple all interests on the register affecting the leasehold interest.

47 When instruments etc taken to be registered

- (1) A grant lodged for registration is taken to be registered under this Act when it is marked by the registrar-general with a folio and volume of the register for the land.
- (2) A memorandum of transfer or other instrument purporting to transfer or otherwise deal with or affect an interest in land is taken to be registered under this Act when a memorial of the instrument is entered on the folio of the register for the land.
- (3) The person named in the registered grant or instrument as the person owning or taking legal possession of (however described) the land or interest in land is taken to be the registered proprietor of the land or interest when the grant or instrument is registered.

47A Registration of transfers of mortgages, subleases etc

- (1) Notwithstanding anything contained in section 47 a transfer of a mortgage or encumbrance or a transfer or mortgage of a lease (other than a Crown lease) or sublease, or a sublease granted by a lessee other than a Crown lessee, or by a sublessee or of variation of mortgage, shall be deemed and taken to be duly registered when a memorial thereof has been entered in the register on the folio for the land.
- (2) Every memorial prepared under this section shall state the nature of the instrument to which it relates and such other particulars as the registrar-general directs, and shall be signed by the registrar-general.

47B Registration of memoranda of provisions

A memorandum of provisions shall be deemed to be registered when a memorial of registration is endorsed upon it and signed by the registrar-general.

47C Registration of instruments effecting dutiable transaction

- (1) This section applies to an instrument that effects a dutiable transaction, other than the following:
- (a) a declaration of trust over dutiable property;
 - (b) a cancelled agreement for the sale or transfer of dutiable property;
 - (c) a grant of a commercial lease with premium.

- (2) The transferee must lodge the instrument with the registrar-general for registration.

Note 1 The registrar-general must register an instrument lodged in registrable form (see s 48 (1)).

Note 2 If a form is approved under s 140 for registration of an instrument, the form must be used.

Note 3 A fee may be determined under s 139 for this provision.

- (3) If the instrument is an agreement for the transfer of dutiable property in conformity with the agreement, it must be lodged with the registrar-general within 14 days after the day the agreement is completed, or any longer time determined by the commissioner.
- (4) A determination is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

- (5) In this section:

commercial lease with premium—see the [Duties Act 1999](#), section 6A.

dutiable property—see the [Duties Act 1999](#), section 10.

dutiable transaction—see the [Duties Act 1999](#), section 7 (2).

transfer—see the [Duties Act 1999](#), dictionary.

48 Instruments—registration and priority

- (1) The registrar-general shall register an instrument lodged in registrable form.
- (2) The registrar-general may require a specified class of instruments to be lodged in duplicate.
- (3) An instrument lodged, other than—
 - (a) an order of the court; or
 - (b) a grant; or
 - (c) a memorandum of provisions; or
 - (d) a notice of determination or memorandum of discharge under the *Rates and Land Rent (Relief) Act 1970*;

shall be attested by a witness.

Note The execution of an instrument lodged for registration by a legal practitioner or mortgagee corporation is not required to be witnessed because certification for the instrument is given (see s 48BD and E-Conveyancing Law, s 11).

- (4) Subject to subsection (5), instruments lodged for registration shall be registered in the order of time in which they are lodged in registrable form.
- (5) Where a person lodges 2 or more instruments that affect the same land immediately one after the other, the registrar-general may register the instruments in the order that will give effect to the intentions of the parties as expressed in, or apparent from, those instruments.
- (6) Where 2 or more instruments are registered in respect of, or affecting, the same interest in land, the instruments shall, notwithstanding any express, implied or constructive notice, have priority according to the date and time of registration.
- (7) When an instrument is registered, the registrar-general shall enter a record of that instrument in the register.

- (8) On registration, an instrument, other than a memorandum of provisions or a caveat, shall be taken to be part of the register and shall have the effect of a deed duly executed by the parties.
- (9) In this section:
instrument includes a caveat.

48A Refusal to accept instruments for lodgment

The registrar-general may refuse to accept an instrument for registration if it is not in registrable form.

48B Lodgment of instruments—registrable form

- (1) The registrar-general shall not register any instrument purporting to transfer or otherwise deal with or affect any interest in land except—
- (a) as required or permitted by a Territory or Commonwealth law; and
 - (b) in the manner provided by this Act.
- (2) Where an instrument is lodged that is not in registrable form, the registrar-general may—
- (a) refuse to register it and require—
 - (i) 1 or more of the parties to the instrument to—
 - (A) alter or correct the instrument; or
 - (B) provide a stated document under section 14 (1) (a); or
 - (ii) for an instrument lodged under section 48BA or section 48BB—the legal practitioner or mortgagee corporation to—
 - (A) alter or correct the instrument; or
 - (B) provide certification under section 48BA or section 48BB in appropriate form; or

- (C) provide a stated document under section 14 (1) (c) or section 48BH (2); or
- (b) reject it.
- (3) In this section:
appropriate form, of certification for an instrument lodged for registration—see section 48BA (5).

**48BA Lodgment of instruments by legal practitioners—
certification**

- (1) This section applies if a legal practitioner lodges an instrument purporting to transfer or otherwise deal with or affect an interest in land with the registrar-general for registration on behalf of a party to the instrument.
- (2) The registrar-general must not register the instrument unless, for each person who is a party to the instrument, the legal practitioner for the person certifies in the appropriate form—
 - (a) that the person has authorised the legal practitioner under a client authorisation to lodge the instrument and do all other things necessary to ensure the instrument is registered; and
 - (b) that the legal practitioner has verified the person’s identity in accordance with the verification of identity rules as in force at the time of verification; and
 - (c) that the legal practitioner has verified the person’s authority to deal with the land under the instrument in accordance with the verification of authority rules as in force at the time of verification; and
 - (d) that any document relevant to certification under this section that is required to be kept by the legal practitioner under this Act and, if relevant, the E-Conveyancing Law, has been kept; and

- (e) that the legal practitioner has complied with any other requirement in relation to the instrument under this Act and, if relevant, the E-Conveyancing Law; and
 - (f) that the legal practitioner has complied with any requirement prescribed by regulation.
- (3) Certification under subsection (2) may only be provided by a legal practitioner who has personal knowledge of the matter the legal practitioner is certifying.
- (4) The registrar-general may exempt a legal practitioner, or an instrument prescribed by regulation, from a certification requirement under subsection (2).

- (5) In this section:

appropriate form, of certification for an instrument lodged for registration, means—

- (a) for an instrument lodged electronically under the E-Conveyancing Law—certification that complies with the participation rules; or
- (b) in any other case—the form required by the registrar-general.

client authorisation means—

- (a) for an instrument lodged electronically under the E-Conveyancing Law—see the E-Conveyancing Law, section 10; or
- (b) in any other case—an authorisation in a form required by the registrar-general.

participation rules—see the E-Conveyancing Law, section 23.

party, to an instrument, includes a person acting on behalf of another person (under a power of attorney or otherwise) but does not include a legal practitioner acting under a client authorisation.

**48BB Lodgment of instruments by mortgagee corporations—
certification**

- (1) This section applies if a mortgagee corporation lodges a mortgage or other instrument purporting to deal with or affect an interest in land with the registrar-general for registration.

Note 1 Section 48BA applies to a mortgagee represented by a legal practitioner.

Note 2 Section 48BC applies to a mortgagee who is not a corporation and not represented by a legal practitioner.

- (2) The registrar-general must not register the instrument unless the mortgagee certifies in the appropriate form—
- (a) that the mortgagee has verified the mortgagor's identity in accordance with the verification of identity rules as in force at the time of verification; and
 - (b) that the mortgagee has verified the mortgagor's authority to deal with the land under the instrument in accordance with the verification of authority rules as in force at the time of verification; and
 - (c) that any document relevant to certification under this section that is required to be kept by the mortgagee under this Act and, if relevant, the E-Conveyancing Law, has been kept; and
 - (d) that the mortgagee has complied with any other requirement in relation to the instrument under this Act and, if relevant, the E-Conveyancing Law; and
 - (e) that the mortgagee has complied with any requirement prescribed by regulation.
- (3) Certification under subsection (2) may only be provided by an employee of the mortgagee corporation who has personal knowledge of the matter the employee is certifying.

(4) The registrar-general may exempt a mortgagee corporation, or an instrument prescribed by regulation, from a certification requirement under subsection (2).

(5) In this section:

appropriate form, of certification for an instrument lodged for registration—see section 48BA (5).

participation rules—see the E-Conveyancing Law, section 23.

48BC Lodgment of instruments by self-represented parties—verification of identity and authority

(1) This section applies if a party to an instrument purporting to transfer or otherwise deal with or affect an interest in land lodges the instrument, in person, with the registrar-general.

(2) The registrar-general must not register the instrument unless the registrar-general has verified—

(a) the party's identity in accordance with the verification of identity rules as in force at the time of verification; and

(b) the party's authority to deal with the land under the instrument in accordance with the verification of authority rules as in force at the time of verification.

(3) In this section:

party, to an instrument—see section 48BA (5).

48BD Signature and witnessing requirements—legal practitioners and mortgagee corporations

(1) This section applies if—

(a) an instrument is lodged by a legal practitioner or mortgagee corporation under section 48BA or section 48BB; and

- (b) the instrument is not lodged electronically under the E-Conveyancing Law; and
- (c) the legal practitioner or mortgagee corporation provides certification in relation to the instrument under section 48BA or section 48BB.

Note The E-Conveyancing Law, pt 2, div 2 contains similar provisions for instruments lodged electronically.

- (2) Any requirement under this Act for the instrument to be executed, signed, witnessed, attested or sealed is taken to have been satisfied.

48BE Verification of identity rules

- (1) The registrar-general may make rules (the *verification of identity rules*) about—
 - (a) how a person must be identified for section 48BA (2) (b), section 48BB (2) (a) and section 48BC (2) (a); and
 - (b) what documents must be kept for the purpose of verifying the person's identity under section 48BA (2) (d) and section 48BB (2) (c); and
 - (c) how long the documents must be kept; and
 - (d) any other relevant matter.
- (2) A rule is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

48BF Verification of authority rules

- (1) The registrar-general may make rules (the *verification of authority rules*) about—
 - (a) how a person's authority to deal with land under an instrument is verified for section 48BA (2) (c), section 48BB (2) (b) and section 48BC (2) (b); and

- (b) what documents must be kept for the purpose of verifying the person's authority under section 48BA (2) (d) and section 48BB (2) (c); and
 - (c) how long the documents must be kept; and
 - (d) any other relevant matter.
- (2) A rule is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

48BG Compliance audits—lodgments by legal practitioners and mortgagee corporations

- (1) This section applies if—
- (a) an instrument is lodged by a legal practitioner or mortgagee corporation; and
 - (b) the instrument is not lodged electronically under the E-Conveyancing Law; and
 - (c) the legal practitioner or mortgagee corporation provides certification in relation to the instrument under section 48BA or section 48BB.
- Note* The registrar-general has a similar power to this provision for an instrument lodged electronically under the E-Conveyancing Law (see the Law, s 33 and s 34).
- (2) The registrar-general may, at any time, give the legal practitioner or mortgagee corporation a written request to provide stated information about—
- (a) the accuracy of the matters certified by the legal practitioner or mortgagee corporation under section 48BA (2) or section 48BB (2) in relation to the instrument; or

- (b) whether section 48BA or section 48BB have otherwise been complied with by the legal practitioner or mortgagee corporation in relation to the certification for the instrument.
- (3) The request must state a reasonable period for the information to be provided.
- (4) The legal practitioner or mortgagee corporation must provide the information in accordance with the request.

48BH Non-compliance—registrar-general may require additional documents

- (1) This section applies if—
 - (a) a legal practitioner or mortgagee corporation has not complied with a request under section 48BG; or
 - (b) the registrar-general is reasonably satisfied in relation to an instrument lodged by a legal practitioner or mortgagee corporation that—
 - (i) the matters certified by the legal practitioner or mortgagee corporation under section 48BA (2) or section 48BB (2) in relation to the instrument are not accurate; or
 - (ii) the legal practitioner or mortgagee corporation has not otherwise complied with section 48BA or section 48BB in relation to the certification for the instrument; or
 - (c) a legal practitioner's or mortgagee corporation's authorisation to use an electronic lodging network under the E-Conveyancing Law or a corresponding law is restricted, suspended or terminated for non-compliance with that law.

- (2) The registrar-general may, after giving the legal practitioner or mortgagee corporation at least 14 days written notice (the *notice period*), require the legal practitioner or mortgagee corporation to provide stated compliance assurance documents for stated instruments lodged by the legal practitioner or mortgagee corporation from the day the notice period ends until—
- (a) the end date stated in the notice; or
 - (b) a stated event happens.

Example—event

If a legal practitioner or mortgagee corporation is suspended from using an electronic lodging network for non-compliance—the suspension ends.

Note The instrument is not in registrable form if a document required under s (2) is not provided (see s 4 (cb)).

- (3) Subsection (2) does not apply to an instrument lodged electronically under the E-Conveyancing Law.
- (4) In this section:

compliance assurance document, for an instrument lodged for registration, means a document relevant to certification under section 48BA or section 48BB for the instrument.

Examples

- 1 a client authorisation
- 2 a copy of a document used to verify a client's identity or authority
- 3 for a transfer of land—a copy of the contract of sale for the land
- 4 for a mortgage—a copy of the loan agreement

corresponding law—see the E-Conveyancing Law, section 3.

48BI Power to refer to appropriate authority

- (1) This section applies if the registrar-general—
 - (a) receives a complaint from a person in relation to a legal practitioner or mortgagee corporation indicating that—
 - (i) the matters certified by the legal practitioner or mortgagee corporation under section 48BA (2) or section 48BB (2) in relation to an instrument are not accurate; or
 - (ii) the legal practitioner or mortgagee corporation has not otherwise complied with section 48BA or section 48BB in relation to the certification for an instrument; or
 - (b) reasonably suspects a circumstance mentioned in paragraph (a) applies to a legal practitioner or mortgagee corporation.
- (2) The registrar-general may, instead of or in addition to, taking action under section 48BH refer the matter to an appropriate authority.
- (3) If the registrar-general refers a matter under subsection (2), the registrar-general may give the appropriate authority any information held by the registrar-general that is reasonably relevant to the matter.
- (4) In this section:

appropriate authority—see the E-Conveyancing Law, section 35 (1).

Note *Appropriate authority* includes a law enforcement agency, a regulatory body or professional disciplinary body.

48C Correction of errors prior to registration

Where an instrument containing a patent error is lodged, the registrar-general may correct the error by marginal notation on the instrument and the instrument as so corrected shall be as valid and effectual as if the error had not been made.

51 Instruments not to be registered

- (1) The registrar-general shall not register—
- (a) an instrument executed on or after 1 July 1969 and before 1 August 1987, being an instrument included in a class of instruments specified in the *Australian Capital Territory Stamp Duty Act 1969* (Cwlth), schedule 1, item 4, 5, 6 or 7; or
 - (b) an instrument executed on or after 1 January 1986 and before 1 September 1987 being an instrument included in a class of instruments specified in the *Australian Capital Territory Stamp Duty Act 1969* (Cwlth), schedule 1, item 9; or
 - (c) an instrument executed on or after 1 January 1987 and before 1 August 1987, being an instrument included in a class of instruments specified in the *Australian Capital Territory Stamp Duty Act 1969* (Cwlth), schedule 1, item 6A;
- unless—
- (d) the instrument is duly stamped within the meaning of the *Australian Capital Territory Taxation (Administration) Act 1969* (Cwlth); or
 - (e) the instrument bears a stamp impressed on it under that Act to the effect that no stamp duty is payable; or
 - (f) the instrument, being a counterpart of another instrument that has been so duly stamped, bears a stamp impressed on it under that Act to that effect.
- (2) The registrar-general shall not register an instrument executed on or after 1 August 1987 and before 1 March 1999, being an instrument of a kind referred to in the *Stamp Duties and Taxes Act 1987*, section 17 (1) (a), (b), (c), (ca) or (d), unless the instrument has been duly stamped within the meaning of that Act.

52 Issue of new certificate of title after change in register

- (1) If an interest in land is registered, the registrar-general must give the party that lodged the relevant instrument for registration a certificate of title showing the interest.
- (2) The registrar-general must keep—
 - (a) each registered instrument; and
 - (b) any document lodged with the instrument.
- (3) In this section:
instrument includes a caveat, grant or Crown lease.

53 Evidence as to title

- (1) The register is conclusive evidence—
 - (a) as to the interests held in land under the Act; and
 - (b) that the registered proprietor of each such interest is entitled to that interest.
- (2) A certified copy of a part of the register, furnished under section 65 and signed and sealed by the registrar-general, is conclusive evidence of the matters stated in the certified copy, as at the date on which the certified copy was furnished.
- (3) A certificate of title signed and sealed by the registrar-general is evidence of the matters stated in the certificate.
- (4) If the register contains a statement to the effect that the person named therein is entitled to any easement therein specified, the statement shall be conclusive evidence that he or she is so entitled.
- (5) If the register contains the words ‘Together with a right of carriageway over the road delineated and coloured brown on the said map’ or words to the like effect, those words shall have the same effect as if the words contained in schedule 1 had been in their stead.

54 Joint tenants and tenants in common

- (1) A transfer to 2 or more persons shall not be registered unless those persons are expressed to be either joint tenants or tenants in common.
- (2) Where 2 or more persons listed in the register as joint proprietors, but not as tenants in common, they shall be taken to be registered as joint tenants.
- (3) The share of a person registered as a tenant in common must be included on the register.

55 Survivor of joint tenants

In any of the following cases, that is to say:

- (c) upon the death of any person registered together with any other person as joint tenant of the same interest in any land; or
- (d) when the life estate in respect of which an interest in land has been registered has determined, and the estate next registered in remainder or reversion has become vested in possession or the person whose interest in land has been registered or a purchaser has become entitled to the land for an estate in fee simple in possession;

the registrar-general may, upon the application of the person entitled and proof to his or her satisfaction of any such occurrence as mentioned in this section, register that person as proprietor of the interest in manner prescribed by this Act for the registration of a like interest upon a transfer or transmission.

56 Remainderperson or reversioner may be registered as such

Whenever an interest has been registered in respect of a life estate in any land, any person entitled in reversion or remainder to the land may apply to be registered as so entitled, and the registrar-general shall cause the title of the applicant to be investigated, and thereafter, upon consideration of the case, may, unless otherwise directed by the court, either reject the application altogether or direct that the applicant be registered forthwith or be so registered unless a caveat is lodged after the notice or advertisement and within such period as he or she thinks fit.

58 Estate of registered proprietor paramount

- (1) Notwithstanding the existence in any other person of any interest, whether derived by grant from the Crown or otherwise, which but for this Act might be held to be paramount or to have priority, a person becoming registered as proprietor of land or of any interest in land under this Act shall, except in case of fraud, hold the land or interest, subject to such interests as are notified on the folio of the register for the land, but absolutely free from all other interests whatsoever except as to—
 - (a) the interest of a proprietor claiming the same land under a prior entry in the register; and
 - (b) any right of way or other easement created in or existing upon the same land which is not described, or is misdescribed in the register; and
 - (c) any portion of land that may by wrong description of parcels or of boundaries be included in the register as land or an interest held by the registered proprietor, not being a purchaser or mortgagee thereof for value, or deriving from or through a purchaser or mortgagee thereof for value; and
 - (d) any prior tenancy for a term not exceeding 3 years; and

- (e) any leases, licences or other authorities granted by the Territory and in respect of which no provision for registration is made; and
 - (f) any unpaid duty, rates, taxes or other moneys which are expressly declared by any Act or law to be a charge upon land.
- (2) The land which is included in the register is taken to be subject to the reservations, exceptions, conditions and powers (if any) contained in the grant thereof.

59 Purchaser from registered proprietor not to be affected by notice

Except in the case of fraud no person contracting or dealing with or taking or proposing to take a transfer from the registered proprietor of any registered interest shall be required or in any manner concerned to inquire or ascertain the circumstances in or the consideration for which the registered proprietor or any previous registered proprietor of the interest in question is or was registered or to see to the application of the purchase money or any part thereof, or shall be affected by notice, direct or constructive, of any trust or unregistered interest, any rule of law or equity to the contrary notwithstanding; and the knowledge that any such trust or unregistered interest is in existence shall not of itself be imputed as fraud.

60 Protection as to notice of transferee before registration

- (1) For the purposes of determining whether a person has notice of a prior interest in land under this Act, the interest taken by the person under a dealing that—
- (a) is registrable under this Act; or

(b) will, when signed by or on behalf of the person, be registrable under this Act;

shall, before registration of that dealing, be deemed to be a legal estate.

- (2) No person contracting or dealing in respect of an interest in land under this Act shall be affected by notice of any instrument, fact, or thing merely by omission to search in a register not kept under this Act.

64 Registrar-general may require map to be deposited

- (1) The registrar-general may require the proprietor applying to have any land brought under this Act, or desiring to transfer or otherwise to deal with the land or any portion thereof, to deposit at the office of the registrar-general a map or plan of the land, certified by a registered surveyor.

Note A fee may be determined under s 139 (Determination of fees, charges and other amounts) for the deposit of a map or plan.

- (2) If the proprietor neglects or refuses to comply with the requirement as to the deposit of a map or plan or, if the map or plan deposited by the registered proprietor is not approved by the surveyor-general, or an officer appointed by him or her in that behalf, it shall not be incumbent on the registrar-general to proceed with the bringing of the land under this Act or with the registration of the transfer or lease.

65 Certified copies of register

On application, the registrar-general must give the applicant a certified copy of any part of the register.

Note A fee may be determined under s 139 (Determination of fees, charges and other amounts) for a certified copy of a part of the register.

66 Searches

- (1) A person shall have access to the register for the purpose of inspection during office hours, or such other hours as the registrar-general from time to time determines.

Note A fee may be determined under s 139 (Determination of fees, charges and other amounts) for inspection of the register.

- (2) The registrar-general may provide access of the kind referred to in subsection (1) by way of certificate, visual display unit, computer print-out, microfiche reader or any other means.
- (3) In subsection (2):

computer print-out means a document that—

- (a) is—
- (i) a record of; or
 - (ii) an extract from; or
 - (iii) derived from;
- information stored in, or processed by, a computer; or
- (b) is produced by a computer, or a series or combination of computers, directly or (with or without human intervention) with the aid of other equipment.

67 Issue of uncertified copies

The registrar-general may provide an uncertified copy of any part of the register or of any information contained in the register.

Note A fee may be determined under s 139 (Determination of fees, charges and other amounts) for providing an uncertified copy of a part of the register.

68 Registrar-general may register as proprietor person entitled to land by operation of statute or by defeasance of estate

- (1) Whenever—
- (a) by the operation of any law or Act either directly or by reason of anything done under it; or
 - (b) by the defeasance of any estate of any person registered as proprietor under this Act;

any land under this Act has become or becomes vested in some person other than the registered proprietor either alone or jointly or in common with the registered proprietor, or some such person has become or becomes entitled to have any such land so vested, or the site or any part of the site of any closed road whether belonging to the Commonwealth or to any person has become or becomes vested in the person registered as proprietor under this Act of adjoining land, the registrar-general may, at the written request of a person in whom there has been such a vesting or who has become so entitled, on such evidence as appears to the registrar-general to be sufficient, and after such notice (if any) to such person as the registrar-general deems proper, register the person in whom any such land or site or part thereof is vested or who has become so entitled, as the proprietor of the estate therein as is appropriate, and for that purpose may make every such entry, cancellation and correction in the register as appears to the registrar-general to be necessary or proper.

Note A fee may be determined under s 139 (Determination of fees, charges and other amounts) for a request for registration.

- (2) This section does not apply to a case for which express provision is made by this Act or any other law.

69 Statute of limitations not to run against land under Act

No title to land adverse to or in derogation of the title of the registered proprietor shall be acquired by any length of possession by virtue of any statute of limitations relating to real estate, nor shall the title of any such registered proprietor be extinguished by the operation of any such statute.

Part 8A Record of administrative interests

69A Meaning of *administrative interest*—Act

In this Act:

administrative interest, in relation to a parcel of land—

- (a) means a decision under a law in force in the Territory by an authorised entity in relation to the use of land that may affect a decision of a person proposing to deal with land, whether or not the land is the parcel affected or another parcel; and
- (b) if an authorised entity may or must give notice to the registrar-general of the happening of a thing that relates to the use of the land and may affect a decision of a person proposing to deal with land, whether or not the land is the parcel affected or another parcel—includes the happening of the thing; and
- (c) if the land is affected residential premises within the meaning of the *Dangerous Substances Act 2004*, section 47I—includes the following:
 - (i) whether the premises have been included in the affected residential premises register under the *Dangerous Substances Act 2004*, section 47P, and, if so, that—
 - (A) any transfer or transmission of the premises will place an occupancy prohibition on the premises; and
 - (B) the premises may be acquired by the Territory under the *Lands Acquisition Act 1994*;
 - (ii) whether the premises have been removed from the affected residential premises register under the *Dangerous Substances Act 2004*, section 47P;

- (iii) whether there is an occupancy prohibition for the premises under the *Dangerous Substances Act 2004*, section 47S; but
- (d) does not include an interest in land registrable under another part of this Act.

Examples of administrative interests

- 1 a development approval under the *Planning and Development Act 2007* for the use of land
- 2 if notice of a development approval is given to the registrar-general under the *Planning and Development Act 2007*—the ending, by surrender, of the development approval
- 3 the effect of the *Planning and Development Act 2007*, s 266 (1) (a) (ii) on the assignment, transfer, subletting etc of a community concessional lease

69B Meaning of *authorised entity*—pt 8A

In this part:

authorised entity means any of the following:

- (a) the registrar-general;
- (b) the Territory;
- (c) a territory authority;
- (d) an entity prescribed by regulation;
- (e) an employee of an entity mentioned in paragraph (a), (b), (c) or (d).

69C Record of administrative interests

- (1) This section applies if the registrar-general keeps a record of administrative interests on the register.
- (2) The registrar-general may include, in the record, the following information about an administrative interest that is a decision:
 - (a) the date of the decision;
 - (b) the particulars of the decision;
 - (c) the law under which the decision was made.
- (3) The registrar-general may include in the record any relevant information about an administrative interest mentioned in section 69A (c) that the registrar-general considers necessary to describe the interest.
- (4) If the registrar-general includes in the record information about an administrative interest mentioned in section 69A (c), the registrar-general must notify the Minister responsible for the *Dangerous Substances Act 2004* about the inclusion.
- (5) The registrar-general may include, in the record, the following information about a parcel of land to which an administrative interest relates:
 - (a) if the parcel is leased—the name of the lessee;
 - (b) the block and section;
 - (c) the address of the parcel;
 - (d) any other information the registrar-general considers necessary in relation to the parcel.
- (6) However, if the registrar-general includes information mentioned in subsection (5) in relation to the parcel of land, the information must not include information other than information already available on the register in relation to the parcel.

69D Protection from liability—administrative interests

- (1) This section applies if the registrar-general takes reasonable steps to bring the effect of subsection (2) to the attention of people given access to the record of administrative interests in accordance with section 66 (Searches).
- (2) Neither the registrar-general nor an authorised entity incurs liability for any omission, misstatement or inaccuracy in the information.
- (3) A regulation may prescribe what are reasonable steps for subsection (1).

Part 9 Crown leases

70 Registration of Crown leases

- (1) The registrar-general shall register in the register every Crown lease for a term of not less than 12 months granted by or in the name of the Commonwealth by entering the lease in a folio of the register.
- (2) The registrar-general may register in the register a Crown lease for a term of less than 12 months, being a Crown lease granted by or in the name of the Commonwealth after the date of commencement of the *Real Property (Amendment) Act (No. 3) 1986*, by entering the lease in a folio of the register.

71 Dealings with Crown leases

- (1) Every Crown lease, upon registration, shall be subject to this Act, and (subject to the Act under which the Crown lease was granted and to the Crown lease) may be transferred, mortgaged and dealt with for the same purposes, and in like manner, as if it had been granted by a proprietor of land under this Act and registered in the register.
- (2) Any entries which, in the case of a lease granted by a proprietor of land under this Act, would require to be made in the register shall, in the case of a registered Crown lease, be made in the register on the folio constituted by the Crown lease.

72A Registration of variations

- (1) If the planning and land authority has executed a variation of a Crown lease under the *Planning and Development Act 2007*, the authority must lodge a copy of the variation with the registrar-general.
- (2) On receipt of a copy of a variation under subsection (1), the registrar-general shall endorse on the folio of the register for the land under the Crown lease a memorial in accordance with this Act.

- (3) The variation takes effect when the registrar-general endorses on the folio of the register for the land under the Crown lease the memorial mentioned in subsection (2).

72AB Registration etc of orders under Planning and Development Act 2007

- (1) This section applies if the registrar-general receives a notice under either of the following provisions of the *Planning and Development Act 2007* about an order under that Act that appears to affect a Crown lease:
 - (a) section 359 (Notice of making of controlled activity orders);
 - (b) section 364 (Notice ending controlled activity orders).
- (2) The registrar-general must endorse on the folio of the register for the land under the Crown lease a memorial in accordance with this Act about the making or ending of the order.

72B Dealing with land before grant or registration of Crown lease

- (1) An instrument signed by a person to whom a Crown lease of land is or has been granted, or signed by a person claiming through or under such a person, and purporting to pass such an interest in the land as may be registered under this Act shall be deemed to confer on the person intended to take the interest in the land under the instrument, and on any other person claiming through or under the person intended to take that interest, the right, upon the registration of the Crown lease under this Act, to have the instrument registered under this Act.
- (2) The right conferred by subsection (1) to have an instrument registered is conferred notwithstanding that the Crown lease had not been granted or registered when the instrument was signed, but is otherwise conferred subject to this Act.

72C Memorial of compliance with building and development provision in lease

- (1) This section applies if—
 - (a) a Crown lease is registered under this Act; and
 - (b) a building and development provision of the lease has been fully complied with and the lessee has applied, under the *Planning and Development Act 2007*, section 296 (1) (Certificates of compliance) for a certificate of compliance; and
 - (c) the registrar-general is satisfied that the planning and land authority has issued a certificate of compliance under the *Planning and Development Act 2007*, section 296 in relation to the lease.
- (2) The registrar-general may enter in the register a memorial to the effect that the building was completed in accordance with the building and development provision of the lease.
- (3) A memorial under subsection (2) is, for the *Planning and Development Act 2007*, section 296, conclusive evidence of the matter in relation to which the registrar-general has stated in the memorial that the registrar is satisfied.
- (4) In this section:
building and development provision—see the *Planning and Development Act 2007*, section 234.

72D Memorial of application of certain provisions etc under Planning and Development Act 2007

- (1) If the planning and land authority tells the registrar-general that any of the following provisions or things under the *Planning and Development Act 2007* apply to a lease, the registrar-general must enter in the register a memorial to that effect:
 - (a) section 251 (Restrictions on dealings with certain leases);

- (b) a declaration under section 312B (Declared Crown leases).
- (2) The registrar-general must enter in the register—
- (a) for a declared land sublease—a memorial that it is a declared land sublease under the *Planning and Development Act 2007*, section 312C; and
 - (b) for a lease of a unit or common property under a units plan that subdivides land under a declared land sublease—a memorial that the lease is over land under a declared land sublease; and
 - (c) for land under a scheme under the *Community Title Act 2001* that subdivides land under a declared land sublease—a memorial that the land is land under a declared land sublease.

Part 10 Dealings

Division 10.1 Transfers

73 Memorandum of transfer

- (1) An interest in land under this Act may be transferred by registration of a memorandum of transfer.

Note 1 A fee may be determined under s 139 (Determination of fees, charges and other amounts) for lodgment of a memorandum of transfer.

Note 2 If a form is approved under s 140 (Approved forms) for a memorandum, the form must be used.

- (2) The registrar-general must not register a memorandum of transfer unless—

(a) if the transfer is lodged by—

(i) a legal practitioner on behalf of a party—the legal practitioner provides the certification under section 48BA; or

(ii) a mortgagee corporation—the mortgagee corporation provides the certification under section 48BB; or

(b) in any other case—the transfer has been executed by the registered proprietor of the land and accepted by the transferee or the transferee's legal practitioner on the transferee's behalf.

Note The transferee's identity and authority to transfer the land must also be verified (see s 48BC).

- (3) An acceptance under subsection (2) (b) shall be evidenced—

(a) in the case of an individual—by his or her signature; or

(b) in the case of a corporation—in accordance with the [Corporations Act](#), section 127 (Execution of documents (including deeds) by the company itself).

77 Transferee—interests and obligations

- (1) On the registration of a transfer, the interest in land described in the transfer, shall pass to the transferee.
- (2) In the case of a transfer of a mortgage, encumbrance or lease the transferee shall be subject to and liable for, while he or she remains the registered mortgagee, encumbrancee or lessee, all the obligations that the transferor was subject to, or liable for, before the transfer.
- (3) Where a registered lessee of a Crown lease transfers his or her interest, he or she shall not be liable for any obligation under the lease accruing after the registration of the transfer.

78 Transfer of mortgage or lease—right to sue

By virtue of every transfer of a mortgage, encumbrance or lease, the right to sue upon the memorandum of mortgage, encumbrance or lease, and to recover any debt, sum of money, annuity or damages thereunder (notwithstanding that the right may be deemed or held to constitute a chose in action), and all interest in any such debt, sum of money, annuity or damages shall be transferred so as to vest it in the transferee thereof.

79 Proprietor may vest estate jointly in self and others without limiting any use or without reassignment

The registered proprietor of any land or of any interest in land, under this Act, whether of the nature of real or personal property, may, by any of the forms of instruments of transfer provided by this Act, modified as is necessary, transfer the land or interest, or any part thereof, to his or her domestic partner, or the registered proprietor may make the transfer to himself or herself jointly with any other person, or create or execute any powers of appointment, or limit any estates whether by remainder or otherwise, without limiting any use or without any reassignment being executed; but upon the registration of the transfer, the land or interest shall vest in the registered proprietor jointly with any other person, or in the person taking under

the limitation, or in whose favour any power has been executed, or otherwise according to the intent and meaning appearing in the instrument and thereby expressed.

Note For the meaning of *domestic partner*, see [Legislation Act](#), s 169.

80 Endorsement when land becomes Crown land

Upon any land under this Act becoming Crown land (whether or not held by the Commonwealth in its capacity as a body corporate conferred by the [Lands Acquisition Act 1955](#) (Cwlth), section 61), the registrar-general shall cause a notification to the effect that the land has become vested in the Commonwealth as Crown land, to be made in the register.

81 Short words for creation of right of way

In any transfer or lease the words—‘Together with a right of carriageway over the road delineated and coloured brown on the said map’, or words to the like effect, shall have the same effect as if the words contained in schedule 1 had been used instead thereof.

Division 10.2 Leases

82 Form of lease

- (1) A lease in registrable form for a life or lives or a term that expires on a date specified in the lease, may be registered under this Act.

Note 1 A fee may be determined under s 139 (Determination of fees, charges and other amounts) for lodgment of a lease.

Note 2 If a form is approved under s 140 (Approved forms) for a lease, the form must be used.

- (2) Each registered lease must be identified by the volume and folio of the register and the folio identifier for the land.
- (3) A lease may incorporate by reference, with or without amendment, any or all of the provisions contained in a memorandum of provisions.

- (4) Where a lease—
- (a) incorporates by reference provisions contained in a memorandum of provisions; or
 - (b) incorporates by reference, with amendment, provisions contained in a memorandum of provisions;
- those provisions, or those provisions as amended, as the case may be, shall be deemed to be set out at length in the lease.

83 Right of purchase or covenant to purchase may be inserted

- (1) In any lease other than a lease from the Commonwealth a right to purchase the fee simple of the land thereby demised may be granted to the lessee, or a covenant to purchase the fee simple of the land may be entered into by the lessee.
- (2) The true amount of the purchase money to be paid, the period within which the right may be exercised or within which the covenant is to be performed, and any other particulars necessary to explain the terms of the right or covenant, shall be stated in the lease.
- (3) If the lessee pays the purchase money stipulated and otherwise observes his or her covenants expressed and implied in a registered lease, the lessor shall execute a transfer to the lessee of the fee simple, and perform all acts required by this Act to be done for the purpose of transferring the fee simple of the land.

84 Mortgagee etc not bound by lease unless consent given

No lease of land subject to a mortgage or encumbrance shall be valid or binding against the mortgagee or encumbrancee unless he or she has consented to the lease before it is registered.

85 Certain unregistered leases valid, but not rights of purchase or renewal under them

- (1) A registered lease is subject to any prior unregistered lease, or agreement for a lease, for a term not exceeding 3 years.
- (2) No right or covenant to purchase the freehold or to assign the reversionary interest of the lessor contained in any lease or agreement, and no right or covenant to or for the renewal of any lease or agreement, shall be valid as against any subsequent purchaser of the reversion, lessee, mortgagee or encumbrancee unless the lease or agreement is registered.

86 Surrender of lease

- (1) Where any registered lease is intended to be surrendered and the surrender is effected otherwise than through the operation of a surrender in law or than under any law for the time being in force relating to insolvent or bankrupt estates, there may be endorsed upon the lease or on the counterpart thereof the word ‘Surrendered’ with the date of the surrender or a memorandum of surrender may be executed.

Note 1 A fee may be determined under s 139 (Determination of fees, charges and other amounts) for lodgment of a memorandum of surrender.

Note 2 If a form is approved under s 140 (Approved forms) for a memorandum, the form must be used.

- (2) The endorsement or memorandum of surrender shall be signed by the lessee and by the lessor as evidence of the acceptance of the surrender, and shall be attested by a witness.

Note The execution of an instrument lodged for registration by a legal practitioner or mortgagee corporation is not required to be witnessed because certification for the instrument is given (see s 48BD and E-Conveyancing Law, s 11).

- (3) Where the Commonwealth is the lessor, the endorsement or memorandum of surrender may be signed—
- (a) in the case of national land—by the Commonwealth Minister for the time being administering the *National Land Ordinance 1989*; and
 - (b) in the case of Territory land—by the Minister for the time being administering the Acts relating to the leasing of Crown land in the ACT;
- and that signature shall constitute and be evidence of the acceptance by the Commonwealth of the surrender.
- (4) If an owners corporation surrenders the lease on behalf of a lessee under the *Unit Titles Act 2001*, section 167A, the endorsement or memorandum of surrender must be—
- (a) signed by the owners corporation; and
 - (b) accompanied by evidence of the resolution of the owners corporation mentioned in the *Unit Titles Act 2001*, section 167A (2) (c).
- (5) Subject to this section, the registrar-general shall, upon production to him or her of—
- (a) the lease or counterpart endorsed in accordance with this section; or
 - (b) a memorandum of surrender executed in accordance with this section;
- enter in the register a memorial recording the date of the surrender.
- (6) Upon the making of the entry required by subsection (5) the interest of the lessee in the land shall revest in the lessor or in the person in whom, having regard to intervening circumstances (if any), the land would have vested if the lease had not been executed.

- (7) No lease subject to a registered mortgage or encumbrance shall be surrendered without the consent of the mortgagee or encumbrancee.
- (8) Where a lease subject to a registered mortgage is intended to be surrendered with a view to the acceptance of a new lease in its place, the registrar-general shall not enter in the register a memorial of the surrender unless he or she is satisfied, on reasonable grounds—
- (a) that the mortgage has been discharged; or
 - (b) that—
 - (i) the mortgagee consents to the continuation of the mortgage under section 91B; and
 - (ii) the priority of the mortgage relative to each other mortgage (if any) continuing in force under section 91B, can be clearly defined; and
 - (iii) the land comprised in the new lease includes all or part of the land comprised in the lease to be surrendered.
- (9) Where a lease out of which any registered sublease is derived is intended to be surrendered with a view to the acceptance of a new lease in place thereof, the endorsement to be made upon the lease or the counterpart thereof shall be the words ‘Surrendered with a view to the acceptance of a new lease’, with the date of the surrender or, if a memorandum of surrender is executed, the memorandum shall include the words ‘This surrender is with a view to the acceptance of a new lease’.
- (10) Upon production to him or her of the endorsement or memorandum of surrender, the registrar-general shall not make any entry in the register until there is presented for registration a new lease from the same lessor to the same lessee of the whole or part of the land comprised in the surrendered lease which new lease is, subject to registration of the surrender of the surrendered lease, in every respect entitled to registration.

- (11) Immediately after making an entry in the register of the surrender of a lease pursuant to an endorsement or memorandum of surrender made in accordance with subsection (9), the registrar-general shall register the new lease and shall endorse thereon a memorial of every sublease which is continued in force by section 91A, and shall include in the memorial the words ‘Continued in force by the *Land Titles Act 1925*, section 91A’, or words to the like effect.
- (12) For subsection (11), a reference in a memorial to section 90A is taken to be a reference to section 91A.

87 Registration of re-entry by lessor

- (1) The registrar-general, upon proof to his or her satisfaction of re-entry by the lessor under any power in that behalf contained in the lease or declared by this Act to be implied, or of recovery of possession by the lessor by any proceeding in law or of determination, cancellation or forfeiture of a Crown lease, shall note the re-entry, recovery of possession, determination, cancellation or forfeiture by entry in the register, and the estate of the lessee in the land shall thereupon determine.
- (2) The determination shall not release the lessee from his or her liability in respect of the breach of any covenant expressed or implied in the lease.
- (3) The person having the lease in his or her possession or within his or her control shall, when required by the registrar-general, deliver it up to the registrar-general for cancellation and the registrar-general shall cancel it accordingly.
- (4) Any person who so fails to deliver a lease up to the registrar-general when required commits an offence.

Maximum penalty: 10 penalty units.

87A Entry of expiration of lease in register

The registrar-general may, upon being satisfied that the term of a lease has expired, note the expiration of the lease by entry in the register.

87B Resumption and withdrawal of land from lease

- (1) Where, under any power contained in that behalf in any lease or under any law in force in the ACT, any portion of the land comprised in a lease is resumed or withdrawn by the lessor from the lease, the registrar-general, upon proof to his or her satisfaction of the resumption or withdrawal, shall note such resumption or withdrawal by entry in the register and the estate of the lessee in the portion of the land so resumed or withdrawn shall thereupon determine.
- (2) If the resumption or withdrawal is brought about by the Territory on behalf of the Commonwealth, a Minister may prepare a notice of the resumption or withdrawal.
- (3) The notice is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act 2001](#).

87C Extension or variation of lease

- (1) The registrar-general may, in respect of a lease, other than a Crown lease, register a memorandum of variation that—
 - (a) varies the term of the lease; or
 - (b) varies, revokes or supplements a covenant, condition or restriction contained or implied in the lease.

Note 1 A fee may be determined under s 139 (Determination of fees, charges and other amounts) for lodgment of a memorandum of variation.

Note 2 If a form is approved under s 140 (Approved forms) for a memorandum, the form must be used.

- (2) A memorandum of variation shall—
 - (a) be signed by the lessor and lessee; and
 - (b) be registered in the same manner as the current lease; and
 - (c) be registered before the expiry of the term of the current lease.
- (3) On registration, a memorandum of variation shall—
 - (a) have the same effect as if it were a registered memorandum of lease—
 - (i) for the varied term; or
 - (ii) containing the covenants, conditions or restrictions as varied; and
 - (b) be deemed to be subject to all interests (except interests to have effect as varied by the memorandum of variation) to which the lease was subject at the time of registration of that memorandum.
- (4) For this section, a reference in any Territory law or in any instrument or other document to a lease or to the interest of a lessee includes a reference to the lease or the interest as affected by any memorandum of variation.
- (5) If a person has a registered interest in land, as mortgagee or otherwise, at the time of registration of a memorandum of variation affecting that land, the person is not bound by the memorandum unless the person has consented, in writing, to be so bound.

88 Lessee may sublet

- (1) The proprietor of any registered lease may, subject to any provisions in his or her lease or to any Act affecting his or her right to do so, sublet by signing a sublease for a life or lives or a term that expires on a date specified in the sublease.

Note 1 A sublease of land must be approved by the planning and land authority (see *Planning and Development Act 2007*, s 308 and this Act, s 88B).

Note 2 A fee may be determined under s 139 (Determination of fees, charges and other amounts) for lodgment of a sublease.

Note 3 If a form is approved under s 140 (Approved forms) for a sublease, the form must be used.

- (2) A sublease may incorporate by reference any or all of the provisions contained in a memorandum of provisions.
- (3) Where a sublease incorporates by reference provisions contained in a memorandum of provisions, the provisions so incorporated shall be deemed to be set out at length in the sublease.
- (4) No sublease of any land subject to a mortgage or encumbrance shall be valid or binding against the mortgagee or encumbrancee unless he or she has consented to the sublease before it is registered.

88A Application of land sublease provisions

- (1) Section 88B to section 88J do not apply to—
- (a) a sublease of land granted before the commencement of this section; or
- (b) if a units plan subdivides a parcel of land under a declared land sublease—a lease granted or arising under the *Unit Titles Act 2001*.

Note **Land sublease** does not include a **building lease** (see *Planning and Development Act 2007*, s 308 and this Act, s 88B).

- (2) Nothing in this Act, by itself, creates an obligation on the sublessor under a land sublease to grant the sublessee a further or new sublease.

Note The *Unit Titles Act 2001*, s 167AA provides for the grant of further leases of units and common property if a declared land sublease is subdivided by a units plan.

88B Land subleases—registration

The registrar-general must not register a sublease of land unless the sublease has been approved, in writing, by the planning and land authority under the *Planning and Development Act 2007*, section 308 (Power of Crown lessee to sublet part of land).

Note This section does not apply to a building sublease (see *Planning and Development Act 2007*, dict, def *land sublease*).

88C Land subleases—mortgages

- (1) A mortgage of land under a land sublease is not valid or binding against the sublessor, or the sublessor’s mortgagee (if any), unless the sublessor and the sublessor’s mortgagee consent, in writing, to the mortgage.

Note This section does not apply to a building sublease (see *Planning and Development Act 2007*, dict, def *land sublease*).

- (2) In this section:

mortgage includes an encumbrance.

mortgagee includes an encumbrancee.

88D Land subleases—transfers

- (1) The registrar-general must not register a memorandum of transfer of a land sublease unless—
- (a) the sublessor consents, in writing, to the transfer; and

- (b) the registrar-general tells the planning and land authority, in writing, about the transfer.

Note This section does not apply to a building sublease (see *Planning and Development Act 2007*, dict, def *land sublease*).

- (2) For subsection (1) (a)—
 - (a) the sublessee must request the sublessor's consent in writing; and
 - (b) within 10 working days after receiving the request, or any longer period agreed by the sublessee and sublessor, the sublessor may, in writing, ask the sublessee to give the sublessor information about the following:
 - (i) the proposed transferee's financial standing, including details of any approved finance of the proposed transferee;
 - (ii) the proposed use of the land under the sublease by the proposed transferee;
 - (iii) the proposed transferee's ability to comply with the conditions of the sublease; and
 - (c) if the sublessor has mortgaged the land under the Crown lease and the consent of the sublessor's mortgagee is required under the mortgage to the transfer of a sublease of the land—
 - (i) the sublessor must—
 - (A) tell the sublessor's mortgagee that the request by the sublessee has been made and of the terms of the request; and
 - (B) if asked by the mortgagee—ask the sublessee for the information mentioned in paragraph (b) and give the information to the mortgagee; and

- (ii) the sublessor's mortgagee must consent or refuse consent (including reasons for the refusal), in writing, to the sublessor and the sublessee within 10 working days after—
 - (A) being told about the sublessee's request; or
 - (B) if the mortgagee asks for information under paragraph (c) (i) (B)—receiving the information; and
- (iii) the sublessor must consent or refuse consent (including reasons for the refusal), in writing, to the sublessee; and
- (d) if paragraph (c) does not apply—the sublessor must consent or refuse consent (including reasons for the refusal), in writing, within 10 working days after—
 - (i) receiving the sublessee's request; or
 - (ii) if the sublessor asks for information under paragraph (b)—receiving the information; and
- (e) the sublessee is responsible for the reasonable costs of the sublessor, and the sublessee's mortgagee, in making a decision about whether to consent to the transfer of the sublease (not including any costs incurred in relation to an order under subsection (3) (c) (ii)).

Note If no time is provided for doing a thing under this subsection, the thing must be done as soon as possible (see [Legislation Act](#), s 151B).

- (3) For subsection (2) (c) and (d)—
 - (a) a person to whom a request for consent is made (the ***request receiver***) is taken to have consented to the proposed transfer if the request receiver does not consent or refuse consent within the relevant period mentioned in subsection (2) (c) (ii) and (d); and

- (b) a request receiver may only refuse consent if the request receiver has reasonable grounds for believing—
 - (i) the proposed transferee is not financially sound; or
 - (ii) the proposed transferee intends to use the land under the sublease for a purpose not allowed under the sublease; or
 - (iii) the proposed transferee cannot otherwise comply with the conditions of the sublease; or
 - (iv) the proposed transferee, or the use of the land under the sublease, will not be compatible with other sublessees under the Crown lease; or
 - (v) the sublessee is in breach of the sublease; and
 - (c) if a request receiver refuses consent—
 - (i) the sublessee may apply to the Magistrates Court for an order that the request receiver has refused consent otherwise than in accordance with this section; and
 - (ii) if the Magistrates Court is satisfied the request receiver has refused consent otherwise than in accordance with this section, the Court must order—
 - (A) that the request receiver is taken to have consented to the request; and
 - (B) the person in possession of the Crown lease for the land to which the sublease relates to present the lease to the registrar-general to allow registration of the transfer of the sublease.
- (4) In this section:
- mortgage* includes an encumbrance.
- mortgagee* includes an encumbrancee.

88E Land subleases—no further subleases

A sublease of land under a land sublease is not valid or binding.

Note This section does not apply to a building sublease (see [Planning and Development Act 2007](#), dict, def *land sublease*).

88F Land subleases—surrender

A sublessee may surrender a land sublease—

- (a) with the written consent of the sublessor; or

Note If a land sublease is subject to a registered mortgage or encumbrance, the mortgagee or encumbrancee must also consent to the surrender (see s 86 (7) and s 89).

- (b) if consent to the transfer of a land sublease is refused under section 88D.

Note This section does not apply to a building sublease (see [Planning and Development Act 2007](#), dict, def *land sublease*).

88G Withdrawal of land under land sublease

- (1) This section applies if—

- (a) before the end of the term of a sublease, the sublessor withdraws all or part of the subleased land from the lease under a provision of the sublease; and
- (b) the sublessee has fully complied with the provisions (if any) of the sublease relating to the construction of improvements on the land under the sublease.

Note This section does not apply to a building sublease (see [Planning and Development Act 2007](#), dict, def *land sublease*).

- (2) Section 88H and section 88I apply in relation to the withdrawn land as if the sublease was surrendered on the day of the withdrawal.

- (3) In this section:

improvement, in relation to land—see section 88H (6).

88H Surrender etc of land sublease—payment for improvements

- (1) This section applies if—
 - (a) a land sublease is surrendered or ends; and
 - (b) there are improvements in relation to the land under the sublease—
 - (i) that did not exist at the commencement of the sublease; and
 - (ii) the cost of which the sublessee was responsible for; and
 - (c) the sublessee—
 - (i) is not granted a further sublease of the land under the old sublease; or
 - (ii) is granted a new sublease of only part of the land under the old sublease.

Note This section does not apply to a building sublease (see *Planning and Development Act 2007*, dict, def *land sublease*).

- (2) The sublessor is liable to pay the sublessee—
 - (a) if no further sublease of the land under the old sublease is granted—the value of the improvements as worked out under the *Planning and Development Act 2007*, section 295 as if the sublessor were the planning and land authority and the sublease were a Crown lease; or
 - (b) if a new sublease of only part of the land under the old sublease is granted—the value of the improvements on the part of the land not leased under the new sublease as worked out under the *Planning and Development Act 2007*, section 295 as if the sublessor were the planning and land authority and the sublease were a Crown lease.

- (3) Subsection (4) applies if—
- (a) a sublease ends; and
 - (b) the sublessee has not given the sublessor at least 6 month's written notice before the sublease ended, or any shorter period agreed by the sublessee and sublessor, that the sublessee did not intend to apply for a further sublease.
- (4) The sublessor may deduct the amount of any expenditure reasonably incurred by the sublessor in subleasing the land, or part of the land, under the old sublease to someone else from the amount payable by the sublessor to the sublessee under this section.
- (5) The sublessor must give the sublessee a notice stating the amount worked out for subsection (2) and subsection (4) (if any) and how the amount is worked out.
- (6) In this section:
- improvement*, in relation to land, means a building or structure on or under the land.

88I ACAT review of value of improvements on land under land sublease etc

- (1) This section applies if—
- (a) a sublessor is liable to pay an amount under section 88H; and
 - (b) the sublessor gives the sublessee a notice under section 88H (5).
- (2) The sublessee may apply to the ACAT for review of the amount (the *original amount*).
- (3) On application, the ACAT must—
- (a) make a decision substituting an amount for the original amount;
or
 - (b) confirm the original amount.

88J Recovery of land under land sublease if sublessee in unlawful possession

- (1) This section applies if a person who has been a sublessee under a land sublease remains in possession of the land after—
 - (a) the term of the sublease has ended; or
 - (b) the sublease has been surrendered or ended.
- (2) The sublessor, by written notice to the person (the *unlawful occupier*), may demand that the unlawful occupier give possession of the land to the sublessor within a reasonable period stated in the demand.
- (3) If a demand is not complied with—
 - (a) the sublessor may apply to the Magistrates Court for an order that possession of the land be given to the sublessor; and
 - (b) the court may issue a warrant authorising a police officer, within 20 working days after the day the warrant is issued, to enter the land with the assistance and by the force that is reasonable, and give possession of the land to the sublessor.

89 Provisions as to leases to apply to subleases

The provisions of this Act affecting leases, lessors and lessees shall apply to subleases, sublessors and sublessees with such modifications and exceptions as the difference between a lease and a sublease requires.

90 Determination of lease to determine sublease

Subject to section 91A, if a registered lease is determined from any cause, the determination shall determine any sublease thereunder.

91 Covenants to be implied in subleases

In addition to the covenants declared by this Act to be implied in every registered lease, there shall be implied in every registered sublease the following covenant with the sublessee by the sublessor, that is to say:

That the sublessor will during the term thereby granted pay the rent reserved by, and perform and observe the covenants and agreements contained in, the head lease, and on his or her part to be paid, performed and observed.

Division 10.2A Surrender of lease

91A Surrender of lease not to affect sublease

- (1) This section applies if—
 - (a) a lease of land under this Act is surrendered by the lessee; and
 - (b) the lessor grants to the lessee a new lease of the land comprised in the surrendered lease; and
 - (c) the lessee has granted, under the surrendered lease, a sublease that is still in force when the lease is surrendered; and
 - (d) the whole of the land comprised in the sublease is within the new lease.
- (2) The sublease continues in force, unless otherwise terminated, as a sublease under the new lease.
- (3) The sublessor has the same rights and remedies against the sublessee, and the sublessee has the same rights and remedies against the sublessor, under the sublease as if the lease had not been surrendered.
- (4) The lessor has the same rights and remedies against the sublessee, by entry onto the land, as the lessor would have had if the surrendered lease had not been surrendered.

- (5) However, subsection (4) does not confer a right or remedy on the lessor if, or to any extent that, the lessor would not have a similar right or remedy against the sublessee of a sublease of land comprised in the new lease.
- (6) In this section, a reference to a lessor, lessee, sublessor or sublessee includes a reference to a successor in title to the lessor, lessee, sublessor or sublessee.

91B Surrender of lease not to affect mortgage

- (1) This section applies if—
 - (a) a lease of land under this Act is surrendered by the lessee; and
 - (b) the lessor grants to the lessee a new lease of the land comprised in the surrendered lease; and
 - (c) the lessee has given a mortgage of the land comprised in the surrendered lease; and
 - (d) the mortgage is still in force when the lease is surrendered.
- (2) The mortgage continues in force, unless otherwise terminated or discharged, as a mortgage of the land comprised in the new lease.
- (3) The mortgagor has the same rights and remedies against the mortgagee, and the mortgagee has the same rights and remedies against the mortgagor, under the mortgage as if the lease had not been surrendered.
- (4) The mortgage is to be read subject to any changes necessary to give effect to subsections (2) and (3).
- (5) The lessor has the same rights and remedies against the mortgagee, by entry onto the land, as the lessor would have had if the surrendered lease had not been surrendered.

- (6) However, subsection (5) does not confer a right or remedy on the lessor if, or to any extent that, the lessor would not have a similar right or remedy against the mortgagee of a mortgage of the land comprised in the new lease.
- (7) In this section, a reference to a lessor, lessee, mortgagor or mortgagee includes a reference to a successor in title to the lessor, lessee, mortgagor or mortgagee.

91C New lease—continuation of interests noted on surrendered lease

If a lease is surrendered by the lessee and a new lease of the land comprised in the surrendered lease is granted to the lessee, the following provisions apply to any interest in the land noted on the surrendered lease at the time of the surrender:

- (a) the interest must be noted on the new lease;
- (b) unless varied, terminated or discharged, the interest applies to the new lease in the same way as it applied to the surrendered lease.

Division 10.3 Mortgages and encumbrances

92 Land—how mortgaged or encumbered

- (1) Whenever any land or interest in land under this Act is intended to be charged or made security in favour of any mortgagee, the mortgagor may execute a memorandum of mortgage.

Note 1 A fee may be determined under s 139 (Determination of fees, charges and other amounts) for lodgment of a memorandum of mortgage or encumbrance.

Note 2 If a form is approved under s 140 (Approved forms) for a memorandum of mortgage or encumbrance (see s (2)), the form must be used.

- (2) Whenever any such land or interest is intended to be charged with or made security for the payment of an annuity, rent charge or sum of money in favour of any encumbrancee, the encumbrancer may execute a memorandum of encumbrance.
- (3) Every such instrument shall contain an accurate statement of the interest intended to be mortgaged or encumbered, and shall for description of the land intended to be dealt with refer to the folio identifier for the land together with a statement of all mortgages and other encumbrances (if any) affecting the land.
- (4) A memorandum of mortgage or a memorandum of encumbrance, may incorporate by reference, with or without amendment, any or all of the provisions contained a memorandum of provisions.
- (5) Where a memorandum of mortgage, or a memorandum of encumbrance—
 - (a) incorporates by reference provisions contained in a memorandum of provisions; or
 - (b) incorporates by reference, with amendment, provisions contained in a memorandum of provisions;those provisions, or those provisions as amended, as the case may be, shall be deemed to be set out at length in the memorandum of mortgage or encumbrance, as the case requires.

92A Mortgage or encumbrance—postponement of priority

- (1) In this section:
mortgage includes an encumbrance, and *mortgagee* and *mortgagor* have corresponding meanings.
- (2) Where—
 - (a) 2 or more memoranda of mortgage on land, or on an interest in land, under this Act have been registered under this Act; and

- (b) the land charged by each of those mortgages is the same and no other land is charged by any of those mortgages;

the relative priorities that those 2 or any 2 or more of those memoranda have by reason of section 48 (6) or of this section may, by memorandum of variation, be varied so that those memoranda shall be entitled in priority the one over the other in the order in which, by the memorandum of variation, they are expressed to have priority.

Note 1 A fee may be determined under s 139 (Determination of fees, charges and other amounts) for lodgment of a memorandum of variation.

Note 2 If a form is approved under s 140 (Approved forms) for a memorandum, the form must be used.

- (3) A memorandum of variation referred to in subsection (2) shall be signed in the presence of a witness—

- (a) by the mortgagee under each of the mortgages the priority of the memorandum of which is to be varied; and
- (b) where the assent of the mortgagor is necessary in order to render the variation effective against him or her, by the mortgagor.

Note The execution of an instrument lodged for registration by a legal practitioner or mortgagee corporation is not required to be witnessed because certification for the instrument is given (see s 48BD and E-Conveyancing Law, s 11).

- (4) If—

- (a) in addition to the memoranda of mortgage the priorities of which are to be varied, there is registered under this Act another memorandum of mortgage charging the whole or any part of the land charged by those memoranda; and
- (b) that other memorandum of mortgage has priority over 1 or more of those memoranda of mortgage but not over the remaining memorandum or memoranda of mortgage; and

- (c) it is not intended that the priority that that other memorandum of mortgage has by reason of section 48 (3) or of this section be varied by the memorandum of variation;

the memorandum of variation shall also be signed in the presence of a witness by the mortgagee under that other memorandum of mortgage.

- (5) After lodgment of a memorandum of variation, the registrar-general shall—
- (a) register the memorandum of variation; and
 - (b) make such entries in the register as are necessary, in relation to—
 - (i) the memoranda of mortgage the relative priorities of which are to be varied; and
 - (ii) any other memorandum of mortgage of the kind referred to in subsection (4).
- (6) After the registration of a memorandum of variation, the memoranda of mortgage the relative priorities of which are affected by the memorandum shall be entitled in priority the one over the other in the order in which, by the memorandum of variation, they are expressed to have priority.

93 Mortgage or encumbrance—effect

- (1) Any mortgage or encumbrance under this Act shall, have effect as a security but shall not operate as a transfer of the land thereby charged.

- (2) If default is made in the payment of the principal sum, interest, annuity or rent charge, or any part thereof, secured by the mortgage or encumbrance, or in the observance of any covenant expressed in any memorandum of mortgage or of encumbrance registered under this Act, or that is in this Act declared to be implied in the instrument, and the default is continued for the space of 1 month or for such other period of time as is therein for that purpose expressly limited, the mortgagee or encumbrancee may—
- (a) give to the mortgagor or encumbrancer notice in writing to pay the money then due or owing on the memorandum of mortgage or of encumbrance, or to observe the covenants therein expressed or implied, as the case may be, and that sale will be effected unless the default be remedied; or
 - (b) leave the notice on the mortgaged or encumbered land or at the usual or last-known place of abode in the ACT of the mortgagor or encumbrancer or other person claiming to be then entitled to the land or with his or her agent in the ACT.

94 Power to sell

- (1) If the default in payment or in observance of covenants continues for the further period of 1 month after the service of the notice, or for such other period as is in the instrument for that purpose limited, the mortgagee or encumbrancee may sell all the interest of the mortgagor or encumbrancer in the land so mortgaged or encumbered, or any part thereof, and either altogether or in lots by public auction or by private contract, or both those modes of sale, and subject to such conditions as he or she thinks fit, and may buy in and resell the interest without being liable for any loss occasioned thereby, and may make and execute all such instruments and documents as are necessary for effecting the sale thereof.

- (2) All sales, contracts, matters and things made, done or executed in pursuance of subsection (1) shall be as valid and effectual as if the mortgagor or encumbrancer had made, done or executed them, and the receipt or receipts in writing of the mortgagee or encumbrancee shall be a sufficient discharge to the purchaser of the land or interest, or of any portion thereof, for so much of his or her purchase money as is thereby expressed to be received.
- (3) No such purchaser shall be answerable for the loss, misapplication or non-application, or be obliged to see to the application, of the purchase money paid by him or her, nor shall he or she be concerned to inquire as to the fact of any default or notice having been made or given as provided in section 93.
- (4) The purchase money to arise from any sale under this section shall be applied, first, in payment of the expenses occasioned by the sale; second, in payment of the moneys which are owing to the mortgagee or encumbrancee; third, in payment of subsequent mortgages or encumbrances (if any) in the order of their priority; and the surplus (if any) shall be paid to the mortgagor or encumbrancer, as the case may be.
- (5) Where a transfer is made in professed exercise of the power of sale conferred by this Act, the title of the transferee shall not be impeachable on the ground that no case has arisen to authorise the sale or that due notice was not given or that the power was otherwise improperly or irregularly exercised, but any person damnified by an unauthorised or improper or irregular exercise of the power shall have his or her remedy in damages against the person exercising the power.
- (6) A memorandum of transfer executed by a mortgagee or encumbrancee in exercise of the power of sale conferred by this Act shall be accepted by the registrar-general as sufficient evidence that the power has been duly exercised, and he or she shall not be bound or required to call for proof thereof.

(7) Where—

- (a) after the registration under this Act of a mortgage or encumbrance on a parcel of land, there is registered under this Act a notice of a determination made under the *Rates and Land Rent (Relief) Act 1970*, section 3 in which the parcel of land referred to is the parcel of land subject to the mortgage or encumbrance; and
- (b) the mortgagee under the mortgage or the encumbrancee under the encumbrance exercises the rights conferred by this section in relation to the land;

the notice of the determination shall, for this section, be deemed to be a mortgage of the land referred to in the notice to the Territory having priority according to the date of its registration under this Act and securing the payment to the Territory of an amount equal to the amount for the time being secured by section 108B.

95 Sale by mortgagee—vesting

- (1) For the purposes of a sale under section 94, the registrar-general shall register a memorandum of transfer—
 - (a) executed by a mortgagee or encumbrancee; and
 - (b) lodged in registrable form.
- (2) Where a transfer is registered under subsection (1), the interest of the mortgagor or encumbrancer in the land comprised in the transfer shall pass to and be vested in the transferee, freed and discharged from all liability on account of—
 - (a) the mortgage or encumbrance; or
 - (b) any other mortgage or encumbrance registered after the registration of the interest of the mortgagor or encumbrancer but before the registration of the transfer; or

- (c) any other mortgage or encumbrance over which the firstmentioned mortgage or encumbrance has priority under a memorandum of variation registered under section 92A.
- (3) Where—
- (a) there is a caveat entered in the register in respect of the land comprised in the transfer; and
 - (b) the caveat was entered in the register after the registration of the interest of the mortgagee or encumbrancee, as the case may be;
- the registrar-general may register the transfer notwithstanding the existence of the caveat and the caveat lapses on registration of the transfer.
- (4) The registrar-general may remove from the register a caveat that has lapsed under subsection (3).

95A Sale by court order—application by mortgagor etc

- (1) A mortgagor or encumbrancer of land may apply to the Supreme court for an order that the land be sold.
- (2) On an application the court may order a sale of the land on any terms as the court considers just.
- (3) In particular, the court may make the operation of the order subject to payment into court of a specified sum to meet the expenses of the sale and to secure the performance of the terms.
- (4) The court may make an order even if a procedure has been taken, or proceedings have been instituted, by any person to foreclose or realise the mortgage or encumbrance or to sell the land.
- (5) The court may make an order without deciding the priority of mortgages or encumbrances over the land.

96 Default, entry and possession—action for recovery

The mortgagee or encumbrancee upon default in payment of the principal sum or any part thereof, or of any interest, annuity or rent charge secured by any mortgage or encumbrance may—

- (a) enter into possession of the mortgaged or encumbered land by receiving the rents and profits therefor; or
- (c) bring an action to recover the land, either before or after commencing to take the rents and profits, and either before or after any sale of the land effected under the power of sale given or implied in his or her memorandum of mortgage or of encumbrance;

in the same manner in which he or she might have made the entry or brought the action if the principal sum or annuity were secured to him or her by a conveyance of the legal estate in the land so mortgaged or encumbered.

97 Order for foreclosure on default

- (1) When default has been made in the payment of the interest or principal sum secured by memorandum of mortgage for 6 months, a registered mortgagee or his or her legal practitioner or attorney in the ACT may make application in writing to the registrar-general for an order for foreclosure.
- (2) The application shall state that the default has been so made, and that the land or interest mortgaged has been offered for sale at public auction by a licensed auctioneer, after notice given to the mortgagor, as in this Act provided, and that the amount of the highest bid at the sale was not sufficient to satisfy the money secured by the mortgage, together with the expenses occasioned by the sale, and that notice in writing of the intention of the mortgagee to make the application has been given to the mortgagor by leaving the notice at his or her usual or last-known place of abode, if that place is within 5km of the

residence of the mortgagee, or by forwarding the notice by registered letter through the post office, if that place is beyond that distance.

- (3) The application shall be accompanied by a certificate of the auctioneer by whom the land was put up for sale, and such other proof of the matters stated by the applicant, as the registrar-general requires.
- (4) The statements made in the application shall be verified by the oath or statement of the applicant or other person applying on his or her behalf.

Note It is an offence to make a false or misleading statement, give false or misleading information or produce a false or misleading document (see [Criminal Code](#), pt 3.4).

98 Application—how made effective

- (1) The registrar-general may prepare a notice offering the land for sale, and shall limit and appoint a time, not less than 1 month from the date of notification of the offer under the [Legislation Act 2001](#), upon or after which the registrar-general may issue to the applicant an order for foreclosure, unless in the interval a sufficient amount has been realised by the sale of the land to satisfy the principal and interest moneys due, and all expenses occasioned by the sale.
- (2) An offer under subsection (1) is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act 2001](#).
- (3) The registrar-general must also give additional public notice of the offer.

Note **Public notice** means notice on an ACT government website or in a daily newspaper circulating in the ACT (see [Legislation Act](#), dict, pt 1). The requirement in s (3) is in addition to the requirement for notification on the legislation register as a notifiable instrument.

- (4) Every such order for foreclosure entered in the register shall have the effect of vesting in the mortgagee all the estate and interest of the mortgagor in the land mentioned in the order free from all right and equity of redemption on the part of the mortgagor or of any person claiming through or under him or her.

99 Mortgagee to receive rent

- (1) Whenever a mortgagee or encumbrancee gives notice of his or her demanding to enter into receipt of the rents and profits of the mortgaged or encumbered land to the tenant or occupier or other person liable to pay or account for the rents and profits thereof, all the powers and remedies of the mortgagor or encumbrancer in regard to receipt and recovery of, and giving discharges for, the rents and profits, shall be suspended and transferred to the mortgagee or encumbrancee until the notice is withdrawn, or the mortgagee or encumbrancee is satisfied, and a discharge thereof duly registered.
- (2) In every such case, the receipt in writing of the mortgagee or encumbrancee shall be a sufficient discharge for any rents and profits therein expressed to be received, and no person paying the rents and profits shall be bound to inquire concerning any default or other circumstance affecting the right of the person giving the notice beyond the fact of his or her being duly registered as mortgagee or encumbrancee of the land.
- (3) Nothing herein contained shall interfere with the effect of any rule, order or judgment of the court in regard to the payment of rent under the special circumstances of any case, or prejudice any remedy of the mortgagor or encumbrancer against the mortgagee or encumbrancee for wrongful entry or for an account.
- (4) In this section:

court includes the Family Court of Australia and any other court having jurisdiction under the *Family Law Act 1975* (Cwlth).

100 Mortgagee of leasehold entering into possession liable to lessor

Any mortgagee or encumbrancee of leasehold land under this Act, or any person claiming the land as a purchaser or otherwise from or under the mortgagee or encumbrancee after entering into possession of the land or the rents and profits thereof shall, during the possession and to the extent of any rents and profits which may be received by him or her, become and be subject and liable to the lessor of the land or the person for the time being entitled to the lessor's interest in the land to the same extent as the lessee or tenant was subject to and liable for prior to the mortgagee, encumbrancee or other person entering into possession of the land or the rents and profits thereof.

100A Right of Territory if determination revoked and amount secured not paid

- (1) Where—
- (a) a determination under the *Rates and Land Rent (Relief) Act 1970*, section 3 has been revoked under that Act, section 9, 12 or 13;
 - (b) the amount of the payment of which is secured by section 108B has not been paid in full to the Territory; and
 - (c) a memorandum of discharge under the *Rates and Land Rent (Relief) Act 1970* has not been presented to the registrar-general for registration under this Act;

the Territory shall be deemed to have, on and after the date on which default has been made in the payment of the whole or part of the amount referred to in paragraph (b), the rights that it would have had under sections 93 (2), 94, 96, 97, 99 and 100 if—

- (d) the notice of the determination had been a mortgage by the registered proprietor of the land referred to in the notice securing the payment to the Territory of the amount referred to in paragraph (b) and registered on the date of registration of the notice; and
 - (e) the amount were the principal sum secured by the mortgage; and
 - (f) the default in the payment of the whole or part of the amount referred to in paragraph (b) were default in the payment of the principal sum or part of the principal sum secured by the mortgage.
- (2) Sections 93 (2) and 94 to 100 apply to and in relation to the exercise by the Territory of the rights that it is to be deemed to have under subsection (1) to the same extent and in the same manner as if the Territory were the mortgagee under a mortgage referred to in subsection (1) (d).
- (3) For subsection (1), default shall be deemed to have been made in the payment of—
- (a) the whole of the amount referred to in subsection (1) (b) if an amount equal to that amount has not been paid to the Territory within 1 month after the date on which such an amount has become payable under the *Rates and Land Rent (Relief) Act 1970*, section 15 (1); and
 - (b) part of the amount referred to in subsection (1) (b) if an amount equal to that part has not been paid to the Territory within 1 month after the date on which such an amount has become payable to the Territory under that Act, section 15 (2) or (3).

101 Discharge of mortgages and encumbrances

- (1) The registrar-general may, on lodgment of a discharge of mortgage or encumbrance, register a discharge of the mortgage or encumbrance to the extent specified in the discharge instrument.

Note 1 A fee may be determined under s 139 (Determination of fees, charges and other amounts) for lodgment of a discharge of mortgage or encumbrance.

Note 2 If a form is approved under s 140 (Approved forms) for a discharge, the form must be used.

- (2) The discharge of mortgage or encumbrance may discharge the debt or annuity secured in relation to—
- (a) 1 or more parcels of land; or
 - (b) 1 or more of the mortgagors or encumbrancers, as the case requires; or
 - (c) 1 or more of the mortgagees or encumbrancees, as the case requires.
- (3) On registration of the discharge of mortgage or encumbrance, the mortgage or encumbrance, as the case requires, is discharged to the extent specified in the discharge instrument.

101A Variation of mortgages

- (1) A registered mortgage may be varied by registration of a memorandum of variation of mortgage.

Note 1 A fee may be determined under s 139 (Determination of fees, charges and other amounts) for lodgment of a memorandum of variation of mortgage.

Note 2 If a form is approved under s 140 (Approved forms) for a memorandum, the form must be used.

- (2) The memorandum shall be signed in the presence of a witness by each of the parties to the mortgage.

Note The execution of an instrument lodged for registration by a legal practitioner or mortgagee corporation is not required to be witnessed because certification for the instrument is given (see s 48BD and E-Conveyancing Law, s 11).

- (3) Upon production of a memorandum referred to in subsection (2), the registrar-general shall make such entries in the register as are necessary.
- (4) The memorandum shall, when registered under this Act, operate so as to vary the mortgage in the manner specified in the memorandum.
- (5) This section applies to a mortgage made before or after the commencement of this section.

102 Entry of satisfaction of annuity

- (1) Upon proof of the death of the annuitant, or of the occurrence of the event or circumstance upon which, in accordance with any memorandum of encumbrance, the annuity or sum of money thereby secured ceases to be payable, and upon proof that all arrears of the annuity and interest or money have been paid, satisfied or discharged, the registrar-general shall make an entry in the register noting that the annuity or sum of money is satisfied or discharged, and shall cancel the instrument.
- (2) Upon the entry being made, the land or interest shall cease to be subject to, or liable for, the annuity or sum of money.

103 Facilitation of redemption in case of absent or unknown mortgagees

- (1) When any person entitled to receive payment of any money secured by memorandum of mortgage is out of the jurisdiction, cannot be found, or is unknown, or it is uncertain who is so entitled, the court, upon the application of the person entitled to redeem the mortgaged premises, may order the amount of the debt to be ascertained in such manner as the court thinks fit, and direct the amount so ascertained to be paid into court.
- (2) The court shall order the amount so paid into court to be paid to the person entitled, upon the application of that person, and on proof that the memorandum of mortgage and all deeds or documents evidencing title which were delivered by the mortgagor to the mortgagee on executing the memorandum of mortgage, or in connection therewith, have been delivered up to the person by whom the amount was so paid into court, or his or her executors, executrices, administrators, administratrices or assigns, or have been otherwise satisfactorily accounted for.
- (3) Upon production to the registrar-general of the certificate of a registrar of the court that the payment was directed as provided in subsection (1) and has been made—
 - (a) he or she shall make such entries in the register as are necessary; and
 - (b) the entry shall be a discharge of the land from the mortgage:

Provided that as between the mortgagor and the person entitled to receive payment, any amount which is eventually shown by the person entitled to the mortgage debt to have been in fact due or payable over and above the amount so paid, shall continue to be a speciality debt due under the mortgage.

Note A fee may be determined under s 139 (Determination of fees, charges and other amounts) for lodgment of a discharge of mortgage by court order.

Division 10.3A Memoranda of provisions

103A Registration of memoranda of provisions

- (1) A person may present for registration a memorandum containing provisions that are to be incorporated by reference in—
 - (a) leases or subleases that are to be prepared or executed by the person; or
 - (b) memoranda of mortgage that are to be prepared or executed by the person; or
 - (c) memoranda of encumbrance that are to be prepared or executed by the person.

Note 1 A fee may be determined under s 139 (Determination of fees, charges and other amounts) for lodgment of a memorandum of provisions.

Note 2 If a form is approved under s 140 (Approved forms) for a memorandum, the form must be used.

- (2) A memorandum referred to in subsection (1) shall be signed by the person for whom it is lodged or by his or her legal practitioner.
- (3) The registrar-general shall, upon presentation to him or her of a memorandum that is in registrable form, register the memorandum.

Division 10.3B Easements and other incorporeal rights

103B Easements—registration

- (1) Where a memorandum of easement has been lodged in registrable form, the registrar-general shall register the easement and enter in the register—
 - (a) particulars of the land that is benefited by the easement or of the person in whose favour it is registered; and
 - (b) particulars of the land that is burdened by the easement; and

(c) such other particulars as the registrar-general considers necessary.

Note 1 A fee may be determined under s 139 (Determination of fees, charges and other amounts) for lodgment of a memorandum of easement.

Note 2 If a form is approved under s 140 (Approved forms) for a memorandum, the form must be used.

(2) An easement may be limited wholly or partly in height or depth, or both.

103C Easements in gross—registration, transfer and extinguishment

(1) The registrar-general may register an easement in gross, being an easement that does not benefit any land and is registered in favour of 1 of the following:

(a) the Territory or a body corporate established by or under a Territory law;

(b) the Commonwealth or a body corporate established by or under a Commonwealth law;

(c) a State or another Territory or a body corporate established by or under a law of the State or other Territory;

(d) a person who is providing a public utility service in the ACT.

(2) Where the business of providing a public utility service is transferred, the registrar-general may, on application by the transferee, register the transfer of the benefit of any public utility easement in respect of that business or all such easements, to the transferee.

Note 1 A fee may be determined under s 139 (Determination of fees, charges and other amounts) for lodgment of an application for transfer.

Note 2 If a form is approved under s 140 (Approved forms) for an application, the form must be used.

- (3) Where—
- (a) a public utility easement is registered in favour of a person or body; and
 - (b) the person or body ceases to provide the public utility service for the purposes of which the easement was registered;
- the easement shall—
- (c) on application by the transferee under subsection (2), be registered in the name of the person or body to whom the business of providing that service is transferred; or
 - (d) where the transfer of the easement has not been so registered within 30 days of the transfer of the business or where there is no such transferee—shall be extinguished.
- (4) In this section:

public utility easement, in relation to a business providing a public utility service, means an easement registered in the name of a person or body for the purposes of that business.

103D Easements—same owner of benefited and burdened land

An easement may be registered even if—

- (a) the land benefited and the land burdened by the easement have the same registered proprietor; or
- (b) the registered proprietor of the land benefited by the easement has a registered interest in the land burdened by the easement.

103DA Easements—subdivision of dominant tenement

If an easement subsists under the *Land Titles (Unit Titles) Act 1970*, section 9 for the benefit of units in a units plan, the easement may be registered in relation to the units.

103E Extinguishment of easement

- (1) A registered easement shall be extinguished—
- (a) by the registration of a memorandum of extinguishment of easement; or
 - (b) by the surrender of the lease of the land benefited by the easement.

Note 1 A fee may be determined under s 139 (Determination of fees, charges and other amounts) for lodgment of a memorandum of extinguishment of easement.

Note 2 If a form is approved under s 140 (Approved forms) for a memorandum, the form must be used.

- (2) Despite subsection (1) (b), a registered easement is not extinguished if, after surrender by the lessee of the lease, a new lease of the land comprised in the surrendered lease is granted to the lessee.
- (3) On registration of a memorandum of extinguishment of easement, the registrar-general shall make such entries in the register as are necessary to record the extinguishment.
- (4) A memorandum of extinguishment of easement shall be signed by—
- (a) the registered proprietor of the land benefited by the easement or the person or body in whose favour the easement is registered; and
 - (b) each registered mortgagee and lessee (other than a lessee who does not receive a benefit from the easement) of the land benefited by the easement.
- (5) An easement is not extinguished merely because—
- (a) the burdened and benefited land in relation to the easement have the same registered proprietor; or

- (b) the registered proprietor of the land benefited by the easement acquires an interest, or a greater interest, in the land burdened by the easement.

103F Easements—variation

- (1) Subject to subsection (2), a registered easement may be varied by registration of a memorandum of variation of easement.

Note 1 A fee may be determined under s 139 (Determination of fees, charges and other amounts) for lodgment of a memorandum of variation of easement.

Note 2 If a form is approved under s 140 (Approved forms) for a memorandum, the form must be used.

- (2) A registered easement cannot be varied—
 - (a) by changing the location of the easement; or
 - (b) by increasing or decreasing the area of land affected by the easement; or
 - (c) by changing the burdened or benefited land; or
 - (d) if it is an easement registered in accordance with section 103C (1)—by changing the person or body in whose favour the easement is registered.
- (3) A memorandum of variation of easement shall be signed by—
 - (a) the registered proprietor of the land benefited by the easement or the person or body in whose favour the easement is registered; and
 - (b) each registered mortgagee and lessee (other than a lessee who does not receive a benefit from the easement) of the land benefited by the easement.

103G Incorporeal rights—registration

- (1) The registrar-general may register a memorandum of incorporeal right that creates an incorporeal right other than an annuity or rent charge.

Note 1 A fee may be determined under s 139 (Determination of fees, charges and other amounts) for lodgment of a memorandum of incorporeal right.

Note 2 If a form is approved under s 140 (Approved forms) for a memorandum, the form must be used.

- (2) Where the registrar-general registers a memorandum under subsection (1), he or she or she shall enter in the register such particulars of the incorporeal right, and of the land burdened or benefited by the right, as he or she considers necessary.

103H Incorporeal rights—extinguishment

- (1) The registrar-general may register a memorandum of extinguishment of incorporeal right.

Note 1 A fee may be determined under s 139 (Determination of fees, charges and other amounts) for lodgment of a memorandum of extinguishment of incorporeal right.

Note 2 If a form is approved under s 140 (Approved forms) for a memorandum, the form must be used.

- (2) On registration of a memorandum of extinguishment of incorporeal right, the registrar-general shall make such entries in the register as are necessary to record the extinguishment and preserve the record.

Division 10.4 Caveats against dealings

104 Lodging of caveat

- (1) A caveat, in relation to land, shall not be entered in the register unless it is lodged by—

- (a) if the land is to be held by the transferee as trustee—the transferor of the land; or

- (b) a person claiming an interest in the land or his or her legal practitioner; or
 - (c) where a person claiming an interest in the land so authorises in writing—the agent of that person.
- (2) Subject to subsections (3) to (5), a caveat may prohibit the registration of any document affecting the land or interest in respect of which it is entered in the register.
- (3) A caveat may be restricted in operation by stating—
- (a) that specified types of documents are not prohibited from registration by the caveat; or
 - (b) that 1 or more of the types of documents referred to in subsection (5) are prohibited from registration by the caveat.
- (4) A caveat can not prohibit—
- (a) the registration of a writ or the lapsing, withdrawal, cancellation or removal of a writ; or
 - (b) the registration of a caveat or the lapsing, withdrawal or removal of a caveat; or
 - (c) the registration of an instrument executed by a mortgagee whose interest was registered before lodgment of the caveat; or
 - (d) a correction or alteration of the register by the registrar-general under section 107C (2), 160, 161 or 162A.
- (5) Unless a caveat states that it prohibits 1 or more of the following types of registration, those registrations are not prohibited:
- (a) registration of the survivor of joint proprietors under section 55;
 - (b) registration of the vesting of an interest in land under section 68;
 - (c) registration of the resumption and withdrawal of land under section 87B;

- (d) registration of the discharge of a mortgage or encumbrance under section 101;
 - (e) registration of an easement under section 103B;
 - (f) registration of the extinguishment of an easement under section 103E;
 - (g) registration of the variation of an easement under section 103F;
 - (h) registration of an incorporeal right under section 103G;
 - (i) registration of the extinguishment of an incorporeal right under section 103H;
 - (j) registration of a transmission by bankruptcy or insolvency under section 132;
 - (k) registration of a transmission by death to an executor, executrix, administrator or administratrix under section 135;
 - (l) registration of new or additional trustees under section 138A;
 - (m) registration of a declaration by an executor or executrix under section 138B;
 - (n) registration of an instrument executed by a lessor whose interest was registered before the caveat if the lessor has power under the lease to execute the instrument.
- (6) Every such caveat shall state the name and address of the caveator, and shall contain a sufficient description to identify the land and the interest therein claimed by the caveator, and, except in case of caveats lodged by order of the court or by the registrar-general, as in this Act provided, shall be signed by the caveator or by his or her legal practitioner or agent in the ACT.
- (7) No such caveat shall be received unless some address or place within the ACT is specified in the caveat as the address for service of notices and proceedings relating to the caveat.

(8) In this section:

court includes the Family Court of Australia and any other court having jurisdiction under the *Family Law Act 1975* (Cwlth).

104A Entering caveat in register

(1) The registrar-general shall enter in the register a caveat that—

- (a) does not require a material correction, alteration or addition; and
- (b) otherwise complies on its face with the requirements of this Act.

Note 1 A fee may be determined under s 139 (Determination of fees, charges and other amounts) for lodgment of a caveat.

Note 2 If a form is approved under s 140 (Approved forms) for a caveat, the form must be used.

(2) Other than for the purpose of determining that a caveat complies with subsection (1), the registrar-general is not required to determine the validity of the caveator's claim.

104B Withdrawal of caveats

A caveat may be withdrawn—

- (a) by the caveator or his or her legal practitioner; or
- (b) where the caveator so authorises in writing—by the agent of the caveator; or
- (c) where the interest claimed in the caveat was, in the caveat, claimed to be held by 2 or more caveators as joint tenants and 1 of those caveators is dead—by the surviving caveator or caveators, as the case requires; or
- (d) where the caveator is dead and paragraph (c) does not apply—by the executor or executrix of the will, or the administrator or administratrix of the estate, of the caveator; or

- (e) where the interest claimed in the caveat has vested, pursuant to a law in force in the ACT relating to bankruptcy, in the official trustee in bankruptcy, in a trustee or in any other person—by the official trustee in bankruptcy, that trustee or that other person, as the case requires.

105 Notice of caveat

- (1) Upon the receipt of a caveat, the registrar-general shall notify the receipt to the person against whose application to be registered as proprietor, or, as the case may be, to the registered proprietor against whose title to deal with land under this Act the caveat has been lodged.
- (2) A person who—
 - (a) is an applicant or registered proprietor referred to in subsection (1);
 - (b) has a registered interest in the land; or
 - (c) has an interest in the land under a memorandum of transfer or other instrument registrable under this Act;may apply to the court, on notice to the caveator, for an order that the caveat be removed.
- (3) The court or judge, upon proof that the caveator has been given notice of the application for the order, may make such order in relation to the land, either *ex parte* or otherwise, as to the court or judge seems fit.
- (4) In this section:
court includes the Family Court of Australia and any other court having jurisdiction under the *Family Law Act 1975* (Cwlth).

105A Surrender and regrant of lease of land affected by caveat

- (1) This section applies, subject to any order of the court, if—
 - (a) a caveat has been registered in relation to land; and
 - (b) the caveat has not lapsed or been removed; and
 - (c) the lease of the land is surrendered by the lessee and a new lease of the land comprised in the surrendered lease is granted to the lessee.
- (2) The operation or effect of the caveat is not affected by the surrender of the lease and the grant of the new lease.
- (3) If the registrar-general makes a record in the register of the grant of the new lease, the registrar-general must also make a record of the caveat in relation to the new lease.

106 Caveat lapsing

- (1) Except in the case of a caveat lodged—
 - (a) by a settlor; or
 - (b) by or on behalf of a beneficiary claiming under a will or settlement; or
 - (c) by the registrar-general;

a caveat lodged against a registered proprietor shall, unless the court otherwise orders, lapse 14 days after the date of a notice to the caveator that application has been made for the registration of a document in respect of the land or interest to which the caveat relates.
- (2) On the registration of the document, in respect of which the notice referred in subsection (1) has been given, the lapsed caveat shall be deemed to be reinstated.
- (3) Subsection (2) applies even though the lease of land to which the caveat related has been surrendered by the lessee, if a new lease of the land comprised in the surrendered lease is granted to the lessee.

- (4) In this section:

court includes the Family Court of Australia and any other court having jurisdiction under the *Family Law Act 1975* (Cwlth).

107 Removal of caveat

- (1) A registered proprietor to whose interest in land a caveat relates may apply to the registrar-general to have the caveat removed.

Note 1 A fee may be determined under s 139 (Determination of fees, charges and other amounts) for lodgment of an application to remove a caveat.

Note 2 If a form is approved under s 140 (Approved forms) for an application, the form must be used.

- (2) On receipt of an application under subsection (1), the registrar-general shall—

- (a) give notice of the application to the caveator; and
- (b) not less than 14 days from the date of service of the notice, remove the caveat from the register, unless the court otherwise orders.

- (3) If the registrar-general believes on reasonable grounds that the caveator's interest has been extinguished by the transfer of the whole of the registered proprietor's interest to another person, the registrar-general may—

- (a) give notice to the caveator that he or she believes that the caveator's interest has been extinguished and that he or she intends to remove the caveat from the register; and
- (b) not less than 14 days from the date of service of the notice, remove the caveat from the register, unless within that time—
 - (i) the caveator shows to the satisfaction of the registrar-general that his or her interest has not been extinguished; or
 - (ii) the court otherwise orders.

107A Effect on dealings

- (1) While a caveat remains in force prohibiting the registration of a document, the registrar-general shall not register the document, unless—
 - (a) the court otherwise orders; or
 - (b) the caveator consents in writing to the registration of that document.
- (2) Subsection (1) does not operate to prohibit the registration of a document lodged in registrable form before the caveat was lodged.

107B Removal of caveat by registrar-general

Where the registrar-general is satisfied that a caveator has acquired, by registration of a memorandum of transfer or other document, the whole of the land or interest in respect of which the caveat is lodged, the registrar-general may remove the caveat from the register, unless the court otherwise orders.

107C Successive caveats

- (1) Where a caveat has been removed by the registrar-general in accordance with section 107 (2), the registrar-general shall not enter on the register any subsequent caveat affecting the same land or interest by the same person, or for the same purpose, except by order of the court.
- (2) Where a subsequent caveat of the kind referred to in subsection (1) has been entered on the register, other than by order of the court, the registrar-general may—
 - (a) give notice to the caveator that the caveat will be removed; and
 - (b) not less than 14 days after the date of service of the notice, remove the caveat from the register, unless the court otherwise orders.

108 Compensation for lodging caveat without reasonable cause

Any person lodging any caveat with the registrar-general without reasonable cause shall be liable to make to any person who has sustained damage thereby such compensation as is just, and the compensation shall be recoverable in an action at law by the person who has sustained damage from the person who lodged the caveat.

Division 10.5 Determinations under Rates and Land Rent (Relief) Act 1970

108A Certain documents under Rates and Land Rent (Relief) Act 1970 to be instruments affecting land

- (1) Subject to subsection (2), a notice of a determination made under the *Rates and Land Rent (Relief) Act 1970*, section 3, and a memorandum of discharge under that Act, section 18, shall, on being presented to the registrar-general for registration under this Act each be deemed to be, for this Act, an instrument affecting the land referred to in the notice.
- (2) Section 67 does not apply to or in relation to a notice or memorandum referred to in subsection (1).

108B Effect of registration of determination

A notice of a determination made under the *Rates and Land Rent (Relief) Act 1970*, section 3 shall, when registered under this Act, have effect as a charge securing the payment to the Territory of an amount equal to the amount for which the person to whom the determination relates becomes, whilst the determination remains in force, indebted to the Territory under that Act and the payment to the Territory of interest payable under that Act, section 4 (3) or 16, or both.

108C Registration of memorandum of discharge

Upon the production to the registrar-general of a memorandum of discharge under the *Rates and Land Rent (Relief) Act 1970*, the registrar-general shall—

- (a) register the memorandum; and
- (b) make an entry in the register noting that the charge created by the registration of the notice of the determination referred to in the memorandum is discharged.

Part 11

Implied covenants and short forms of covenants

109 Effect of covenant

- (1) A covenant whether expressly contained in any instrument or implied therein under this Act shall be deemed to be made with the covenantee, his or her heirs, executors, executrices, administrators, administratrices and assigns, and shall have effect accordingly.
- (2) A covenant whether express or implied under this Act made with 2 or more jointly to pay money or to do any other act to them or for their benefit shall be deemed to include, and shall by virtue of this Act imply, an obligation to do the act to or for the benefit of the survivor or survivors of them and to or for the benefit of any other person to whom the right to sue on the covenant devolves.
- (3) This section applies only if and as far as a contrary intention is not expressed in the instrument and shall have effect subject to the instrument.

110 Covenants by person with self and another or others

A covenant mentioned in section 109 made by a person with himself or herself and another or others shall be construed and be capable of being enforced in like manner as if the covenant had been made with the other or others.

111 Implied covenants to be joint and several

Where a covenant is implied under this Act and more persons than 1 are covenantors such covenant shall be deemed to bind the covenantors and any 2 or greater number of them jointly and each of them severally.

112 Implied covenants may be modified or negated

- (1) Every covenant and power to be implied in any instrument by virtue of this Act may be negated, varied or extended by express declaration in the instrument or endorsed thereon.
- (2) Any such covenant or power so varied or extended shall, so far as may be, operate in the like manner and with all the like incidents, effects and consequences as if the variations or extensions were implied under this Act.
- (3) In any pleading in an action for a supposed breach of any such covenant, the covenant alleged to be broken may be set forth, and it shall be lawful to allege that the party against whom the action is brought did so covenant precisely in the same manner as if the covenant had been expressed in words in the memorandum of transfer or other instrument, any law or practice to the contrary notwithstanding.
- (4) Every such implied covenant or power shall have the same force and effect, and may be enforced in the same manner as if it had been set out at length in the instrument.

113 Benefit of implied covenants

The benefit of a covenant implied under this Act shall be annexed and incident to, and shall go with, the interest of the implied covenantee, and shall be capable of being enforced by every person in whom that interest is for the whole or any part thereof from time to time vested.

114 Construction of implied covenants and provisions

In the construction of a covenant or proviso or other provision implied by virtue of this Act, words importing the singular or plural number or the masculine gender shall be read as also importing the plural or singular number or as extending to females as the case requires.

115 Implied covenants with mortgagees

In any memorandum of mortgage and in any memorandum of transfer of mortgage where there are more mortgagees or transferees than 1, any implied covenant with them shall be deemed to be a covenant with them jointly in equity as well as at law, unless the amount secured is expressed to be secured to them in shares or distinct sums, in which latter case the implied covenant with them shall be deemed to be a covenant with each severally in respect of the share or distinct sum secured to him or her.

116 General covenants to be implied in instruments

In every instrument creating or transferring any interest in land under this Act there shall be implied a covenant by the party creating or transferring the interest that he or she will do such acts and execute such instruments as, in accordance with this Act, are necessary to give effect to all covenants, conditions and purposes expressly set forth in the instrument, or by this Act declared to be implied against the party in instruments of a like nature.

117 Transferring of land subject to mortgage, encumbrance or charge to indemnify transferor

- (1) In every instrument, transferring an interest in land under this Act, subject to mortgage or encumbrance, there shall be implied the following covenant by the transferee:

That the transferee will pay the interest, or annuity, or rent charge secured by the mortgage or encumbrance after the rate and at the time specified in the instrument creating the mortgage or encumbrance, and will indemnify and keep harmless the transferor from and against the principal sum secured by the instrument, and from and against all liability in respect of any of the covenants therein contained, or by this Act implied on the part of the transferor.

- (2) In every instrument transferring an interest in land under this Act subject to a charge securing the payment of an amount to the Territory under section 108B, there shall be implied the following covenant by the transferee:

That the transferee will pay to the Territory the amount secured by the charge on the land and will indemnify and keep harmless the transferor against the amount secured by the charge, and from and against all liability in respect of the failure by the transferor to pay the amount secured by the charge within the period of 1 month after the transfer.

118 Covenant implied in mortgage

In every memorandum of mortgage there shall be implied against the mortgagor a covenant that he or she will keep all buildings or other improvements erected and made upon the land in as good and substantial repair as they were in at the date of the mortgage, and that the mortgagee may, at all convenient times, until the mortgage is discharged, be at liberty, with or without surveyors or others, to enter into, and upon, the land to view and inspect the state of repair of the buildings and improvements.

119 Covenants of lessees

- (1) In every memorandum of lease there shall be implied the following covenants by the lessee with the lessor:
- (a) that the lessee will pay the rent thereby reserved at the time therein mentioned:

Provided, however, that in case the leased premises or any part thereof are at any time during the continuance of the lease destroyed or damaged by fire, flood, lightning, storm or tempest so as to render the premises unfit for the occupation and use of the lessee, then and so often as the premises or any part thereof are so destroyed or damaged, the rent thereby reserved, or a proportionate part thereof, according to the nature and extent of

the damage sustained shall abate, and all or any remedies for recovery of the rent or such proportionate part thereof shall be suspended until the premises have been rebuilt or made fit for the occupation and use of the lessee, and in case of any dispute arising under this proviso the dispute shall be referred to arbitration under the laws in force in the ACT relating to arbitration; and

- (b) that the lessee will at all times during the continuance of the lease, keep and, at the termination thereof, yield up the premises in good and tenantable repair, having regard to their condition at the commencement of the lease, accidents and damage from fire, flood, lightning, storm and tempest, and reasonable wear and tear excepted.

- (2) This section does not apply to a land sublease.

120 Powers in lessor

- (1) In every memorandum of lease there shall be implied the following powers in the lessor:
 - (a) that the lessor may by himself or herself or his or her agents, twice in every year during the term at a reasonable time of the day upon giving to the lessee 2 days previous notice, enter upon the leased premises and view the state of repair thereof, and may serve upon the lessee or leave at his or her last or usual place of abode in the ACT or upon the premises, a notice in writing of any defect, requiring him or her within a reasonable time, to repair the premises in accordance with any covenant expressed or implied in the lease;
 - (b) that in default of the lessee repairing any defect according to notice the lessor may from time to time enter the premises and execute the required repairs;

- (c) that the lessor may, by himself or herself or his or her agents, at all reasonable times during the term, with workers and others and all necessary materials and appliances, enter upon the premises or any part thereof, for the purpose of complying with the terms of any present or future legislation affecting the premises, and of any notices served upon the lessor or lessee by any competent authority involving the destruction of pest plants or pest animals, or the carrying out of any repairs, alterations or works of a structural character, which the lessee is not bound, or, if bound, neglects to do, and also for the purpose of exercising the powers and authorities of the lessor under the lease:

Provided that the destruction, repairs, alterations and works shall be carried out by the lessor without undue interference with the occupation and use of the premises by the lessee;

- (d) that in case the rent or any part thereof is in arrear for the space of 1 month (although no formal demand therefor has been made), or in case default is made in the fulfilment of any covenant, condition or stipulation, whether expressed or implied in the lease, and on the part of the lessee to be performed or observed, and the default is continued for the space of 2 months, or in case the repairs required by a notice served or left in pursuance of paragraph (a), are not completed within the time therein specified, the lessor may re-enter upon the premises (or any part thereof in the name of the whole) and thereby determine the estate of the lessee therein, but without releasing the lessee from liability in respect of the breach or nonobservance of any such covenant, condition or stipulation.

(2) This section does not apply to a land sublease.

(3) In this section:

pest animal—see the *Pest Plants and Animals Act 2005*, dictionary.

pest plant—see the *Pest Plants and Animals Act 2005*, dictionary.

121 Abbreviated forms of words for covenants in leases

Such of the covenants set forth in this section as are expressed in any memorandum of lease as to be implied shall, if expressed in the form of words in this section appointed and prescribed for the case of each such covenant respectively, be so implied as fully and effectually as if those covenants were set forth fully and in words at length in the instrument:

- (a) the words ‘will insure’ shall imply as follows: will insure, and, so long as the term expressed in the lease has not expired, will keep insured, in the name of the lessor, in some public insurance office, to be approved by the lessor, against loss or damage by fire, to the full amounts specified in the lease, or, if no amount be specified, then to their full value, all buildings, tenements or premises erected on the land which are of a nature or kind capable of being insured against loss or damage by fire, and that the lessee will at the request of the lessor hand over to and deposit with him or her the policy of every such insurance and produce to him or her the receipt and receipts for the annual or other premiums payable on account thereof, and also that all moneys to be received under or by virtue of any such insurance shall in the event of loss or damage by fire be laid out and expended in making good the loss or damage:

Provided that if default is made in the observance or performance of the covenant last abovementioned, the lessor may without prejudice to and concurrently with the powers granted him or her by his or her memorandum of lease or by this Act provided, insure the building; and the costs and charges of the insurance shall, until the lease expires, be a charge upon the land recoverable in like manner as rent in arrear;

- (b) the words ‘will paint outside every alternate year’ shall imply as follows: will in every alternate year during the currency of the lease, paint all the outside woodwork and ironwork belonging to the hereditaments and premises mentioned in the lease with 2 coats of proper oil colours in a workmanlike manner;
- (c) the words ‘will paint and paper inside every third year’ shall imply as follows: will in every third year during the currency of the lease paint the inside, wood, iron and other works, now or usually painted with 2 coats of proper oil colours in a workmanlike manner, and also repaper with paper of a quality as at present such parts of the premises as are now papered, and also wash, stop, whiten or colour such parts of the premises as are now washed, stopped, whitened or coloured respectively;
- (d) the words ‘will fence’ shall imply as follows: will, during the continuance of the lease, erect and put up on the boundaries of the land therein mentioned, or upon such boundaries upon which no substantial fence now exists, a good and substantial fence;
- (e) the words ‘will cultivate’ shall imply as follows: will, at all times during the lease, cultivate, use and manage all such parts of the land therein mentioned as are or shall be broken up or converted into tillage in a proper and husbandmanlike manner, and will not impoverish or waste the land;
- (f) the words ‘that the lessee will not use the premises as a shop’ shall imply as follows: that the lessee will not convert, use or occupy the hereditaments and premises mentioned in the lease or any part thereof into or as a shop, warehouse or other place for carrying on any trade or business whatsoever, or permit or suffer the hereditaments and premises or any part thereof to be used for any such purpose or otherwise than as a private dwelling house without the consent in writing of the lessor;

- (g) the words ‘that he or she will not carry on offensive trades’ shall imply as follows: that no noxious noisome or offensive art, trade, business, occupation or calling shall, at any time during the term of the lease, be used, exercised, carried on, permitted or suffered in or upon the hereditaments and premises abovementioned, and that no act, matter or thing whatsoever shall, at any time during the term of the lease, be done in or upon the hereditaments and premises or any part thereof which shall or may be or grow to the annoyance, nuisance, grievance, damage or disturbance of the occupiers or owners of the adjoining lands and hereditaments;
- (h) the words ‘will not without leave assign or sublet’ shall imply as follows: will not, during the term of the lease, assign, transfer, demise, sublet or set over, or otherwise by any act or deed procure the lands or premises therein mentioned or any of them or any part thereof to be assigned, transferred, demised, sublet or set over unto any person whomsoever without the consent in writing of the lessor first had and obtained;
- (i) the words ‘will not cut timber’ shall imply as follows: will not cut down, fell, injure or destroy any growing or living timber or timberlike trees standing and being upon the hereditaments and premises abovementioned without the consent in writing of the lessor.

122 **Abbreviated form in mortgage**

Whenever in any memorandum of mortgage the mortgagor employs the following form of words, namely, ‘that the mortgagor will insure’ that form of words shall imply the following covenant by the mortgagor:

That the mortgagor will insure, and, so long as the principal money and interest secured by the mortgage or any part thereof remains unpaid or the term expressed in the mortgage has not expired, will keep insured, in the name of the mortgagee, in some public insurance

office to be approved by the mortgagee, against loss or damage by fire, to the full amounts specified in the mortgage, or, if no amount be specified, then to their full value, all buildings tenements or premises erected on the land which are of a nature or kind capable of being insured against loss or damage by fire, and that the mortgagor will at the request of the mortgagee hand over and deposit with the mortgagee the policy of every such insurance, and produce to the mortgagee receipt and receipts for the annual or other premiums payable on account thereof, and also that all moneys to be received under or by virtue of any such insurance, shall, in the event of loss or damage by fire, be laid out and expended in making good such loss or damage:

Provided that if default is made in the observance or performance of the covenants last abovementioned, the mortgagee may, without prejudice to and concurrently with the powers granted him or her by his or her memorandum of mortgage or by this Act provided, insure the building; and the costs and charges of the insurance shall, until the mortgage is discharged, be a charge upon the land recoverable in like manner as interest in arrear.

123 Pt 11 not to apply to Crown leases

This part shall not apply to Crown leases but shall apply to mortgages and subleases of Crown leases.

123A Pt 11 not to apply to residential tenancy agreements

Notwithstanding section 123, this part does not apply to a residential tenancy agreement within the meaning of the *Residential Tenancies Act 1997* to which that Act applies.

123B Pt 11 does not apply to leases under Leases (Commercial and Retail) Act

Despite section 123, this part does not apply to a lease to which the *Leases (Commercial and Retail) Act 2001* applies.

Part 11A Building management statements

123C Definitions—pt 11A

In this part:

approved means approved by the planning and land authority under section 123I.

building management committee means a building management committee mentioned in section 123F (1) (a).

building management statement—see section 123D (2).

parties, to a building management statement—see section 123E (1).

registered building management statement means a building management statement registered by the registrar-general under section 123D.

123D Building management statement may be registered

- (1) This section applies if there is more than 1 Crown lease granted for a building.
- (2) The registrar-general may register a statement about how the building as a whole and the common facilities of the building will be managed between the lessees under each Crown lease (a *building management statement*).
- (3) The registrar-general may only register a building management statement, or an amendment to the statement, if the statement or the amendment is approved.
- (4) If the registrar-general registers a building management statement, the registrar-general must register the statement, and any amendment to the statement, for each Crown lease to which the statement applies.

- (5) On registration of the building management statement for 2 or more Crown leases, the owner of a lease (a *benefited lease*) has against the owner of another lease (the *burdened lease*) the following easement rights that are necessary for the reasonable use and enjoyment of the benefited lease:
- (a) rights of support, shelter and protection (including rights for shelter provided by encroaching eaves, awnings or similar structures)—
 - (i) provided by the burdened lease at the time of the registration of the building management statement, or at the time of the latest amendment (if any) of the building management statement after its registration; and
 - (ii) that will be provided by the burdened lease on compliance by its owner with a building and development provision (if any) in the lease of the burdened lease;
 - (b) rights to utility services, and to their provision by any reasonable form of utility conduit (including rights for the collection, passage and drainage of rainwater by encroaching eaves, gutters, downpipes or similar structures);
 - (c) all ancillary rights necessary to make the rights mentioned in paragraphs (a) and (b) effective, including a right of entry by the owner of the benefited lease at all reasonable times on the burdened lease for the inspection and maintenance of—
 - (i) any structure on the burdened lease; and
 - (ii) facilities for any utility service on the burdened lease; and
 - (iii) any utility conduit on the burdened lease.

123E Effect of building management statement

- (1) A registered building management statement, as amended from time to time, has effect as an agreement under seal containing the covenants mentioned in subsection (2) between the following (the *parties*):
 - (a) if a part of the building is subject to a units plan under the *Unit Titles Act 2001*—the owners corporation for the units plan;
 - (b) each lessee (who is not a lessee under the units plan mentioned in paragraph (a)) of any part of the building or its site affected by the statement;
 - (c) any mortgagee in possession or sublessee of any part of the building, or site of the building, the subject of the statement.
- (2) The covenants for an agreement mentioned in subsection (1) are covenants by the parties to jointly and severally—
 - (a) carry out their obligations under the building management statement; and
 - (b) permit the carrying out of those obligations.
- (3) The agreement no longer has a binding effect on a person if the person is no longer a person mentioned in subsection (1).
- (4) Subsection (3) does not prejudice or affect any obligation incurred by a person, or any right that accrued to a person, under the agreement while the agreement had effect in relation to the person.
- (5) A registered building management statement has no effect so far as it is inconsistent with—
 - (a) a condition imposed, before the registration of the statement, on any development approval under the *Planning and Development Act 2007* relating to the building or its site affected by the statement; or

- (b) an environmental authorisation or environmental protection order under the *Environment Protection Act 1997* relating to the building or its site affected by the statement; or
- (c) this or any other territory law.

123F Formal requirements for building management statement

- (1) A building management statement must set out the following:
 - (a) the establishment of a committee (the *building management committee*) consisting of each party to the statement;
 - (b) the establishment and appointment of office holders for the implementation of the statement;
 - (c) the functions of the building management committee and the office holders;
 - (d) a process for resolving disputes between the parties to the statement;
 - (e) a process for amending the statement;
 - (f) the allocation of the costs of shared expenses relating to parts of the building, including the basis for that allocation on a user pays, lease value or other basis;
 - (g) a process for reviewing the allocation of the costs mentioned in paragraph (f) to ensure that the allocation of costs remains fair, including as a minimum—
 - (i) at least 1 review every 5 years; and
 - (ii) a review as soon as practicable after any change in the shared facilities or services or the use of the shared facilities or services;
 - (h) if a party to the statement is an owners corporation mentioned in section 123E (1) (a)—an arrangement to insure the building in accordance with the requirements prescribed by regulation;

- (i) an address and process for serving documents on the building management committee;
 - (j) any other matter relating to the content of the statement prescribed by regulation.
- (2) A building management statement may also include provision for any of the following:
- (a) safety and security measures for the building;
 - (b) the appointment of a managing agent for the building as a whole;
 - (c) measures for the control of unacceptable noise levels consistent with the terms of the leases in relation to which the statement is registered and any noise management plan;
 - (d) service contracts for waste and other services;
 - (e) an architectural maintenance code to preserve the appearance of the building;
 - (f) easements for the building;
 - (g) the operation, maintenance or renovation of the building structure as a whole including lift wells and utility conduits;
 - (h) the operation, maintenance or renovation of the common facilities of the building;
 - (i) access to the common facilities of the building;
 - (j) insurance for the building in addition to the insurance arrangement mentioned in subsection (1) (h);
 - (k) any other matter related to the management of the building.
- (3) For subsection (1) (h), all parties to the building management statement are taken to have an insurable interest in the building to the extent of the replacement value of the building.

123G Building management committee—procedure

Unless the building management statement explicitly provides otherwise, a building management committee must comply with the following:

- (a) the committee must meet at least once a year;
- (b) each committee member must be given at least 7 days notice of the scheduled meeting of the committee;
- (c) a meeting of the committee must not proceed without a majority of members being present;
- (d) a decision of the committee is valid only if it is a decision of the majority of members present and voting at the meeting where the decision is made;
- (e) any other committee procedure prescribed by regulation.

123H Amendment of building management statement

- (1) A registered building management statement may be amended only if the amendment is—
 - (a) supported by each of the parties to the statement; or
 - (b) required by an order of a court or the ACAT.
- (2) An amendment to a registered building management statement is not binding on the parties unless it is registered under section 123D.

123I Planning and land authority approval of building management statement

- (1) The parties to a building management statement may make an application to the planning and land authority for approval of the statement or an amendment to the statement.

- (2) The planning and land authority must approve the building management statement or the amendment to the statement if satisfied that—
- (a) the statement, or the statement as amended, complies with the requirements of this part; and
 - (b) the application relates to a single building or single set of physically related buildings with no, or limited, external open space.
- (3) For subsection (2) (b), the planning and land authority must take into account whether—
- (a) the leases correspond to attached or semi-detached buildings; and
 - (b) the leases are limited wholly or partly by height or depth; and
 - (c) the common property is above or below a separate lease; and
 - (d) if the application relates to a single set of physically related buildings—
 - (i) the buildings are physically integrated, for example, through underground car parking or physical overpasses or similar building structures; and
 - (ii) the buildings make use of physically integrated common facilities, for example, lifts and underground car parking; and
 - (e) the amount of open space is limited relative to the building or set of buildings.

Examples—open space

- lawns and gardens
- internal roads

Part 12 Trusts

124 No notice of trusts to be entered in register

- (1) The registrar-general must not make an entry in the register of any notice of trust or declaration of trust in relation to an interest in land, whether express, implied or constructive if the trust creates or affects an interest in land.
- (2) Trusts may be declared by any document, which document may include both, land under this Act, and land that is not under this Act.
- (3) The description of the several parcels of lands contained in the document shall sufficiently distinguish the land which is under this Act from the land which is not under the provisions thereof, and a duplicate or an attested copy of the document may be deposited with the registrar-general for safe custody and reference, but shall not be registered.
- (4) When any such document or duplicate or attested copy thereof is so lodged, the registrar-general shall forthwith enter in the folio of the register comprising the land referred to in the document a caveat forbidding the registration of any instrument not in accordance with the trusts and provisions therein declared and contained so far as concerns the land affected by the document.
- (5) The caveat may be removed on the application of the same person and in the same manner as is provided in section 105.

125 Grants may be registered although trusts declared

Nothing in this Act shall be deemed to prevent the registration of any Crown grant by reason of the fact that a trust is declared in the grant.

128 Registrar-general to carry out order of court vesting trust estate

- (1) Whenever any person interested in land under this Act, appears to the court or the judge thereof to be a trustee of the land within the intent and meaning of any law or Act relating to trustees then in force in the ACT, and any order is made in the premises by the court or judge, the registrar-general on being served with an office copy of the order shall enter in the register the date of the order, the date and hour of its service and the name and residence of the person in whom the order purports to vest the land, and that person shall thereupon be deemed to be the registered proprietor of the land.
- (2) Unless and until that entry is made, the order shall have no effect or operation in transferring or otherwise vesting the land.
- (3) In this section:

court includes the Family Court of Australia and any other court having jurisdiction under the *Family Law Act 1975* (Cwlth).

Part 13 Powers of attorney

130 Powers of attorney

- (1) The registered proprietor of any land or interest under this Act may, by executing a power of attorney, authorise and appoint a person to act for and on his or her behalf in respect of the transfer or other dealing with the land or interest in accordance with this Act.
- (2) An instrument executed under a power of attorney must not be registered under this Act unless the power of attorney has been registered under the *Registration of Deeds Act 1957*.

Part 14 Transmissions

132 Transmission by bankruptcy or insolvency

- (1) Upon the bankruptcy or insolvency of the registered proprietor of any land or interest under this Act, the assignee or trustee of the bankrupt or insolvent shall be entitled to be registered as proprietor in respect of the land or interest.
- (2) The registrar-general, upon the receipt of an office copy of the appointment of the assignee or trustee, accompanied by an application in writing under his or her hand to be so registered in respect of any land or interest of the bankrupt or insolvent therein specified and described, shall enter in the register, upon the folio of the register for the land affected, a memorandum notifying the appointment of the assignee or trustee.

Note 1 A fee may be determined under s 139 (Determination of fees, charges and other amounts) for lodgment of an application for transmission on bankruptcy or insolvency.

Note 2 If a form is approved under s 140 (Approved forms) for an application, the form must be used.

- (3) Upon the entry being made, the assignee or trustee shall be deemed and taken to be the registered proprietor of the interest of the bankrupt or insolvent in the land, and shall hold the land or interest subject to the equities upon and subject to which the bankrupt or insolvent held the land or interest, but for the purpose of any dealings with the land or interest under this Act the assignee or trustee shall be deemed to be the absolute proprietor thereof.

133 Mortgagee of leasehold interest of bankrupt may be entered as transferee of lease

- (1) Upon the bankruptcy or insolvency of the registered proprietor of any lease subject to mortgage under this Act, the registrar-general, upon the application in writing of the mortgagee accompanied by a statement in writing signed by the assignee or trustee of the bankrupt or insolvent certifying his or her refusal to accept the lease, shall enter in the register the particulars of the refusal, and the entry shall operate as a foreclosure, and the interest of the bankrupt or insolvent in the lease shall thereupon vest in the mortgagee.
- (2) If the mortgagee neglects or declines to make the application mentioned in subsection (1), the registrar-general, upon application by the lessor, and proof of the neglect or refusal and of the matters mentioned in subsection (1), shall enter in the register notice of the neglect or refusal of the assignee or trustee to accept the lease, and the entry shall operate as a surrender of the lease.

135 Transmission on death of proprietor

- (1) On the death of a registered proprietor, the executor, executrix, administrator, administratrix or other person claiming to be entitled to be registered as proprietor may apply to the registrar-general to be registered as proprietor of all or part of the interest of that deceased proprietor.
- (2) An application shall be supported by—
 - (a) evidence of the grant of administration or such other evidence of the applicant's claim as he or she is able to produce; and

- (b) where the applicant claims otherwise than as executor, executrix, administrator, administratrix or trustee—evidence of the consent of the executor, executrix, administrator, administratrix or trustee of the deceased proprietor, unless the registrar-general dispenses with that consent.

Note 1 A fee may be determined under s 139 (Determination of fees, charges and other amounts) for lodgment of an application for transmission on death of proprietor.

Note 2 If a form is approved under s 140 (Approved forms) for an application, the form must be used.

- (3) Where the registrar-general is not satisfied that the evidence provided with an application is sufficient to support the application he or she may request the applicant to produce further specified evidence.
- (4) Where the registrar-general is satisfied, on the basis of the evidence produced under subsection (2) or (3), that the applicant is entitled to be registered as proprietor, the registrar-general shall register the applicant as proprietor of the relevant interest.
- (5) Where, pursuant to an application, a person is registered as proprietor with the consent of another person given under subsection (2) (b), the person who has given the consent shall be deemed to have become registered as proprietor, immediately before the registration of the applicant as proprietor, of the land specified in the application and to have transferred that land to the applicant.
- (6) In this section:

grant of administration means—

- (a) a grant of probate, or of letters of administration, under the [Administration and Probate Act 1929](#); or
- (b) a grant of an order to collect and administer under section 88 of that Act; or
- (c) an election to administer under section 87C of that Act; or

- (d) a corresponding grant or election under a law in force in a State or another Territory.

136 Trusts—protection

- (1) A person registered as proprietor under section 135 (not being a person entitled beneficially to the relevant interest) shall hold that interest in trust for the persons for whom, and purposes for which, that interest is applicable by law.
- (2) For the purposes of executing any instrument affecting land in respect of which a person is registered under section 135, that person shall be deemed to be absolute proprietor.

138A Appointment of new or additional trustees

- (1) Where any land or interest under this Act is held by a trustee, either solely or jointly with other trustees, and—
 - (a) the trustee vacates his or her office and a new trustee is appointed in his or her place or the vacancy is not filled; or
 - (b) an additional trustee is appointed to hold the land or interest jointly with the existing trustees;

the registrar-general, upon receipt of the instrument effecting the vacancy or appointing the new or additional trustee, or of an office copy thereof, or of a copy thereof verified by affidavit, or upon production of such other evidence as the registrar-general thinks sufficient, and upon being satisfied that the vacation of office or the new or additional appointment, as the case may be, is in accordance with law, shall, subject to this Act, enter in the folio of the register for the land, a memorandum setting forth the fact of the vacation of the office or of the new or additional appointment, as the case may require.

- (2) Upon the entry being made, the new trustee, the continuing trustees, or the continuing trustees and the new trustee or the additional trustee, as the case may be, shall be deemed to be the registered proprietor or proprietors of the land or interest, and as such to be subject to this Act as if he or she or they were the trustee or trustees originally registered as proprietor or proprietors of the land or interest.
- (3) In this section:

trustee includes an assignee or trustee of a bankrupt or insolvent registered proprietor, and an executor or administrator of the estate of a deceased proprietor.

138B Registration of declaration by executor

Any instrument by which an executor declares that he or she holds as trustee or beneficiary, as the case may be, may be registered by the registrar-general and the registrar-general shall, after such evidence is given as he or she requires, and after notice is given to such persons as he or she directs, enter, vary, or withdraw caveats, as the case requires, and make such entry in the register as is necessary.

Note A fee may be determined under s 139 (Determination of fees, charges and other amounts) for lodgment of a declaration.

Part 15 Fees and forms

139 Determination of fees, charges and other amounts

- (1) The Minister may determine fees, charges or other amounts for the following Acts or in relation to the exercise of a function of the registrar-general relating to the register that is not expressly provided for in any of the following Acts:
- (a) this Act;
 - (b) the *Community Title Act 2001*;
 - (c) the *Districts Act 2002*;
 - (d) the *Duties Act 1999*;
 - (e) the *Land Titles (Unit Titles) Act 1970*;
 - (f) the *Retirement Villages Act 2012*.

Examples—matters for which the Minister may determine fees etc

- 1 Lodgment of any document affecting land, or any other document, whether or not expressly provided for in any Act.
- 2 Issue or acceptance of any document or form (whether approved or otherwise) by the registrar-general in the exercise of a function of the registrar-general in relation to the register, whether or not the function is expressly provided for in any Act.
- 3 Inspection of the register.
- 4 Inspection of a document held by the registrar-general that affects land.
- 5 Examination by the registrar-general of a document printed without the registrar-general's seal.

Note The *Legislation Act 2001* contains provisions about the making of determinations and regulations relating to fees, charges and other amounts (see pt 6.3).

- (2) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

140 Approved forms

- (1) The registrar-general may approve forms for the following Acts:
 - (a) this Act;
 - (b) the *Community Title Act 2001*;
 - (c) the *Duties Act 1999*;
 - (d) the *Land Titles (Unit Titles) Act 1970*;
 - (e) the *Retirement Villages Act 2012*.
- (2) Without limiting subsection (1), the registrar-general may, in writing, approve forms for any document (including an application and a memorandum) that may be registered or entered on the register, whether or not the registration or entry is expressly provided for in this or any other Act.
- (3) If the registrar-general approves a form for a particular purpose, the approved form must be used for that purpose.
- (4) An approved form is a notifiable instrument.

Note A notifiable instrument must be notified under the *Legislation Act 2001*.

Part 16 Civil rights and remedies

143 Damages in certain cases

In any case where a person against whom proceedings have been taken under section 154—

- (a) ceases, under section 154 (5), to be liable for the payment of damages; or
- (b) being liable for damages under that section, is dead, bankrupt or insolvent, or cannot be found within the jurisdiction;

the damages with costs of action may be recovered by action against the Territory.

144 Damages and costs to be paid by Territory

If in any action under section 143 or 155 the plaintiff recovers final judgment against the Territory, the court before which the action is tried shall certify the fact of the judgment and the amount of damages and costs recovered, and the amount of the damages and costs shall be paid by the Territory to the person recovering them.

145 Moneys paid by Territory may be recovered against estate of deceased or bankrupt person

- (1) Whenever any amount has been paid by the Territory on account of any person who is dead, that amount may be recovered by the Territory from the estate of that person by action against his or her personal representatives.

- (2) Whenever any such amount has been paid on account of a person who is insolvent or bankrupt, the amount so paid shall be considered to be a debt due from the estate of the insolvent or bankrupt and a certificate signed by a person thereto authorised in writing by the Minister certifying the fact of the payment and delivered to the official assignee or trustee of the insolvent or bankrupt shall be sufficient proof of the debt.

146 Where person liable is out of jurisdiction

- (1) Whenever any amount has been paid by the Territory, on account of any person who has absconded or who cannot be found within the jurisdiction and has left any real or personal estate within the jurisdiction the court or the judge thereof, upon the application of a person thereto authorised in writing by the Minister and upon the production of a certificate signed by the person so authorised certifying that the amount has been paid in satisfaction of a judgment against the Territory may allow the Territory to sign judgment against that person forthwith for the amount so paid together with the costs of the application.
- (2) The judgment shall be final and signed in like manner as a final judgment by confession or default in an adverse suit, and execution may issue immediately.
- (3) If the person against whom judgment has been signed has not left real or personal estate within the jurisdiction sufficient to satisfy the amount for which execution has been issued under subsection (2), the Territory may recover the amount or the unrecovered balance thereof by action against that person at any time thereafter when he or she is within the jurisdiction.

147 Territory only liable in certain cases

The Territory shall not, under any circumstances, be liable for compensation for any loss, damage or deprivation occasioned—

- (a) by the breach by a registered proprietor of any trust whether express, implied or constructive; or
- (b) by any land being included in the same entry in the folio of the register with other land through misdescription of boundaries or parcels of any land, unless it is proved that the person liable for compensation and damages is dead or has absconded or is insolvent or bankrupt, or the proper officer of the court certifies that that person is unable to pay the full amount awarded in any action for recovery of the compensation and damages.

148 Proprietor may summon registrar-general to show cause if dissatisfied

- (1) If, upon the application of any proprietor to have land brought under this Act, or to have any dealing or transmission registered or recorded, or to have any certificate of title, foreclosure, order, instrument or document issued, or to have any act or duty done or performed which, by this Act or the regulations, is required to be done or performed by the registrar-general, the registrar-general refuses so to do, or if the proprietor is dissatisfied with the direction upon his or her application given by the registrar-general as in the foregoing provisions of this Act provided, the proprietor may require the registrar-general to set forth in writing under his or her hand the grounds of his or her refusal or the grounds upon which the direction was given, and the proprietor may, if he or she think fit, summon the registrar-general to appear before the court to substantiate and uphold the grounds of his or her refusal or of the direction, as the case may be.

- (2) The summons shall be issued under the hand of the judge of the court and served upon the registrar-general 6 clear days at least before the day appointed for hearing the complaint of the proprietor, and upon the hearing the registrar-general or his or her legal practitioner shall have the right of reply.
- (3) The court shall, if any question of fact be involved, direct an issue to be tried to decide the fact, and the court shall thereupon make such order in the premises as in its judgment the circumstances of the case require, and the registrar-general shall obey the order.

149 Special case when applicant dissatisfied with objection of registrar-general

- (1) If any objection to the title of land sought to be brought under this Act is made by the registrar-general, which the applicant deems not well founded, he or she may state a case for the decision of the court.
- (2) The decision of the court shall be binding upon the registrar-general, but shall not affect the claim of any person under section 143 or 155, or the right of the applicant to proceed under section 148.
- (3) To every such case there shall be annexed such observations as the registrar-general thinks proper to make.

150 Registrar-general may state case for court

The registrar-general, whenever any question arises with regard to the performance of any duties or the exercise of any of the functions by this Act conferred or imposed upon him or her, may state a case for the opinion of the court, and thereupon the court may give its judgment thereon, and that judgment shall be binding upon the registrar-general.

151 Costs of proceedings

The court may make such order as it thinks just as to the costs and expenses of and attendant upon any summons or proceeding under section 148, 149 or 150, and all costs and expenses to be paid by the registrar-general under the order shall be paid by the Territory.

152 Registered proprietor protected against ejectment except in certain cases

- (1) No action of ejectment or other action for the recovery of any land shall lie or be sustained against the person registered as proprietor thereof under this Act, except in any of the following cases:
 - (a) the case of a mortgagee as against a mortgagor in default;
 - (b) the case of an encumbrancee as against an encumbrancer in default;
 - (c) the case of the Territory as against the person registered as proprietor of the land if the land is subject to a charge by reason of section 108B and the person is in default in payment of the whole or any part of the amount secured by the charge;
 - (d) the case of a lessor as against a lessee in default;
 - (e) the case of a person deprived of any land by fraud as against the person registered as proprietor of the land through fraud, or as against a person deriving otherwise than as a transferee bona fide for value from or through a person so registered through fraud;
 - (f) the case of a person deprived of, or claiming, any land included in the register as an interest in other land by misdescription of that other land, or of its boundaries, as against the registered proprietor of that other land not being a transferee thereof bona fide for value;

- (g) the case of a registered proprietor claiming under a title prior in date of registration under this Act, in any case in which 2 or more interests may be registered under this Act in respect of the same land.
- (2) In any case, other than those mentioned in subsection (1), the production of a current certified extract from the register showing all interests affecting the land, shall be held in every court to be an absolute bar and estoppel to any such action against the person named in the document or instrument as seized of or as registered proprietor or lessee of the land therein described, any rule of law or equity to the contrary notwithstanding.

153 In case of ejectment of defendant who has made improvements their value may be assessed

- (1) Whenever an action is brought against a registered proprietor in either of the last 2 cases excepted in section 152, if the defendant or any person through whom he or she claims has made improvements on the land since obtaining a registered title thereto, then, whether he or she admits or denies the plaintiff's title, he or she may plead the fact of the improvements being made, and may set a value thereon, and also on the land as distinct therefrom, and also give evidence thereof at the trial.
- (2) If the court finds for the plaintiff or the plaintiff's title is admitted, the court must assess the value of the claimed improvements, and must also separately assess the value that the land would have had if the improvements had not been made.
- (3) No writ of possession shall issue in any such case unless the plaintiff first pays into court for the use of the defendant the value of the improvements so assessed, deducting only the costs (if any) to which he or she is entitled in the action.

- (4) If the plaintiff fails to make that payment within 3 months after verdict, the judgment to which he or she is entitled shall thereafter be limited to the sum separately assessed, as the value of the land together with costs of suit, and the defendant shall upon satisfaction thereof be entitled to retain the land and improvements.
- (5) In every case in which the defendant is entitled to indemnity from the Territory, the Territory shall be made a codefendant, and may defend the action either severally or jointly, or may leave the defence wholly to the Territory, as he or she thinks fit.
- (6) In no case shall the Territory be liable to the principal defendant for any greater damages than he or she actually sustains as the result of the action, after using all reasonable diligence in the defence thereof.

154 Compensation for party deprived of land

- (1) Any person deprived of land or of any interest in land—
 - (a) in consequence of fraud; or
 - (b) through the bringing of the land under this Act; or
 - (c) by the registration of any other person as proprietor of the land or interest; or
 - (d) in consequence of any error, omission or misdescription in any grant or in any entry or memorial in the register;may bring and prosecute an action for the recovery of damages.
- (2) The action shall, in any case in which the land has been included in 2 or more grants, be brought and prosecuted against the Territory.
- (3) The action shall in any other case, but subject to subsections (4) and (5), be brought and prosecuted against the person—
 - (a) upon whose application the land was brought under this Act; or
 - (b) upon whose application the erroneous registration was made; or

- (c) who acquired title to the interest in question through the fraud, error, omission or misdescription.
- (4) In every case in which the fraud, error, omission or misdescription occurs upon a transfer for value, the transferor receiving the value shall be regarded as the person upon whose application the transfer was made to the transferee.
- (5) Except in the case of fraud or of error occasioned by any omission, misrepresentation or misdescription in his or her application, or in any instrument executed by him or her, the person upon whose application the land was brought under this Act, or the erroneous registration was made, shall, upon a transfer of the land bona fide for value, cease to be liable for the payment of any damages which might have been recovered from him or her under this section.

155 When actions may lie against registrar-general as nominal defendant

Any person sustaining loss or damages through any omission, mistake or misfeasance of the registrar-general or any of his or her officers or clerks in the execution of their respective duties under this Act, or by the registration of any other person as proprietor of land, or by any error, omission or misdescription in any grant or any entry or memorial in the register, and who by this Act is barred from bringing an action of ejectment or other action for the recovery of the land or interest may, in any case in which the remedy by action for recovery of damages as provided in this part is inapplicable, bring an action against the Territory for recovery of damages.

156 Notice of action

- (1) This section applies if—
 - (a) there is a proceeding against the Territory to recover damages under section 143 (Damages in certain cases) or section 155 (When actions may lie against registrar-general as nominal defendant); and

- (b) either—
 - (i) judgment is given for the defendant; or
 - (ii) the plaintiff ends the proceeding.
- (2) The plaintiff is liable to pay the defendant's full costs of defending the proceeding.

158 Registrar-general not to be liable for acts done bona fide

The Territory or the registrar-general shall not, nor shall any person acting under its or his or her authority, be liable to any action, suit or proceeding for or in respect of any act or matter bona fide done or omitted to be done under this Act.

159 Purchasers and mortgagees protected

Nothing in this Act shall be so interpreted as to leave subject to action for recovery of damages, as provided in this part, or to action of ejectment, or to deprivation of the interest in respect of which he or she is registered proprietor, any purchaser or mortgagee bona fide for valuable consideration of land under this Act on the plea that his or her vendor or mortgagor was registered as proprietor, or procured the registration of the transfer or mortgage to the purchaser or mortgagee, through fraud or error, or has derived from or through a person registered as proprietor through fraud or error, and this whether the fraud or error consists in wrong description of the boundaries or of the parcels of any land or otherwise howsoever.

Part 17 Corrections and alterations

160 Correction of errors

- (1) The registrar-general may—
 - (a) on application by the registered proprietor of an interest in land or the registered proprietor's legal practitioner; and
 - (b) subject to any order of the court;correct an error in the register in accordance with subsection (5).
- (2) Where the register is found to contain an error that is an accidental slip or omission, the registrar-general shall—
 - (a) subject to any order of the court, correct the register in accordance with subsection (5); or
 - (b) where he or she considers it necessary—
 - (i) notify each person who appears from the register to have an interest in the land to which the error relates, that the registrar-general intends to make a specified correction after a specified date, being a date not less than 14 days after the date of the notice; and
 - (ii) request that person's consent or other comment in relation to the making of the correction.
- (3) A person notified under subsection (2) (b) may apply, within 14 days of the date of the notice, to the court for an order directing the registrar-general not to make the correction.
- (4) Where the registrar-general takes action under subsection (2) (b), he or she may, subject to any order of the court, correct the register in accordance with subsection (5) after considering any response provided under subsection (2) (b) (ii).

- (5) A correction shall—
- (a) be made in such a manner as to preserve the record and show that a correction has been made and the date on which it was made; and
 - (b) be authorised by the registrar-general.
- (6) No correction shall be made under this section that would affect rights acquired by an entry in the register in reliance on the uncorrected register.
- (7) The registrar-general may apply to the court for directions in relation to a possible error in the register.

161 Power of court

- (1) In any proceedings in which the correctness or otherwise of the register is in issue, the court may require the registrar-general to correct the register or direct the registrar-general not to do so.
- (2) In any proceedings in the court in relation to—
- (a) any land; or
 - (b) any transaction, contract or application relating to land; or
 - (c) any instrument, memorial or other entry affecting land;
- the court may, by order, direct the registrar-general—
- (d) to correct, record, substitute, issue or cancel any certificate or memorial, or to correct, record, substitute, make or cancel any entry in the register, notwithstanding that the relevant duplicate certificate has not been produced to the registrar-general; or
 - (e) otherwise to do any acts and make any entries that are necessary to give effect to any judgment or order of the court given or made in those proceedings;
- and the registrar-general shall give effect to such a direction.

- (3) An order made under subsection (2) is not effective to vest a registrable interest in any person before the appropriate entry is made in the register.

162A Amend or alter name or address entered in register

The registrar-general shall—

- (a) on receipt of a written request made by a person whose name is entered in the register or his or her legal practitioner; and
- (b) on production of any further evidence required by the registrar-general;

amend or alter the name or address entered in the register in relation to that person.

Part 18 Notification and review of decisions

163 Definitions—pt 18

In this part:

applicant means a party making an application under section 123I (Planning and land authority approval of building management statement).

reviewable decision means a decision of the planning and land authority to refuse to approve a building management statement, or an amendment to a statement, under section 123I.

163A Reviewable decision notices

If the planning and land authority makes a reviewable decision, the authority must give a reviewable decision notice to the applicant in relation to the decision.

Note 1 The planning and land authority must also take reasonable steps to give a reviewable decision notice to any other person whose interests are affected by the decision (see [ACT Civil and Administrative Tribunal Act 2008](#), s 67A).

Note 2 The requirements for reviewable decision notices are prescribed under the [ACT Civil and Administrative Tribunal Act 2008](#).

164 Applications for review

The following may apply to the ACAT for review of a reviewable decision:

- (a) the applicant;
- (b) any other person whose interests are affected by the decision.

Note If a form is approved under the [ACT Civil and Administrative Tribunal Act 2008](#) for the application, the form must be used.

Part 19 Miscellaneous

165 Offence for certain fraudulent acts

- (1) If any person—
- (a) fraudulently procures, assists in fraudulently procuring or is privy to the fraudulent procuring of any instrument, or of any entry in the register, or of any erasure or alteration in any entry in the register, or in any instrument or form issued, approved or otherwise sanctioned by the registrar-general; or
 - (b) fraudulently uses, assists in fraudulently using, or is privy to the fraudulent using of any form purporting to be approved or otherwise sanctioned by the registrar-general; or
 - (c) knowingly misleads or deceives any person authorised by this Act to demand explanation or information in respect of any land or the title to any land which is the subject of any application to bring the land under this Act, or in respect of which any dealing or transmission is proposed to be registered or recorded; or
 - (d) knowingly makes any false statement in any document produced to the registrar-general;

he or she commits an offence.

Maximum penalty:

- (a) for paragraph (a)—100 penalty units, imprisonment for 1 year or both; or
 - (b) for paragraph (b), (c) or (d)—50 penalty units, imprisonment for 6 months or both.
- (2) Any instrument, entry, erasure or alteration so procured or made by fraud, shall be void as between all parties or privies to the fraud.

166 Conviction not to affect civil remedy

No proceeding in respect of or conviction of any offence under this Act shall affect any remedy to which any person aggrieved or injured by the offence may be entitled against the person who has committed the offence, or against his or her estate.

167 Prosecutions and recovery of penalties

Except where otherwise expressly provided in this Act, all offences against this Act may be prosecuted, and all penalties or sums of money imposed or declared to be due or owing by or under this Act may be sued for and recovered, in the name of the registrar-general before any court having jurisdiction for punishment of offences of the like nature or for the recovery of penalties or sums of money of the like amount.

168A Document bearing imprint of seal of registrar-general

- (1) A person shall not cause to be printed a document bearing a representation of the imprint of the seal of the registrar-general except with the approval of the registrar-general.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) An approval referred to in subsection (1) shall be in writing and shall specify the contents of the document to which the approval relates and the number of copies of the document that the person may print.

170 Sales by order of court etc

- (1) No writ of fieri facias or other writ of execution shall bind, charge or affect any land or interest under this Act, but whenever any land or any interest in land under this Act is seized or sold under any direction, decree or order of the court the registrar-general, on being served with an office copy of the writ, direction, decree or order, as the case may be, shall enter in the folio of the register relating to that land or interest the date of the writ, direction, decree or order, and the date and hour of the production thereof.
- (2) After the entry the person authorised by the court to seize or sell the land or interest shall do such acts and execute such instruments as under this Act are necessary to transfer or otherwise to deal with the interest.
- (3) Unless and until the entry has been made no such writ shall bind or affect any land under this Act or any interest therein, nor shall any sale or transfer thereunder be valid as against a purchaser or mortgagee notwithstanding the writ was actually in the hands of the proper officer of the court at the time of any purchase or mortgage, or notwithstanding the purchaser or mortgagee had actual or constructive notice of the issue of the writ.
- (4) Subsection (3) applies to and in relation to land subject to a charge securing the payment of an amount to the Territory under section 108B in the same manner and to the same extent as if the notice of the determination made under the *Rates and Land Rent (Relief) Act 1970*, section 3 in respect of the land were a mortgage securing the payment to the Territory of an amount equal to the amount for the time being secured by the charge.
- (5) Upon production to the registrar-general of sufficient evidence of the satisfaction of any writ so entered, he or she shall enter in the register a memorandum to that effect, and the writ shall be deemed to be satisfied accordingly.

- (6) No writ of execution shall bind any land under this Act, nor shall any transfer on a sale of the land under the writ be registered, unless a true copy of the writ is served on the registrar-general within 6 months from the teste date of the writ, or date of any renewal thereof, for the purpose of making the entries described in this section.
- (7) Every such writ shall be deemed to have lapsed unless it is executed and put in force within 3 months from the day on which it was entered in the register.
- (8) In this section:

writ of execution means a writ or warrant of execution after judgment in any court, and includes an enforcement order under the rules under the *Court Procedures Act 2004*.

170A Surrender and regrant of lease of land affected by writ

- (1) This section applies, subject to any order of the court, if—
 - (a) in relation to a writ of fieri facias or other writ of execution, an entry has been made in the register in relation to land; and
 - (b) the lease of the land is surrendered by the lessee and a new lease of the land comprised in the surrendered lease is granted to the lessee.
- (2) The operation or effect of the writ is not affected by surrender of the lease and the grant of the new lease.
- (3) The registrar-general must make an entry in the register, in relation to the writ, in relation to the new lease.
- (4) In this section:

writ of execution means a writ or warrant of execution after judgment in any court, and includes an enforcement order under the rules under the *Court Procedures Act 2004*.

171 Conditions of sale of land under Act

- (1) Under a contract for the purchase of land under this Act the purchaser shall be entitled, at the cost of the vendor—
- (a) to receive from the vendor sufficient particulars of title to enable him or her to prepare the appropriate instrument to give effect to the contract; and
 - (b) to receive from the vendor an abstract of any document or instrument forming part of the vendor's title in respect of which a caveat is entered upon the register; and
 - (c) to have any objection to the registration of the instrument removed by the vendor:

Provided that, as to any such objection which the purchaser ought to have raised on the particulars or abstract, or upon the investigation of the title, or which arises from his or her own act, default or omission, he or she shall not be entitled to have it removed except at his or her own cost.

- (2) This section applies only if and as far as a contrary intention is not expressed in the contract, and shall have effect subject to the terms of the contract, and to the provisions therein contained.

173 Attesting of instruments

An instrument executed under this Act shall be attested by 1 witness, being an adult who is not a party to the dealing.

Note The execution of an instrument lodged for registration by a legal practitioner or mortgagee corporation is not required to be witnessed because certification for the instrument is given (see s 48BD and E-Conveyancing Law, s 11).

178 Service of notices

- (1) The registrar-general shall cause a copy of each notice required by this Act to be served on, or given or sent to, a person, to be filed with a memorandum of the notice having been so served, given or sent and the memorandum shall be sufficient proof that the notice was duly served, given or sent.
- (2) When all reasonable efforts have been made to serve, give or send a notice on or to a person in accordance with this Act and the person cannot be located, or the registered letter containing the notice has been returned, the registrar-general may—
 - (a) cause a further notice to be served, given or sent; or
 - (b) cause substituted service to be effected; or
 - (c) proceed without notice.

178A Registrar-general may collect information

- (1) This section applies to information the Territory is required to provide to the commissioner for taxation under the *Taxation Administration Act 1953* (Cwlth), schedule 1, section 396-55.

Note Under that section, the Territory must give the commissioner for taxation information about the transfer of a freehold or leasehold interest in real property situated in the Territory.

- (2) The registrar-general is authorised to—
 - (a) collect the information; and
 - (b) give the information to the Commissioner for Taxation under the *Taxation Administration Act 1953* (Cwlth), section 4.
- (3) The registrar-general must not include on the register any information that is collected only under this section.
- (4) The registrar-general must not keep any information collected under this section for longer than 5 years.

178B Registrar-general must give information about certain transactions and instruments to revenue commissioner

- (1) This section applies if any of the following transactions or instruments are lodged, or are required to be lodged, for registration:
 - (a) a transfer of dutiable property;
 - (b) a grant of a Crown lease;
 - (c) a grant of a declared land sublease;
 - (d) a transaction or instrument prescribed by regulation.
- (2) The registrar-general is authorised to collect the following information in relation to the transaction or instrument:
 - (a) the date any agreement in relation to the transaction or instrument was first executed;
 - (b) the date any agreement in relation to the transaction or instrument was completed;
 - (c) the date the transaction or instrument was executed;
 - (d) the date the transaction or instrument was registered;
 - (e) the name of the person lodging the transaction or instrument for registration;
 - (f) the dutiable value of the property that is the subject of the transaction or instrument;
 - (g) the location of the property;
 - (h) whether the property is vacant land or land with improvements;
 - (i) whether the property is or will be used for commercial purposes, residential purposes or the purposes of primary production;
 - (j) the purchaser's name;
 - (k) any details prescribed by regulation about the proof of identity for the purchaser;

- (l) the kind of entity the purchaser is;

Examples—entity

trust, trustee, corporation, individual, government

- (m) if the purchaser is a trustee—the name of the trust administered by the purchaser;
- (n) if the purchaser is a corporation—
- (i) the place where the purchaser is incorporated; and
 - (ii) the place where the purchaser is registered; and
 - (iii) if the purchaser is incorporated in Australia—the purchaser’s ACN and ABN; and
 - (iv) if the purchaser is a foreign company—the unique identifying number given to the company for identification;
- (o) whether the purchaser holds the property as a joint tenant, tenant in common, sole proprietor or tenant in common in unequal shares;
- (p) the name of the vendor, transferor or lessor;
- (q) the GST payable in relation to the transaction or instrument;
- (r) the percentage of the interest in the property that is transferred to the purchaser;
- (s) whether the purchaser has applied, or intends to apply, for deferred duty under the *Duties Act 1999*, section 75AB;
- (t) details of any concessions or exemptions from duty applying to the transaction or instrument;
- (u) the following details for the purchaser:
- (i) a telephone number;
 - (ii) an email address;

- (iii) a home address or other address for service of notices by the commissioner for revenue;
 - (v) if the purchaser has an agent—the agent’s name and email address.
- (3) The registrar-general must give any information collected under subsection (2) to the commissioner for revenue.

Note The Territory privacy principles apply to the registrar-general and the commissioner for revenue (see [Information Privacy Act 2014](#), sch 1).

- (4) The registrar-general must not include in the register information that is collected only under this section.

Note Some information mentioned in s (2) that is collected under other provisions of this Act may be included in the register.

- (5) In this section:

commercial lease with premium—see the [Duties Act 1999](#), section 6A.

commercial purposes—see the [Duties Act 1999](#), section 6.

declared land sublease—see the [Planning and Development Act 2007](#), section 312C.

dutiable property—see the [Duties Act 1999](#), section 10.

dutiable value—see the [Duties Act 1999](#), section 20.

first executed, for an instrument—see the [Duties Act 1999](#), section 243.

foreign company—see the [Corporations Act](#), section 9.

incorporated in Australia, in relation to a purchaser that is a corporation—see the [Corporations Act](#), section 9.

primary production—see the [Duties Act 1999](#), section 6.

purchaser, in relation to a transaction or instrument mentioned in subsection (1), means a purchaser, transferee or lessee.

179 Regulation-making power

The Executive may make regulations for this Act.

Note Regulations must be notified, and presented to the Legislative Assembly, under the [Legislation Act 2001](#).

Part 20 Transitional

180 Savings of titles with words ‘no survivorship’ endorsed

Despite the repeal of sections 126 and 127 of this Act made by the *Land Titles (Amendment) Act 1995*, section 126 (2) (so far as it requires the sanction of the court or the judge for any dealings) and section 127 continue to apply to a registered title that on 19 June 1996 had the words ‘no survivorship’ endorsed on it.

Schedule 1

(see s 81)

Creation of right of carriageway in transfer of freehold land

Together with full and free right and liberty to and for the transferee hereunder and to and for the registered proprietor or proprietors for the time being of the land hereby transferred or any part thereof, and his or her tenants, servants, agents, workers and visitors to go, pass and repass at all times hereafter and for all purposes and either with or without horses or other animals, carts or other carriages into and out of and from the said land or any part thereof through, over and along the road or way or several roads or ways delineated and coloured brown on the said map.

Creation of right of carriageway in lease of land

Together with full and free right and liberty to and for the said lessee and his or her transferees and his or her tenants, servants, agents, workers and visitors to go, pass and repass at all times hereafter during the continuance of this lease and for all purposes and either with or without horses or other animals, carts or other carriages into and out of and from the said land or any part thereof, through, over and along the road or way or several roads or ways delineated and coloured brown on the said map.

Dictionary

(see s 2)

Note 1 The [Legislation Act](#) contains definitions and other provisions relevant to this Act.

Note 2 For example, the [Legislation Act](#), dict, pt 1, defines the following terms:

- ACAT
- ACT
- change
- civil partnership
- civil union
- Commonwealth
- corporation
- Corporations Act
- estate
- exercise
- fail
- function
- GST
- home address
- instrument (see s 14)
- interest
- land
- penalty unit (see s 133)
- registrar-general
- territory lease
- under.

administrative interest—see section 69A.

applicant, for part 18 (Notification and review of decisions)—see section 163.

approved, for part 11A (Building management statements)—see section 123C.

authorised entity, for part 8A (Record of administrative interests)—see section 69B.

building management committee, for part 11A (Building management statements)—see section 123F (1) (a).

building management statement, for part 11A (Building management statements)—see section 123D (2).

building sublease—see the [Planning and Development Act 2007](#), dictionary.

caveator means the person by whom or on whose behalf a caveat has been lodged under this Act.

computer folio means a folio of the register that is kept or maintained in or on a computer.

court means the Supreme Court or any other court having jurisdiction in relation to the matters mentioned in this Act.

Crown land includes all land belonging to the Commonwealth.

Crown lease means—

- (a) a territory lease; and
- (b) includes a lease granted by the Commonwealth or the Federal Capital Commission.

declared land sublease—see the [Planning and Development Act 2007](#), section 312C.

E-Conveyancing Law means the Electronic Conveyancing National Law (ACT).

Note The [Electronic Conveyancing National Law \(ACT\) Act 2020](#), s 6 applies the Electronic Conveyancing National Law set out in the appendix to the [Electronic Conveyancing \(Adoption of National Law\) Act 2012](#) (NSW), as if it were an ACT law called the [Electronic Conveyancing National Law \(ACT\)](#).

encumbrance means any charge on land created for the purpose of securing the payment of an annuity or sum of money other than a debt.

encumbrancee means the proprietor of an encumbrance.

encumbrancer means the proprietor of any land or of any interest in land subject to an encumbrance.

Federal Capital Commission means the Federal Capital Commission under the *Seat of Government (Administration) Act 1924* (Cwlth) (repealed).

grant means the grant by the Crown of land for a term of years, and includes—

- (a) a grant by or in the name of the Commonwealth or by the Federal Capital Commission; and
- (b) the grant of a new lease over part of the land in a surrendered lease.

instrument includes a transfer, a lease, a land sublease, a building sublease, an endorsement on a lease under section 86, a memorandum of surrender of a lease, a memorandum of mortgage, a memorandum of encumbrance, a memorandum of provisions, a memorandum of easement, and any other document that is required or permitted by a Territory or Commonwealth law to be lodged with the registrar-general for registration under this Act, but does not include a caveat, a grant or a Crown lease.

land sublease—see the *Planning and Development Act 2007*, dictionary.

lodge means deposit for registration in the registrar-general's office.

memorandum of provisions means a memorandum registered under section 103A.

memorial means a notation, entered in the register, or endorsed on a document.

mortgage means any charge on land created merely for securing a debt.

mortgagee means the proprietor of a mortgage.

mortgagee corporation means a mortgagee that is a corporation.

mortgagor means the proprietor of land or of any interest in land pledged as security for a debt.

parties, to a building management statement, for part 11A (Building management statements)—see section 123E (1).

proprietor means a person seized or possessed of, or entitled to, land, at law or in equity.

register means the register kept under section 43.

registered building management statement, for part 11A (Building management statements)—see section 123C.

registrable form, for an instrument—see section 4.

reviewable decision, for part 18 (Notification and review of decisions)—see section 163.

transfer means the passing of any interest in land under this Act whether for valuable consideration or otherwise.

transmission means the acquirement of title to or interest in land consequent on the death, will, intestacy, bankruptcy, insolvency, marriage, civil union or civil partnership of a proprietor.

units plan—see the [Unit Titles Act 2001](#), dictionary.

verification of authority rules—see section 48BF (1).

verification of identity rules—see section 48BE (1).

Endnotes

1 About the endnotes

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

2 Abbreviation key

A = Act	NI = Notifiable instrument
AF = Approved form	o = order
am = amended	om = omitted/repealed
amdt = amendment	ord = ordinance
AR = Assembly resolution	orig = original
ch = chapter	par = paragraph/subparagraph
CN = Commencement notice	pres = present
def = definition	prev = previous
DI = Disallowable instrument	(prev...) = previously
dict = dictionary	pt = part
disallowed = disallowed by the Legislative Assembly	r = rule/subrule
div = division	reloc = relocated
exp = expires/expired	renum = renumbered
Gaz = gazette	R[X] = Republication No
hdg = heading	RI = reissue
IA = Interpretation Act 1967	s = section/subsection
ins = inserted/added	sch = schedule
LA = Legislation Act 2001	sdiv = subdivision
LR = legislation register	SL = Subordinate law
LRA = Legislation (Republication) Act 1996	sub = substituted
mod = modified/modification	<u>underlining</u> = whole or part not commenced or to be expired

3 Legislation history

This Act was originally a Commonwealth ordinance—the *Real Property Ordinance 1925* No 1 (Cwlth).

The *Australian Capital Territory (Self-Government) Act 1988* (Cwlth), s 34 (4) converted most former Commonwealth ordinances in force in the ACT into ACT enactments. This allowed the ACT Legislative Assembly to amend and repeal the laws. This Act was converted into an ACT enactment on 11 May 1989 (self-government day).

As with most ordinances in force in the ACT, the name was changed from *Ordinance* to *Act* by the *Self-Government (Citation of Laws) Act 1989* A1989-21, s 5 on 11 May 1989 (self-government day). It was later renamed the *Land Titles Act 1925* by the *Land Titles (Amendment) Act 1995* (see s 5).

Before 11 May 1989, ordinances commenced on their notification day unless otherwise stated (see *Seat of Government (Administration) Act 1910* (Cwlth), s 12).

Legislation before becoming Territory enactment

Land Titles Act 1925 A1925-1

notified 21 May 1925 (Cwlth Gaz 1925 No 42)

pt 7 commenced 1 January 1957 (s 2 (2) (as am by *Ord1956-16* s 2))

remainder commenced 21 May 1925 (see *Seat of Government (Administration) Act 1910* (Cwlth), s 12)

as amended by

Real Property Ordinance (No 2) 1925 Ord1925-12

notified 26 November 1925 (Cwlth Gaz 1925 No 102)

commenced 26 November 1925 (see *Seat of Government (Administration) Act 1910* (Cwlth), s 12)

Real Property Ordinance 1926 Ord1926-8

notified 8 July 1926 (Cwlth Gaz 1926 No 64)

commenced 8 July 1926 (see *Seat of Government (Administration) Act 1910* (Cwlth), s 12)

Real Property Ordinance 1927 Ord1927-15

notified 14 July 1927 (Cwlth Gaz 1927 No 76)

commenced 14 July 1927 (see *Seat of Government (Administration) Act 1910* (Cwlth), s 12)

Real Property Ordinance (No 2) 1927 Ord1927-21

notified 24 December 1927 (Cwlth Gaz 1927 No 141)
s 13 taken to have commenced 21 May 1925 (s 13 (2))
remainder commenced 24 December 1927 (see *Seat of Government (Administration) Act 1910* (Cwlth), s 12)

Real Property Ordinance 1930 Ord1930-19

notified 16 October 1930 (Cwlth Gaz 1930 No 90)
commenced 16 October 1930 (see *Seat of Government (Administration) Act 1910* (Cwlth), s 12)

Real Property Ordinance 1933 Ord1933-26

notified 16 November 1933 (Cwlth Gaz 1933 No 64)
s 2 taken to have commenced 21 May 1925 (s 2 (2) and see *Real Property Ordinance 1925 Ord1925-1*)
remainder commenced 16 November 1933 (see *Seat of Government (Administration) Act 1910* (Cwlth), s 12)

Real Property Ordinance (No 2) 1933 Ord1933-34

notified 7 December 1933 (Cwlth Gaz 1933 No 67)
taken to have commenced 16 November 1933 (s 2)

Real Property Ordinance 1934 Ord1934-14

notified 17 May 1934 (Cwlth Gaz 1934 No 29)
commenced 17 May 1934 (see *Seat of Government (Administration) Act 1910* (Cwlth), s 12)

Real Property Ordinance 1936 Ord1936-15 (as am by Ord1937-27)

notified 30 April 1936 (Cwlth Gaz 1936 No 38)
commenced 30 April 1936 (see *Seat of Government (Administration) Act 1910* (Cwlth), s 12)

Ordinances Revision Ordinance 1937 Ord1937-27 sch 2

notified 23 December 1937 (Cwlth Gaz 1937 No 75)
commenced 23 December 1937 (see *Seat of Government (Administration) Act 1910* (Cwlth), s 12)

Real Property Ordinance 1938 Ord1938-15

notified 31 March 1938 (Cwlth Gaz 1938 No 19)
commenced 31 March 1938 (see *Seat of Government (Administration) Act 1910* (Cwlth), s 12)

Real Property Ordinance 1940 Ord1940-16

notified 8 August 1940 (Cwlth Gaz 1940 No 153)
commenced 8 August 1940 (see *Seat of Government (Administration) Act 1910* (Cwlth), s 12)

Real Property Ordinance 1942 Ord1942-15

notified 2 July 1942 (Cwlth Gaz 1942 No 183)
commenced 2 July 1942 (see *Seat of Government (Administration) Act 1910* (Cwlth), s 12)

Real Property Ordinance 1951 Ord1951-9

notified 20 September 1951 (Cwlth Gaz 1951 No 71)
commenced 20 September 1951 (see *Seat of Government (Administration) Act 1910* (Cwlth), s 12)

Real Property Ordinance 1956 Ord1956-16

notified 24 December 1956 (Cwlth Gaz 1956 No 77)
commenced 24 December 1956 (see *Seat of Government (Administration) Act 1910* (Cwlth), s 12)

Real Property Ordinance 1957 Ord1957-12

notified 21 November 1957 (Cwlth Gaz 1957 No 63)
commenced 21 November 1957 (see *Seat of Government (Administration) Act 1910* (Cwlth), s 12)

Real Property Ordinance 1961 Ord1961-7

notified 25 May 1961 (Cwlth Gaz 1961 No 45)
commenced 1 June 1961 (s 2)

Real Property Ordinance 1963 Ord1963-6

notified 4 April 1963 (Cwlth Gaz 1963 No 32)
commenced 4 April 1963 (see *Seat of Government (Administration) Act 1910* (Cwlth), s 12)

Real Property Ordinance 1967 Ord1967-46

notified 20 December 1967 (Cwlth Gaz 1967 No 108)
commenced 20 December 1967 (s 2 and see *Surveyors Ordinance 1967* Ord1967-34 and Cwlth Gaz 1967 No S108)

Real Property Ordinance 1969 Ord1969-9

notified 20 June 1969 (Cwlth Gaz 1969 No 50)
commenced 1 July 1969 (s 2)

Endnotes

3 Legislation history

Real Property Ordinance 1970 Ord1970-6

notified 26 February 1970 (Cwlth Gaz 1970 No 14)
commenced 26 February 1970 (see *Seat of Government (Administration) Act 1910* (Cwlth), s 12)

Real Property Ordinance 1972 Ord1972-11

notified 29 March 1972 (Cwlth Gaz 1972 No 25)
commenced 29 March 1972 (see *Seat of Government (Administration) Act 1910* (Cwlth), s 12)

Real Property Ordinance 1975 Ord1975-33

notified 7 October 1975 (Cwlth Gaz 1975 No S199)
commenced 27 January 1976 (s 2 and Cwlth Gaz 1976 No S13)

Ordinances Revision (Administrative Arrangements) Ordinance 1977 Ord1977-18

notified 21 June 1977 (Cwlth Gaz 1977 No S111)
commenced 21 June 1977 (see *Seat of Government (Administration) Act 1910* (Cwlth), s 12)

Real Property (Amendment) Ordinance 1977 Ord1977-47

notified 27 September 1977 (Cwlth Gaz 1977 No S206)
commenced 3 October 1977 (s 3)

Ordinances Revision Ordinance 1977 Ord1977-65

notified 22 December 1977 (Cwlth Gaz 1977 No S294)
commenced 22 December 1977 (see *Seat of Government (Administration) Act 1910* (Cwlth), s 12)

Real Property (Amendment) Ordinance 1978 Ord1978-24

notified 5 September 1978 (Cwlth Gaz 1978 No G35)
commenced 3 October 1978 (s 3)

Real Property (Amendment) Ordinance 1979 Ord1979-16

notified 29 June 1979 (Cwlth Gaz 1979 No S122)
commenced 1 July 1979 (s 3)

Real Property (Amendment) Ordinance 1980 Ord1980-13

notified 15 May 1980 (Cwlth Gaz 1980 No S99)
commenced 1 July 1980 (s 3)

Real Property (Amendment) Ordinance 1982 Ord1982-78

notified 1 October 1982 (Cwlth Gaz 1982 No S205)

commenced 1 October 1982 (see *Seat of Government (Administration) Act 1910* (Cwlth), s 12)

Real Property (Amendment) Ordinance (No 2) 1982 Ord1982-102

notified 31 December 1982 (Cwlth Gaz 1982 No S274)
commenced 31 December 1982 (see *Seat of Government (Administration) Act 1910* (Cwlth), s 12)

Real Property (Amendment) Ordinance 1983 Ord1983-39

notified 29 September 1983 (Cwlth Gaz 1983 No S226)
commenced 1 October 1983 (s 2)

Real Property (Amendment) Ordinance (No 2) 1983 Ord1983-68

notified 30 December 1983 (Cwlth Gaz 1983 No S349)
commenced 30 December 1983 (see *Seat of Government (Administration) Act 1910* (Cwlth), s 12)

Public Trustee (Miscellaneous Amendments) Ordinance 1985 Ord1985-9 sch 2

notified 8 March 1985 (Cwlth Gaz 1985 No S69)
commenced 28 October 1985 (s 2 and Cwlth Gaz 1985 No G42)

Limitation Ordinance 1985 Ord1985-66

notified 19 December 1985 (Cwlth Gaz 1985 No S542)
commenced 19 December 1985 (see *Seat of Government (Administration) Act 1910* (Cwlth), s 12)

Real Property (Amendment) Ordinance 1985 Ord1985-71

notified 19 December 1985 (Cwlth Gaz 1985 No S542)
commenced 1 January 1986 (s 2 and Cwlth Gaz 1985 No S538)

Real Property (Amendment) Ordinance 1986 Ord1986-22

notified 30 June 1986 (Cwlth Gaz 1986 No S315)
commenced 1 July 1986 (s 2 and Cwlth Gaz 1986 No S315)

Sex Discrimination (Miscellaneous Amendments) Ordinance 1986 Ord1986-31

notified 31 July 1986 (Cwlth Gaz 1986 No S375)
commenced 1 August 1986 (s 2)

Real Property (Amendment) Ordinance (No 2) 1986 Ord1986-44

notified 20 August 1986 (Cwlth Gaz 1986 No S411)
commenced 20 August 1986 (s 2 and Cwlth Gaz 1986 No S412)

Endnotes

3 Legislation history

Real Property (Amendment) Ordinance (No 3) 1986 Ord1986-88

notified 22 December 1986 (Cwlth Gaz 1986 No S664)
commenced 1 January 1987 (s 2 and Cwlth Gaz 1986 No S669)

Real Property (Amendment) Ordinance 1987 Ord1987-66

notified 25 November 1987 (Cwlth Gaz 1987 No S317)
taken to have commenced 1 August 1987 (s 2)

**Self-Government (Consequential Amendments) Ordinance 1989
Ord1989-38 sch 1**

notified 10 May 1989 (Cwlth Gaz 1989 No S160)
s 1, s 2 commenced 10 May 1989 (s 2 (1))
remainder commenced 11 May 1989 (s 2 (2) and see [Australian
Capital Territory \(Self-Government\) Act 1988](#) (Cwlth), s 2 (2) and Cwlth
Gaz 1989 No S164)

Legislation after becoming Territory enactment

Rates and Land Rent (Relief) (Amendment) Act 1991 A1991-22 s 11

notified 10 May 1991 (Gaz 1991 No S36)
commenced 10 May 1991 (see [Australian Capital Territory \(Self-
Government\) Act 1988](#) (Cwlth), s 25)

**Self-Government (Consequential Amendments) Act 1991 A1991-53
pt 2 div 7**

notified 2 October 1991 (Gaz 1991 No S98)
commenced 2 October 1991 (see [Australian Capital Territory \(Self-
Government\) Act 1988](#) (Cwlth), s 25)

**Land (Planning and Environment) (Consequential Provisions) Act
1991 A1991-118 pt 2 div 6, sch 1 pt 9**

notified 15 January 1992 (Gaz 1992 No S3)
s 1, s 2 commenced 15 January 1992 (s 2 (1))
pt 2 div 6, sch 1 pt 9 commenced 2 April 1992 (s 2 (2) and Gaz 1992
No 13)

Real Property (Amendment) Act 1992 A1992-3

notified 25 May 1992 (Gaz 1992 No S58)
ss 1-3 commenced 25 May 1992 (s 2 (1))
remainder commenced 5 June 1992 (s 2 and see Gaz 1992 No S80)

Acts Revision (Position of Crown) Act 1993 A1993-44 sch 2

notified 27 August 1993 (Gaz 1993 No S165)
commenced 27 August 1993 (s 2)

Registrar-General (Consequential Provisions) Act 1993 A1993-64 sch 1

notified 6 September 1993 (Gaz 1993 No S172)
s 1, s 2 commenced 6 September 1993 (s 2 (1))
sch 1 commenced 1 October 1993 (s 2 (2) and see Gaz 1993 No S207)

Real Property (Amendment) Act 1993 A1993-89

notified 17 December 1993 (Gaz 1993 No S258)
ss 1-3 commenced 17 December 1993 (s 2 (1))
remainder commenced 1 January 1994 (s 2 (2) and Gaz 1993 No S270)

Mental Health (Consequential Provisions) Act 1994 A1994-45 sch

notified 7 September 1994 (Gaz 1994 No S177)
s 1, s 2 commenced 7 September 1994 (s 2 (1))
sch commenced 6 February 1995 (s 2 (2) and see Gaz 1995 No S33)

Land Titles (Amendment) Act 1995 A1995-53

notified 20 December 1995 (Gaz 1995 No S313)
ss 1-3 commenced 20 December 1995 (s 2 (1))
remainder commenced 20 June 1996 (s 2 (3))

Land (Planning and Environment) (Amendment) Act 1997 A1997-7 s 13

notified 22 April 1997 (Gaz 1997 No S92)
ss 1-3 commenced 22 April 1997 (s 2 (1))
s 13 commenced 24 June 1997 (s 2 (2))

Legal Practitioners (Consequential Amendments) Act 1997 A1997-96 sch 1

notified 1 December 1997 (Gaz 1997 No S380)
s 1, s 2 commenced 1 December 1997 (s 2 (1))
sch 1 commenced 1 June 1998 (s 2 (2))

Endnotes

3 Legislation history

Residential Tenancies (Consequential Provisions) Act 1998 A1998-4 sch

notified 25 May 1998 (Gaz 1998 No S150)
sch commenced 25 May 1998 (s 2)

Statute Law Revision (Penalties) Act 1998 A1998-54 sch

notified 27 November 1998 (Gaz 1998 No S207)
s 1, s 2 commenced 27 November 1998 (s 2 (1))
sch commenced 9 December 1998 (s 2 (2) and Gaz 1998 No 49)

Duties (Consequential and Transitional Provisions) Act 1999 A1999-8 s 32

notified 1 March 1999 (Gaz 1999 No S8)
s 32 commenced 1 March 1999 (s 2 (2))

Rates and Land Rent (Relief) Amendment Act 2000 A2000-79 sch 1

notified 21 December 2000 (Gaz 2000 No S69)
s 4, s 5 commenced 1 July 2000 (s 2 (2))
remainder commenced 21 December 2000 (s 2 (1))

Statute Law Amendment Act 2000 A2000-80 amdt 3.10

notified 21 December 2000 (Gaz 2000 No S69)
amdt 3.10 commenced 21 December 2000 (s 2 (1))

Land Titles Legislation Amendment Act 2000 A2000-82 pt 2

notified 21 December 2000 (Gaz 2000 No S69)
pt 2 commenced 21 December 2000 (s 2)

Surveyors (Consequential Amendments) Act 2001 A2001-3 sch 1

notified 8 March 2001 (Gaz 2001 No 10)
s 1, s 2 commenced 8 March 2001 (IA s 10B)
sch 1 commenced 26 July 2001 (S 2 and Gaz 2001 No 30)

Leases (Commercial and Retail) Act 2001 A2001-18 s 173

notified 19 April 2001 (Gaz 2001 No 16)
s 1, s 2 commenced 19 April 2001 (IA s 10B)
s 173 commenced 1 July 2002 (s 2)

Legislation (Consequential Amendments) Act 2001 A2001-44 pt 212

notified 26 July 2001 (Gaz 2001 No 30)
s 1, s 2 commenced 26 July 2001 (IA s 10B)
pt 212 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

Community Title Act 2001 A2001-58 s 99, s 100

notified 10 September 2001 (Gaz 2001 No S66)
s 1, s 2 commenced 10 September 2001 (IA s 10B)
s 99, s 100 commenced 10 March 2002 (s 2 and LA s 79)

Districts Act 2002 A2002-39 pt 1.5

notified LR 10 October 2002
s 1, s 2 commenced 10 October 2002 (LA s 75 (1))
pt 1.5 commenced 11 October 2002 (s 2)

Civil Law (Wrongs) Act 2002 A2002-40 div 3.2.6

notified LR 10 October 2002
s 1, s 2 commenced 10 October 2002 (LA s 75 (1))
div 3.2.6 commenced 1 November 2002 (s 2 (2) and [CN2002-13](#))

Planning and Land (Consequential Amendments) Act 2002 A2002-56 sch 3 pt 3.11

notified LR 20 December 2002
s 1, s 2 commenced 20 December 2002 (LA s 75 (1))
sch 3 pt 3.11 commenced 1 July 2003 (s 2 and see [Planning and Land Act 2002 A2002-55, s 2](#))

Legislation (Gay, Lesbian and Transgender) Amendment Act 2003 A2003-14 sch 1 pt 1.21

notified LR 27 March 2003
s 1, s 2 commenced 27 March 2003 (LA s 75 (1))
sch 1 pt 1.21 commenced 28 March 2003 (s 2)

Land (Planning and Environment) (Compliance) Amendment Act 2003 A2003-34 sch 1 pt 1.4

notified LR 7 July 2003
s 1, s 2 commenced 7 July 2003 (LA s 75 (1))
sch 1 pt 1.4 commenced 1 September 2003 (s 2 and [CN2003-8](#))

Endnotes

3 Legislation history

**Criminal Code (Theft, Fraud, Bribery and Related Offences)
Amendment Act 2004 A2004-15 sch 2 pt 2.49**

notified LR 26 March 2004
s 1, s 2 commenced 26 March 2004 (LA s 75 (1))
sch 2 pt 2.49 commenced 9 April 2004 (s 2 (1))

Pest Plants and Animals Act 2005 A2005-21 sch 1 pt 1.2

notified LR 12 May 2005
s 1, s 2 commenced 12 May 2005 (LA s 75 (1))
sch 1 pt 1.2 commenced 12 November 2005 (s 2 and LA s 79)

Civil Unions Act 2006 A2006-22 sch 1 pt 1.19

notified LR 19 May 2006
s 1, s 2 commenced 19 May 2006 (LA s 75 (1))
sch 1 pt 1.19 never commenced

Note Act repealed by disallowance 14 June 2006 (see Cwlth Gaz
2006 No S93)

**Justice and Community Safety Legislation Amendment Act 2006
A2006-40 sch 1 pt 1.8, sch 2 pt 2.20**

notified LR 28 September 2006
s 1, s 2 commenced 28 September 2006 (LA s 75 (1))
sch 1 pt 1.8 commenced 19 October 2006 (s 2 (3))
sch 2 pt 2.20 commenced 29 September 2006 (s 2 (1))

Powers of Attorney Act 2006 A2006-50 sch 2 pt 2.2

notified LR 30 November 2006
s 1, s 2 commenced 30 November 2006 (LA s 75 (1))
sch 2 pt 2.2 commenced 30 May 2007 (s 2 and LA s 79)

Statute Law Amendment Act 2007 A2007-3 sch 3 pt 3.55

notified LR 22 March 2007
s 1, s 2 taken to have commenced 1 July 2006 (LA s 75 (2))
sch 3 pt 3.55 commenced 12 April 2007 (s 2 (1))

**Planning and Development (Consequential Amendments) Act 2007
A2007-25 sch 1 pt 1.19**

notified LR 13 September 2007
s 1, s 2 commenced 13 September 2007 (LA s 75 (1))
sch 1 pt 1.19 commenced 31 March 2008 (s 2 and see [Planning and
Development Act 2007 A2007-24, s 2 and CN2008-1](#))

Surveyors Act 2007 A2007-33 sch 1 pt 1.3

notified LR 25 October 2007

s 1, s 2 commenced 25 October 2007 (LA s 75 (1))

sch 1 pt 1.3 commenced 14 November 2007 (s 2 and [CN2007-15](#))

Planning and Development Legislation Amendment Act 2008 A2008-4 pt 4

notified LR 18 March 2008

s 1, s 2 commenced 18 March 2008 (LA s 75 (1))

pt 4 commenced 31 March 2008 (s 2 and see [Planning and Development Act 2007 A2007-24](#), s 2 and [CN2008-1](#))

Civil Partnerships Act 2008 A2008-14 sch 1 pt 1.15

notified LR 15 May 2008

s 1, s 2 commenced 15 May 2008 (LA s 75 (1))

sch 1 pt 1.15 commenced 19 May 2008 (s 2 and [CN2008-8](#))

Statute Law Amendment Act 2009 A2009-20 sch 3 pt 3.48

notified LR 1 September 2009

s 1, s 2 commenced 1 September 2009 (LA s 75 (1))

sch 3 pt 3.48 commenced 22 September 2009 (s 2)

Surveyors Amendment Act 2010 A2010-6 sch 1 pt 1.3

notified LR 2 March 2010

s 1, s 2 commenced 2 March 2010 (LA s 75 (1))

sch 1 pt 1.3 commenced 3 March 2010 (s 2)

Statute Law Amendment Act 2010 A2010-18 sch 3 pt 3.9

notified LR 13 May 2010

s 1, s 2 commenced 13 May 2010 (LA s 75 (1))

sch 3 pt 3.9 commenced 3 June 2010 (s 2)

Justice and Community Safety Legislation Amendment Act 2010 (No 4) A2010-50 sch 1 pt 1.4

notified LR 14 December 2010

s 1, s 2 commenced 14 December 2010 (LA s 75 (1))

sch 1 pt 1.4 commenced 21 December 2010 (s 2 (1))

Statute Law Amendment Act 2011 A2011-3 sch 3 pt 3.28

notified LR 22 February 2011

s 1, s 2 commenced 22 February 2011 (LA s 75 (1))

sch 3 pt 3.28 commenced 1 March 2011 (s 2)

Endnotes

3 Legislation history

Unit Titles (Management) Act 2011 A2011-41 sch 5 pt 5.7

notified LR 3 November 2011

s 1, s 2 commenced 3 November 2011 (LA s 75 (1))

sch 5 pt 5.7 commenced 30 March 2012 (s 2 and [CN2012-6](#))

Civil Unions Act 2012 A2012-40 sch 3 pt 3.18

notified LR 4 September 2012

s 1, s 2 commenced 4 September 2012 (LA s 75 (1))

sch 3 pt 3.18 commenced 11 September 2012 (s 2)

Justice and Community Safety Legislation Amendment Act 2013 A2013-7 sch 1 pt 1.5

notified LR 1 March 2013

s 1, s 2 commenced 1 March 2013 (LA s 75 (1))

sch 1 pt 1.5 commenced 4 March 2013 (s 2 and see [Retirement Villages Act 2012 A2012-38](#), s 2 and LA s 79)

Justice and Community Safety Legislation Amendment Act 2013 (No 2) A2013-11 sch 1 pt 1.4

notified LR 28 March 2013

s 1, s 2 commenced 28 March 2013 (LA s 75 (1))

sch 1 pt 1.4 commenced 4 April 2013 (s 2)

Marriage Equality (Same Sex) Act 2013 A2013-39 sch 2 pt 2.16

notified LR 4 November 2013

s 1, s 2 commenced 4 November 2013 (LA s 75 (1))

sch 2 pt 2.16 commenced 7 November 2013 (s 2 and [CN2013-11](#))

Note The High Court held this Act to be of no effect (see *Commonwealth v Australian Capital Territory* [2013] HCA 55)

Statute Law Amendment Act 2014 A2014-18 sch 3 pt 3.13

notified LR 20 May 2014

s 1, s 2 commenced 20 May 2014 (LA s 75 (1))

sch 3 pt 3.13 commenced 10 June 2014 (s 2 (1))

Dangerous Substances (Loose-fill Asbestos Eradication) Legislation Amendment Act 2015 A2015-6 sch 1 pt 1.6

notified LR 31 March 2015

s 1, s 2 commenced 31 March 2015 (LA s 75 (1))

sch 1 pt 1.6 commenced 29 June 2015 (s 2 and [CN2015-6](#))

Planning and Development (University of Canberra and Other Leases) Legislation Amendment Act 2015 A2015-19 pt 11

notified LR 11 June 2015
s 1, s 2 commenced 11 June 2015 (LA s 75 (1))
pt 11 commenced 1 July 2015 (s 2 and [CN2015-9](#))

Red Tape Reduction Legislation Amendment Act 2015 A2015-33 sch 1 pt 1.40

notified LR 30 September 2015
s 1, s 2 commenced 30 September 2015 (LA s 75 (1))
sch 1 pt 1.40 commenced 14 October 2015 (s 2)

Red Tape Reduction Legislation Amendment Act 2016 A2016-18 sch 3 pt 3.26

notified LR 13 April 2016
s 1, s 2 commenced 13 April 2016 (LA s 75 (1))
sch 3 pt 3.26 commenced 27 April 2016 (s 2)

Justice and Community Safety Legislation Amendment Act 2016 A2016-37 sch 1 pt 1.12

notified LR 22 June 2016
s 1, s 2 commenced 22 June 2016 (LA s 75 (1))
sch 1 pt 1.12 commenced 29 June 2016 (s 2)

Revenue Legislation Amendment Act 2017 A2017-1 sch 1 pt 1.5

notified LR 22 February 2017
s 1, s 2 commenced 22 February 2017 (LA s 75 (1))
sch 1 pt 1.5 commenced 18 September 2017 (s 2 (1) and [CN2017-5](#))

Revenue Legislation Amendment Act 2018 A2018-2 sch 1 pt 1.6

notified LR 28 February 2018
s 1, s 2 commenced 28 February 2018 (LA s 75 (1))
sch 1 pt 1.6 commenced 1 March 2018 (s 2)

Red Tape Reduction Legislation Amendment Act 2018 A2018-33 pt 6

notified LR 25 September 2018
s 1, s 2 commenced 25 September 2018 (LA s 75 (1))
pt 6 commenced 2 October 2018 (s 2 (1))

Endnotes

3 Legislation history

Planning and Development (Community Concessional Leases) Amendment Act 2019 A2019-29 sch 1

notified LR 2 October 2019
s 1, s 2 commenced 2 October 2019 (LA s 75 (1))
sch 1 commenced 2 April 2020 (s 2 and LA s 79)

Unit Titles Legislation Amendment Act 2020 A2020-4 pt 5

notified LR 27 February 2020
s 1, s 2 commenced 27 February 2020 (LA s 75 (1))
pt 5 commenced 1 November 2020 (s 2 (1) and [CN2020-11](#))

Land Titles (Electronic Conveyancing) Legislation Amendment Act 2020 A2020-16 pt 2

notified LR 13 May 2020
s 1, s 2 commenced 13 May 2020 (LA s 75 (1))
pt 2 commenced 1 June 2020 (s 2 and see [Electronic Conveyancing National Law \(ACT\) Act 2020 A2020-15 s 2](#))

Loose-fill Asbestos Legislation Amendment Act 2020 A2020-20 sch 1 pt 1.8

notified LR 27 May 2020
s 1, s 2 commenced 27 May 2020 (LA s 75 (1))
sch 1 pt 1.8 commenced 1 July 2020 (s 2)

4 Amendment history

Long title

long title am [A1995-53](#) s 4

Name of Act

s 1 am [A1995-53](#) s 5
sub [A2007-3](#) amdt 3.294

Dictionary

s 2 am [Ord1956-16](#) s 2, sch 2; [A1995-53](#)
om [A2001-44](#) amdt 1.2521
ins [A2007-3](#) amdt 3.305

Notes

s 3 am [Ord1933-26](#) s 2; [Ord1956-16](#) s 3; [A1995-53](#) sch 2
sub [A2001-44](#) amdt 1.2522
om [A2007-3](#) amdt 3.295
ins [A2007-3](#) amdt 3.305

Provisions affecting certain land to which State Act applies

s 3A ins [Ord1961-7](#) s 3
am [Ord1989-38](#) sch 1; [A1993-64](#) sch 1; [A1995-53](#) sch 2
om [A2007-3](#) amdt 3.295

Meaning of *registrable form*

s 4 sub [Ord1961-7](#) s 4
am [Ord1970-6](#) s 2
om [Ord1977-65](#) sch 2
ins [A2007-3](#) amdt 3.305
am [A2020-16](#) s 4; pars renum R40 LA

Application to married women's property

s 5 om [A2007-3](#) amdt 3.295
ins [A2007-3](#) amdt 3.305

Interpretation for Act

s 6 am [A1993-89](#) sch; [A2000-82](#) s 4; [A2001-44](#)
amds 1.2524-1.2526; ss renum R3 LA
defs reloc to dict [A2007-3](#) amdt 3.304
om [A2007-3](#) amdt 3.305
def **approved form** ins [A1995-53](#) s 6
om [A2001-44](#) amdt 1.2523
def **city area** ins [Ord1925-12](#) s 2
om [A1991-118](#) sch 1 pt 9
def **commission** om [A2007-3](#) amdt 3.296
def **computer** ins [A1993-89](#) sch
om [A2007-3](#) amdt 3.297
def **curator** ins [Ord1957-12](#) s 2
om [Ord1985-9](#) sch 2

Endnotes

4 Amendment history

def **determined fee** ins [Ord1983-39](#) s 4
om [A2001-44](#) amdt 1.2523
def **justice** om [Ord1937-27](#) sch 2
def **land** am [A1995-53](#) s 6; [A1991-118](#) sch 1 pt 9
om [A2007-3](#) amdt 3.302
def **Public Trustee** om [Ord1957-12](#) s 2
def **registrar** om [A1993-64](#) sch 1
def **the court** am [Ord1937-27](#) sch 2; [Ord1982-102](#) s 2
om [A2007-3](#) amdt 3.303

Registrar-general's seal of office etc

s 7 am [Ord1927-21](#) s 3; [Ord1930-19](#) sch
sub [Ord1957-12](#) s 3
am [Ord1977-18](#) s 14
om [A1993-64](#) sch 2
ins [A1993-89](#) sch

Registrar's seal of office

s 8 am [Ord1930-19](#) sch; [Ord1977-18](#) s 14
om [A1993-64](#) sch 1

Functions of acting registrar and deputy registrar

s 9 om [A1993-64](#) sch 1

Oath of office

s 10 om [A1993-64](#) sch 1

Sworn valuers

s 11 am [Ord1930-19](#) sch
om [Ord1969-9](#) s 3

Certain information and omissions not to invalidate documents

s 12 om [A1993-64](#) sch 1

Surveyors to be licensed

s 13 am [Ord1930-19](#) sch
om [Ord1967-46](#) s 3

General powers of registrar-general

pt 3 hdg am [A1993-64](#) sch 1

Powers of registrar-general

s 14 am [Ord1930-19](#) s 3; [Ord1970-6](#) s 3; [Ord1975-33](#) s 3;
[Ord1986-31](#) s 14; [A1991-22](#) s 11; [A1993-89](#) sch; [A1994-45](#)
sch; [A1995-53](#) s 7, sch 2; [A2000-82](#) s 5; pars and ss renum
R3 LA; [A2007-25](#) amdt 1.83; pars renum R18 LA; [A2020-16](#)
ss 5-9; pars renum R40 LA

Penalty for obstructing registrar-general

s 15 am [Ord1967-46](#) sch; [A1995-53](#) sch 2; [A1998-54](#) sch;
[A2004-15](#) amdts 2.106-2.108; [A2020-16](#) s 10

Registrar may take statutory declaration

s 16 om [A1993-64](#) sch 1

Crown grants and certain Crown leases under Act

s 17 am [Ord1927-21](#) s 4; [Ord1956-16](#) s 4; [Ord1963-6](#) s 2;
[Ord1989-38](#) sch 1; [A1995-53](#) s 8, sch 2; [A2001-44](#)
amdt 1.2527, amdt 1.2528

Requirements of applications

div 5.1 hdg (prev pt 5 div 1 hdg) renum R3 LA

Land brought under Act

s 18 am [Ord1986-31](#) s 5; [A1993-89](#) sch; [A1994-45](#) sch; [A1995-53](#)
s 9, sch 2; [A2001-44](#) amdt 1.2529; ss renum R3 LA;
[A2020-16](#) s 11

Judge may order production of deeds for purpose of application

s 19 am [Ord1937-27](#) sch 2; [A1995-53](#) sch 2

Applicant to surrender documents of title and to furnish abstract if required

s 20 am [A1995-53](#) sch 2

Procedure on applications

div 5.2 hdg (prev pt 5 div 2 hdg) renum R3 LA

Applications to be considered by registrar-general

s 21 am [A1993-89](#) sch; [A1995-53](#) sch 2; [A2020-16](#) s 12

When applicant is not original grantee or any transactions registered

s 22 am [A1995-53](#) sch 2; [A2001-44](#) amdt 1.2530, amdt 1.2531;
[A2018-33](#) s 75, s 76

When evidence of title imperfect

s 23 am [Ord1956-16](#) s 5; [Ord1989-38](#) sch 1; [A1993-89](#) sch;
[A1995-53](#) sch 2; [A2001-44](#) amdt 1.2532, amdt 1.2533;
[A2018-33](#) s 77, s 78

Notice of application to be published

s 24 am [A1995-53](#) sch 2; [A2001-44](#) amdt 1.2534, amdt 1.2535;
[A2018-33](#) s 79

Registrar-general bringing land under Act

s 25 hdg sub [A1993-89](#) note
s 25 am [A1993-89](#) sch; [A1995-53](#) sch 2; [A2020-16](#) s 12

On a return of notices or failure of personal service, registrar-general may proceed or give further directions

s 26 am [A1993-89](#) sch; [A1995-53](#) sch 2

Endnotes

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Applicant may withdraw application

s 27 hdg am [A1995-53](#) notes
s 27 am [A1995-53](#) sch 2; [A2020-16](#) s 13

Land occupied may be brought under Act by different description from that in title on special application

s 28 am [A1995-53](#) sch 2; [A2020-16](#) s 14

Applications to bring land under Act may be granted for land occupied under, but not described in, title deeds

s 29 hdg sub [A2020-16](#) s 15
s 29 am [A1995-53](#) sch 2; [A2020-16](#) s 16, s 17

Caveats against original applications

div 5.3 hdg (prev pt 5 div 3 hdg) renum R3 LA

Parties interested may enter caveat

s 30 am [A1993-89](#) sch; [A1995-53](#) s 10, sch 2; [A1997-96](#) sch 1;
[A2001-44](#) amdt 1.2536

If caveat be received within time limited proceedings stayed

s 31 am [A1995-53](#) sch 2

Caveats lapse unless proceedings taken within 3 months

s 32 hdg am [A1995-53](#) notes
s 32 am [A1995-53](#) sch 2

Special case

s 33 am [A1995-53](#) sch 2

Where caveator fails to prosecute proceedings

s 34 am [A1995-53](#) sch 2; [A1997-96](#) sch 1

Bringing land under the Act—miscellaneous

pt 6 hdg sub [A2020-16](#) s 18

Documents of title how to be dealt with

s 35 am [Ord1937-27](#) sch 2; [A1993-89](#) sch; [A1995-53](#) sch 2; [A2020-16](#) ss 19-21

How certificate of title to issue in case of previous death of applicant

s 36 am [A1995-53](#) sch 2
om [A2020-16](#) s 22

Bringing under this Act of land to which State Act applies

s 38 am [Ord1933-26](#) s 3
sub [Ord1956-16](#) s 6
am [Ord1961-7](#) s 6; [A1993-89](#) sch; [A1995-53](#) sch 2; [A2001-44](#)
amds 1.2537-1.2539; ss renum R3 LA (see [A2001-44](#)
amdt 1.2540); [A2014-18](#) amdt 3.54; [A2020-16](#) s 23

Transfer of records

s 39 am [Ord1930-19](#) sch; [A1995-53](#) sch 2

Recognition of transferred records

s 40 am [Ord1930-19](#) sch; [A1995-53](#) sch 2

Duplicate grant etc handed over to be deemed original grant

s 41 am [Ord1930-19](#) sch; [A1995-53](#) sch 2

Land referred to in pt 7 to be subject to certain reservations etc

s 42 am [A1995-53](#) sch 2

Registrar-general to keep register

s 43 hdg am [A1993-89](#) note

s 43 am [Ord1957-12](#) s 4; [A1993-89](#) sch; ss renum R3 LA

Form of certificate of title

s 44 hdg am [A1993-89](#) note

s 44 am [A1993-89](#) sch; [A1995-53](#) s 11, sch 2; [A2001-44](#)
amdt 1.2541, amdt 1.2542

One certificate may be issued for lands not contiguous

s 45 am [Ord1975-33](#) s 4

sub [A1995-53](#) s 12

Registering fee simple estate for which leasehold interest registered

s 46 am [A1993-89](#) sch; [A1995-53](#) sch 2

sub [A2020-16](#) s 24

When instruments etc taken to be registered

s 47 am [A1993-89](#) sch; [A1995-53](#) sch 2

sub [A2020-16](#) s 24

Registration of transfers of mortgages, subleases etc

s 47A ins [Ord1927-15](#) s 2

am [Ord1940-16](#) s 2; [Ord1956-16](#) s 7; [Ord1957-12](#) s 5;

[A1993-89](#) sch; [A1995-53](#) sch 2; [A2020-16](#) s 25

Registration of memoranda of provisions

s 47B ins [Ord1983-68](#) s 4

Registration of instruments effecting dutiable transaction

s 47C ins [A2017-1](#) amdt 1.102

Instruments—registration and priority

s 48 am [Ord1970-6](#) s 4; [Ord1979-16](#) s 4; [Ord1983-68](#) s 5;

[A1991-22](#) s 11; [A1993-89](#) sch

sub [A1995-53](#) s 13

am [A2020-16](#) s 26

Refusal to accept instruments for lodgment

s 48A ins [A1995-53](#) s 13

Endnotes

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Lodgment of instruments—registrable form

s 48B hdg sub [A2020-16](#) s 27
s 48B ins [A1995-53](#) s 13
am [A2020-16](#) s 28, s 29

Lodgment of instruments by legal practitioners—certification

s 48BA ins [A2020-16](#) s 30

Lodgment of instruments by mortgagee corporations—certification

s 48BB ins [A2020-16](#) s 30

Lodgment of instruments by self-represented parties—verification of identity and authority

s 48BC ins [A2020-16](#) s 30

Signature and witnessing requirements—legal practitioners and mortgagee corporations

s 48BD ins [A2020-16](#) s 30

Verification of identity rules

s 48BE ins [A2020-16](#) s 30

Verification of authority rules

s 48BF ins [A2020-16](#) s 30

Compliance audits—lodgments by legal practitioners and mortgagee corporations

s 48BG ins [A2020-16](#) s 30

Non-compliance—registrar-general may require additional documents

s 48BH ins [A2020-16](#) s 30

Power to refer to appropriate authority

s 48BI ins [A2020-16](#) s 30

Correction of errors prior to registration

s 48C ins [A1995-53](#) s 13

Form of memorial

s 49 am [Ord1957-12](#) s 6; [A1993-89](#) sch
om [A2020-16](#) s 31

Memorial to be recorded on duplicate grant, certificate or instrument, unless dispensed with

s 50 am [Ord1957-12](#) s 7; [Ord1961-7](#) s 7; [A1993-89](#) sch; [A1995-53](#)
sch 2; [A2001-44](#) amdts 1.2543-1.2545; [A2010-50](#) amdt 1.10;
ss renum R23 LA; [A2011-41](#) amdt 5.23; [A2016-18](#)
amdts 3.113-3.115; [A2018-33](#) s 80
om [A2020-16](#) s 31

Issue of duplicate when document lost or destroyed

s 50A ins [Ord1927-21](#) s 5
 am [Ord1970-6](#) s 5; [A1991-22](#) s 11; [A1993-89](#) sch; [A1995-53](#)
 s 14, sch 2; [A2001-44](#) amdt 1.2546; ss renum R3 LA
 om [A2020-16](#) s 31

Instruments not to be registered

s 51 sub [Ord1969-9](#) s 4
 am [Ord1985-71](#) s 3; [Ord1986-88](#) s 4; [Ord1987-66](#) s 3;
[Ord1989-38](#) sch 1; [A1995-53](#) s 15; [A1999-8](#) s 32; ss and
 pars renum R3 LA; [A2020-16](#) s 32, s 33

Issue of new certificate of title after change in register

s 52 am [A1993-89](#) sch; [A1995-53](#) s 16
 sub [A2020-16](#) s 34

Evidence as to title

s 53 am [A1993-89](#) sch; [A1995-53](#) s 17, sch 2; ss renum R3 LA;
[A2020-16](#) s 35, s 36

Joint tenants and tenants in common

s 54 sub [Ord1927-15](#) s 3; [A1995-53](#) s 18
 am [A2020-16](#) s 37

Survivor of joint tenants

s 55 am [Ord1986-31](#) s 6; [A1995-53](#) s 19, sch 2; [A2020-16](#) s 38,
 s 39

Remainderperson or reversioner may be registered as such

s 56 am [A1995-53](#) sch 2; [A2020-16](#) s 40

Instruments not effectual until entry in register

s 57 hdg am [A1993-89](#) note
 s 57 am [A1995-53](#)s 20, sch 2
 om [A2020-16](#) s 41

Estate of registered proprietor paramount

s 58 am [Ord1989-38](#) sch 1; [A1993-89](#) sch; [A1995-53](#) s 21, sch 2;
[A2017-1](#) amdt 1.103; [A2020-16](#) ss 42-46

Purchaser from registered proprietor not to be affected by notice

s 59 am [A1995-53](#) sch 2

Protection as to notice of transferee before registration

s 60 sub [A1995-53](#) s 22

Combining or dividing grants or certificates of title

s 61 am [A1993-89](#) sch; [A1995-53](#) s 23, sch 2
 om [A2020-16](#) s 47

Endnotes

4 Amendment history

Lost grant or certificate

s 62 am [Ord1927-21](#) s 6; [A1993-89](#) sch
sub [A1995-53](#) s 24
am [A2000-82](#) s 6; [A2009-20](#) amdt 3.115; [A2018-33](#) s 81
om [A2020-16](#) s 47

Power of registrar-general to issue new certificate

s 62A ins [Ord1927-21](#) s 7
am [Ord1957-12](#) s 8; [Ord1983-39](#) s 5; [A1995-53](#) s 25, sch 2;
[A2001-44](#) amdt 1.2547
om [A2020-16](#) s 47

Dealings may be registered prior to issue of grant from Crown

s 63 am [A1993-89](#) sch; [A1995-53](#) sch 2
om [A2020-16](#) s 47

Registrar-general may require map to be deposited

s 64 am [Ord1936-15](#) (as am by [Ord1937-27](#)); [Ord1967-46](#) s 4;
[Ord1975-33](#)s 5; [Ord1980-13](#) s 4; [A1992-3](#) s 4; [A1995-53](#)
s 26, sch 2; [A2001-3](#) sch 1; [A2001-44](#) amdt 1.4548,
amdt 1.2549; ss renum R3 LA; [A2007-33](#) amdt 1.8; [A2010-6](#)
amdt 1.9; [A2018-33](#) s 82, s 83; ss renum R38 LA

Certified copies of register

s 65 am [Ord1983-39](#) s 6; [Ord1983-68](#) s 6; [A1993-89](#) sch; [A1995-53](#)
s 27
sub [A2001-44](#) amdt 1.2550

Searches

s 66 am [Ord1977-47](#) s 4
sub [A1993-89](#) sch
am [A2001-44](#) amdt 1.2551, amdt 1.2552

Issue of uncertified copies

s 67 am [Ord1967-46](#) sch
sub [A1995-53](#) s 28
am [A2001-44](#) amdt 1.2553

Registrar-general may register as proprietor person entitled to land by operation of statute or by defeasance of estate

s 68 am [Ord1957-12](#) s 9; [A1993-89](#) sch; [A1995-53](#) sch 2; [A2001-44](#)
amdt 1.2554, amdt 1.2555; [A2020-16](#) s 48

Record of administrative interests

pt 8A hdg ins [A2007-25](#) amdt 1.84

Meaning of *administrative interest*—Act

s 69A ins [A2007-25](#) amdt 1.84
am [A2015-6](#) amdt 1.13; [A2019-28](#) amdt 1.1; [A2020-20](#)
amds 1.19-1.21; pars renum R41 LA

Meaning of *authorised entity*—pt 8As 69B ins [A2007-25](#) amdt 1.84**Record of administrative interests**s 69C ins [A2007-25](#) amdt 1.84
am [A2020-20](#) amdt 1.22; ss renum R41 LA**Protection from liability—administrative interests**s 69D ins [A2007-25](#) amdt 1.84**Registration of Crown leases**s 70 am [Ord1927-21](#) s 8; [Ord1986-88](#) s 5; [A1993-89](#) sch**Registration of extension of grant of Crown lease**s 70A ins [A1995-53](#) s 29
om [A2000-82](#) s 7**Dealings with Crown leases**s 71 am [A1993-89](#) sch; [A1995-53](#) sch 2; [A2020-16](#) s 49**Application of ordinance to registered Crown leases**s 72 om [A1993-44](#) sch 2**Registration of variations**s 72A ins [Ord1940-16](#) s 3
am [Ord1986-22](#) s 4; [Ord1989-38](#) sch 1
sub [A1991-118](#) s 22
am [A1993-89](#) sch; [A2002-56](#) amdt 3.41; [A2006-40](#) amdt 1.25;
[A2007-25](#) amdt 1.85; [A2020-16](#) s 50**Registration etc of orders under Planning and Development Act 2007**s 72AB hdg sub [A2007-25](#) amdt 1.86
s 72AB ins [A1991-118](#) s 22
am [A1993-89](#) sch
sub [A2003-34](#) amdt 1.21
am [A2007-25](#) amdt 1.87; [A2020-16](#) s 50**Dealing with land before grant or registration of Crown lease**s 72B ins [Ord1957-12](#) s 10; [A1995-53](#) sch 2**Memorial of compliance with building and development provision in lease**s 72C hdg sub [A1993-89](#) note
s 72C ins [Ord1961-7](#) s 8
am [A1991-118](#) sch 1, pt 9; [A1993-89](#) sch; [A1995-53](#) sch 2
sub [A2007-25](#) amdt 1.88**Memorial of application of certain provisions etc under Planning and Development Act 2007**s 72D ins [A2008-4](#) s 78
am [A2010-18](#) amdt 3.10
sub [A2015-19](#) s 54

Endnotes

4 Amendment history

Transfers

div 10.1 hdg (prev pt 10 div 1 hdg) renum R3 LA

Memorandum of transfer

s 73 am [Ord1970-6](#) s 6; [A1993-89](#) sch
sub [A1995-53](#) s 30
am [A1997-96](#) sch 1; [A2001-44](#) amdt 1.2556; [A2011-3](#)
amdt 3.276; [A2014-18](#) amdt 3.55; [A2020-16](#) s 51, s 52

Easements and incorporeal rights to be registered

s 74 am [A1993-89](#) sch
om [A1995-53](#) s 30

Procedure for dealing with certificate of title in case of transfer

s 75 am [Ord1927-21](#) s 9
sub [A1993-89](#) sch
om [A2020-16](#) s 53

Issue of fresh certificate on cancellation of grant or certificate

s 76 am [A1995-53](#) sch 2
om [A2020-16](#) s 53

Transferee—interests and obligations

s 77 sub [A1995-53](#) s 31

Transfer of mortgage or lease—right to sue

s 78 am [A1995-53](#) s 32

Proprietor may vest estate jointly in self and others without limiting any use or without reassignment

s 79 hdg am [A1995-53](#) notes
s 79 am [A1995-53](#) s 32, sch 2; [A2003-14](#) amdt 1.70, amdt 1.71

Endorsement when land becomes Crown land

s 80 am [Ord1961-7](#) s 9; [A1993-89](#) sch; [A1995-53](#) sch 2

Short words for creation of right of way

s 81 am [A1993-89](#) sch

Leases

div 10.2 hdg (prev pt 10 div 2 hdg) renum R3 LA

Form of lease

s 82 am [Ord1983-68](#) s 7; [A1993-89](#) sch; [A1995-53](#) s 33; [A2001-44](#)
amdt 1.2557; [A2020-16](#) s 54

Right of purchase or covenant to purchase may be inserted

s 83 am [A1995-53](#) sch 2

Mortgagee etc not bound by lease unless consent given

s 84 hdg am [A1995-53](#) notes
s 84 am [Ord1927-21](#) s 10; [A1995-53](#) sch 2

Certain unregistered leases valid, but not rights of purchase or renewal under thems 85 am [A1995-53](#) s 34**Surrender of lease**s 86 am [Ord1926-8](#) s 2; [Ord1927-21](#) s 11; [Ord1930-19](#) sch; [Ord1940-16](#) s 4; [Ord1942-15](#) s 2; [Ord1961-7](#) s 10; [Ord1989-38](#) sch 1; [A1993-64](#) sch 1; [A1993-89](#) sch; [A1995-53](#) s 35, sch 2; [A2000-82](#) s 8; [A2001-44](#) amdt 1.2558; ss renum R3 LA; [A2010-50](#) amdt 1.11; ss renum R23 LA; [A2011-3](#) amdt 3.277; [A2011-41](#) amdt 5.24, amdt 5.25; [A2015-19](#) s 55; [A2020-16](#) s 55, s 56**Registration of re-entry by lessor**s 87 am [Ord1930-19](#) s 4; [Ord1967-46](#) sch; [A1993-89](#) sch; [A1995-53](#) sch 2; [A1998-54](#) sch**Entry of expiration of lease in register**s 87A hdg am [A1993-89](#) note
s 87A ins [Ord1930-19](#) s 5
am [Ord1961-7](#) s 11; [A1993-89](#) sch**Resumption and withdrawal of land from lease**s 87B ins [Ord1930-19](#) s 5
am [Ord1989-38](#) sch 1; [A1993-89](#) sch; [A1995-53](#) sch 2; [A2001-44](#) amdt 1.2559**Extension or variation of lease**s 87C ins [A1995-53](#) s 36
am [A2001-44](#) amdt 1.2560**Lessee may sublet**s 88 am [Ord1983-68](#) s 8; [A1993-89](#) sch; [A1995-53](#) s 37, sch 2; [A2001-44](#) amdt 1.2561; ss renum R3 LA; [A2015-19](#) s 56**Application of land sublease provisions**s 88A ins [A2015-19](#) s 57**Land subleases—registration**s 88B ins [A2015-19](#) s 57**Land subleases—mortgages**s 88C ins [A2015-19](#) s 57**Land subleases—transfers**s 88D ins [A2015-19](#) s 57**Land subleases—no further subleases**s 88E ins [A2015-19](#) s 57**Land subleases—surrender**s 88F ins [A2015-19](#) s 57

Endnotes

4 Amendment history

Withdrawal of land under land sublease

s 88G ins [A2015-19](#) s 57

Surrender etc of land sublease—payment for improvements

s 88H ins [A2015-19](#) s 57

ACAT review of value of improvements on land under land sublease etc

s 88I ins [A2015-19](#) s 57

Recovery of land under land sublease if sublessee in unlawful possession

s 88J ins [A2015-19](#) s 57

Determination of lease to determine sublease

s 90 am [Ord1942-15](#) s 3; [A1995-53](#) sch 2; [A2000-82](#) s 9

Surrender of lease without prejudice to subleases with view to grant of new lease

s 90A ins [Ord1942-15](#) s 4
am [Ord1985-71](#) s 4; [A1995-53](#) s 38, sch 2
om [A2000-82](#) s 10

Covenants to be implied in subleases

s 91 am [A1995-53](#) sch 2

Surrender of lease

div 10.2A hdg ins [A2000-82](#) s 11

Surrender of lease not to affect sublease

s 91A ins [A2000-82](#) s 11

Surrender of lease not to affect mortgage

s 91B ins [A2000-82](#) s 11

New lease—continuation of interests noted on surrendered lease

s 91C ins [A2000-82](#) s 11

Mortgages and encumbrances

div 10.3 hdg (prev pt 10 div 3 hdg) renum R3 LA

Land—how mortgaged or encumbered

s 92 am [Ord1983-68](#) s 9; [A1993-89](#) sch; [A1995-53](#) s 39, sch 2;
[A2001-44](#) amdt 1.2562; ss renum R3 LA; [A2020-16](#) s 57

Mortgage or encumbrance—postponement of priority

s 92A ins [Ord1972-11](#) s 2
am [A1993-89](#) sch; [A1995-53](#) s 40, sch 2; [A2000-82](#) s 12;
[A2001-44](#) amdt 1.2563; [A2020-16](#) s 58

Mortgage or encumbrance—effect

s 93 am [A1995-53](#) s 41, sch 2

Power to sell

s 94 am [Ord1970-6](#) s 7; [Ord1989-38](#) sch 1; [A1991-22](#) s 11;
[A1993-89](#) sch; [A1995-53](#) s 42, sch 2

Sale by mortgagee—vestings 95 sub [A1995-53](#) s 43**Sale by court order—application by mortgagor etc**s 95A ins [A2000-82](#) s 13**Default, entry and possession—action for recovery**s 96 am [A1995-53](#) s 44, sch 2**Order for foreclosure on default**s 97 am [Ord1975-33](#) s 6; [A1995-53](#) sch 2; [A1997-96](#) sch 1;
[A2016-18](#) amdt 3.116, amdt 3.117**Application—how made effective**s 98 am [A1993-89](#) sch; [A1995-53](#) sch 2; [A2001-44](#) amdts 1.2564-
1.2566; ss renum R3 LA (see [A2001-44](#) amdt 1.2567);
[A2018-33](#) s 84**Mortgagee to receive rent**s 99 hdg sub [A1995-53](#) notes
s 99 am [A1995-53](#) sch 2; [A2007-3](#) amdt 3.306**Mortgagee of leasehold entering into possession liable to lessor**s 100 am [A1995-53](#) sch 2**Right of Territory if determination revoked and amount secured not paid**s 100A ins [Ord1970-6](#) s 8
am [Ord1989-38](#) sch 1; [A1991-22](#) s 11; [A1993-89](#) sch;
[A1996-53](#) sch 2; [A2000-79](#) amdt 1.1**Discharge of mortgages and encumbrances**s 101 am [Ord1951-9](#) s 2; [A1993-89](#) sch
sub [A1995-53](#) s 45
am [A2001-44](#) amdt 1.2568; [A2020-16](#) s 59, s 60; ss renum
R40 LA**Variation of mortgages**s 101A ins [Ord1956-16](#) s 8
am [A1993-89](#) sch; [A1995-53](#) s 46, sch 2; [A2001-44](#)
amdt 1.2569, amdt 1.2570; [A2020-16](#) s 61**Entry of satisfaction of annuity**s 102 am [A1993-89](#) sch; [A1995-53](#) sch 2**Facilitation of redemption in case of absent or unknown mortgagees**s 103 am [Ord1983-39](#) s 7; [A1993-64](#) sch 1; [A1993-89](#) sch; [A1995-53](#)
sch 2; [A2001-44](#) amdt 1.2571, amdt 1.2572**Memoranda of provisions**div 10.3A hdg (prev pt 10 div 3A hdg) ins [Ord1983-68](#) s 10
renum R3 LA

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Registration of memoranda of provisions

s 103A ins [Ord1983-68](#) s 10
am [A1993-89](#) sch; [A1995-53](#) s 47, sch 2; [A1997-96](#) sch 1;
[A2001-44](#) amdt 1.2573

Easements and other incorporeal rights

div 10.3B hdg (prev pt 10 div 3B hdg) ins [A1995-53](#) s 48
renum R3 LA

Easements—registration

s 103B ins [A1995-53](#) s 48
am [A2001-44](#) amdt 1.2574

Easements in gross—registration, transfer and extinguishment

s 103C ins [A1995-53](#) s 48
am [A2001-44](#) amdt 1.2575

Easements—same owner of benefited and burdened land

s 103D ins [A1995-53](#) s 48

Easements—subdivision of dominant tenement

s 103DA ins [A2000-82](#) s 14

Extinguishment of easement

s 103E ins [A1995-53](#) s 48
am [A2000-82](#) s 15; [A2001-44](#) amdt 1.2576; ss renum R3 LA

Easements—variation

s 103F ins [A1995-53](#) s 48
am [A2001-44](#) amdt 1.2577

Incorporeal rights—registration

s 103G ins [A1995-53](#) s 48
am [A2001-44](#) amdt 1.2578

Incorporeal rights—extinguishment

s 103H ins [A1995-53](#) s 48
am [A2001-44](#) amdt 1.2579

Caveat against dealings

div 10.4 hdg (prev pt 10 div 4 hdg) renum R3 LA

Lodging of caveat

s 104 am [A1993-89](#) sch; [A1995-53](#) s 49, sch 2; [A1997-96](#) sch 1; ss
and pars renum R3 LA; [A2007-3](#) amdt 3.307

Entering a caveat in register

s 104A ins [A1995-53](#) s 50
am [A2001-44](#) amdt 1.2580, pars renum R3 LA (see [A2001-44](#)
amdt 1.2581), amdt 1.2582

Withdrawal of caveats

s 104B ins [A1995-53](#) s 50
am [A1997-96](#) sch 1

Notice of caveat

s 105 am [Ord1937-27](#) sch 2; [A1995-53](#) s 51; [A2007-3](#) amdt 3.308

Surrender and regrant of lease of land affected by caveat

s 105A ins [A2000-82](#) s 16

Caveat lapsing

s 106 am [Ord1937-27](#) sch 2
sub [A1995-53](#) s 52
am [A2000-82](#) s 17; [A2007-3](#) amdt 3.309

Removal of caveat

s 107 am [A1993-89](#) sch
sub [A1995-53](#) s 52
am [A2001-44](#) amdt 1.2583, amdt 1.2584

Effect on dealings

s 107A ins [A1995-53](#) s 52

Removal of caveat by registrar-general

s 107B ins [A1995-53](#) s 52

Successive caveats

s 107C ins [A1995-53](#) s 52

Determinations under Rates and Land Rent (Relief) Act 1970

div 10.5 hdg (prev pt 10 div 5 hdg) ins [Ord1970-6](#) s 9
am [A1991-118](#) sch 1, pt 9
renum R3 LA

Certain documents under Rates and Land Rent (Relief) Act 1970 to be instruments affecting land

s 108A hdg am [A1995-53](#) notes
s 108A ins [Ord1970-6](#) s 9
am [A1991-22](#) s 11; [A1995-53](#) sch 2

Effect of registration of determination

s 108B ins [Ord1970-6](#) s 9
am [Ord1989-38](#) sch 1; [A1991-22](#) s 11; [A1995-53](#) sch 2

Registration of memorandum of discharge

s 108C ins [Ord1970-6](#) s 9
am [A1991-22](#) s 11; [A1993-89](#) sch; [A1995-53](#) sch 2; [A2000-79](#)
amdt 1.2

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Fees not payable

s 108D ins [Ord1970-6](#) s 9
am [A1991-22](#) s 11; [A1995-53](#) s 53
om [A2001-44](#) amdt 1.2585

Effect of covenant

s 109 am [A1995-53](#) sch 2

Covenants by person with self and another or others

s 110 hdg am [A1995-53](#) notes
s 110 am [A1995-53](#) sch 2

Implied covenants to be joint and several

s 111 am [A1995-53](#) sch 2

Benefit of implied covenants

s 113 am [A1996-53](#) sch 2

Implied covenants with mortgagees

s 115 am [A1995-53](#) sch 2

General covenants to be implied in instruments

s 116 am [A1995-53](#) sch 2

Transferring of land subject to mortgage, encumbrance or charge to indemnify transferor

s 117 am [Ord1970-6](#) s 10; [Ord1989-38](#) sch 1; [A1995-53](#) sch 2

Covenant implied in mortgage

s 118 am [A1995-53](#) sch 2

Covenants of lessees

s 119 am [A1995-53](#) sch 2; [A2015-19](#) s 58

Powers in lessor

s 120 am [A1995-53](#) sch 2; [A1997-7](#) s 13; [A2005-21](#) amdt 1.13;
[A2015-19](#) s 59; ss renum R32 LA

Abbreviated forms of words for covenants in leases

s 121 am [A1995-53](#) sch 2

Abbreviated form in mortgage

s 122 am [A1995-53](#) sch 2

Pt 11 not to apply to Crown leases

s 123 am [A1995-53](#) sch 2

Pt 11 not to apply to residential tenancy agreements

s 123A ins [A1998-4](#) sch

Pt 11 does not apply to leases under Leases (Commercial and Retail) Act

s 123B ins [A2001-18](#) s 173

Building management statementspt 11A hdg ins [A2020-4](#) s 33**Definitions—pt 11A**s 123C ins [A2020-4](#) s 33def **approved** ins [A2020-4](#) s 33def **building management committee** ins [A2020-4](#) s 33def **building management statement** ins [A2020-4](#) s 33def **parties** ins [A2020-4](#) s 33def **registered building management statement** ins
[A2020-4](#) s 33**Building management statement may be registered**s 123D ins [A2020-4](#) s 33**Effect of building management statement**s 123E ins [A2020-4](#) s 33**Formal requirements for building management statement**s 123F ins [A2020-4](#) s 33**Building management committee—procedure**s 123G ins [A2020-4](#) s 33**Amendment of building management statement**s 123H ins [A2020-4](#) s 33**Planning and land authority approval of building management statement**s 123I ins [A2020-4](#) s 33**No notice of trusts to be entered in register**s 124 hdg am [A1993-89](#) notes 124 am [A1993-89](#) sch; [A1995-53](#) sch 2; ss renum R3 LA;
[A2013-11](#) amdt 1.6; [A2020-16](#) s 62**How survivorship among trustees may be banned except on order of judge**s 126 am [Ord1937-27](#) sch 2; [A1993-89](#) sch
om [A1995-53](#) s 54**Notice to be published before order**s 127 am [Ord1937-27](#) sch 2
om [A1995-53](#) s 54**Registrar-general to carry out order of court vesting trust estate**s 128 am [Ord1933-26](#) s 4; [Ord1937-27](#) sch 2; [A1993-89](#) sch;
[A1995-53](#) sch 2; [A2007-3](#) amdt 3.310**Action may be brought by person claiming beneficial interest in name of trustee**s 129 om [A1995-53](#) s 54

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Powers of attorney

s 130 am [Ord1926-8](#) s 3
sub [Ord1956-16](#) s 9
am [Ord1957-12](#) s 11; [A1995-53](#) sch 2; [A2006-50](#) amdt 2.12

Revocation of power of attorney

s 131 am [Ord1956-16](#) s 10; [A1993-89](#) sch; [A1995-53](#) s 55;
[A2001-44](#) amdt 1.2586, amdt 1.2587
om [A2006-50](#) amdt 2.13

Transmission by bankruptcy or insolvency

s 132 am [A1993-89](#) sch; [A1995-53](#) sch 2; [A2001-44](#) amdt 1.2588;
[A2020-16](#) s 63

Mortgagee of leasehold interest of bankrupt may be entered as transferee of lease

s 133 am [A1993-89](#) sch; [A1995-53](#) sch 2

Marriage of female proprietor to be certified to registrar

s 134 om [Ord1986-31](#) s 7

Transmission on death of proprietor

s 135 am [Ord1957-12](#) s 12; [Ord1985-9](#) sch 2; [A1993-89](#) sch
sub [A1995-53](#) s 56
am [A2001-44](#) amdt 1.2589

Trusts—protection

s 136 am [Ord1930-19](#) s 6; [Ord1957-12](#) s 13; [Ord1969-9](#) s 5;
[Ord1985-9](#) sch 2; [A1993-89](#) sch
sub [A1995-53](#) s 56

Powers of registrar in dealing with applications of executors and administrators

s 137 am [Ord1927-21](#) s 12; [A1993-89](#) sch
om [A1995-53](#) s 56

Trusts protected

s 138 om [A1995-53](#) s 56

Appointment of new or additional trustees

s 138A ins [Ord1933-26](#) s 5
am [Ord1933-34](#) s 3; [A1993-89](#) sch; [A1995-53](#) sch 2;
[A2020-16](#) s 64

Registration of declaration by executor

s 138B ins [Ord1934-14](#) s 2
am [Ord1967-46](#) sch; [Ord1977-47](#) s 5; [Ord1978-24](#) s 4;
[Ord1982-78](#) s 3; [Ord1983-39](#) s 8; [A1993-64](#) sch 1; [A1993-89](#)
sch; [A1995-53](#) s 57, sch 2; [A2001-44](#) amdt 1.2590

Fees and forms

pt 15 hdg am [A1995-53](#) s 58
sub [A2001-44](#) amdt 1.2591

Approved forms

s 138C ins [A1995-53](#) s 59
om [A2001-44](#) amdt 1.2591

Determination of fees, charges and other amounts

s 139 am [Ord1930-19](#) sch
sub [Ord1956-16](#) s 11
am [Ord1963-6](#) s 3; [Ord1977-47](#) s 6; [Ord1979-16](#) s 5
sub [Ord1983-39](#) s 9
am [Ord1983-68](#) s 11; [Ord1986-22](#) s 5; [A1993-89](#) sch;
[A1995-53](#) s 60
sub [A2001-44](#) amdt 1.2591
am [A2001-58](#) s 99; [A2002-39](#) amdt 1.5; [A2013-7](#) amdt 1.9;
[A2017-1](#) amdt 1.104; pars renum R36 LA

Approved forms

s 140 am [Ord1925-12](#) s 3; [Ord1937-27](#) sch 2; [Ord1938-15](#) s 2;
[Ord1951-9](#) s 3
om [Ord1956-16](#) s 12
ins [A2001-44](#) amdt 1.2591
am [A2001-58](#) s 100; [A2013-7](#) amdt 1.10; [A2017-1](#) amdt 1.105;
pars renum R36 LA

Percentage to be levied for registration of transfer

s 141 am [Ord1930-19](#) sch; [Ord1933-26](#) s 6; [Ord1936-15](#) s 3 (as am
by [Ord1937-27](#)); [Ord1967-46](#) sch
om [Ord1969-9](#) s 6

Payment of certain fees to registrar-general

s 142 am [Ord1930-19](#) sch; [Ord1986-22](#) s 6; [A1993-89](#) sch;
[A1995-53](#) s 61
om [A2001-44](#) amdt 1.2591

Remission of fees

s 142A ins [Ord1927-21](#) s 13
am [Ord1930-19](#) sch; [Ord1951-9](#) s 4
om [Ord1969-9](#) s 7

Damages in certain cases

s 143 am [Ord1930-19](#) sch; [Ord1989-38](#) sch 1; [A1995-53](#) sch 2

Damages and costs to be paid by Territory

s 144 am [Ord1930-19](#) sch; [Ord1937-27](#) sch 2; [Ord1989-38](#) sch 1;
[A1995-53](#) sch 2

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Moneys paid by Territory may be recovered against estate of deceased or bankrupt person

s 145 am [Ord1930-19](#) sch; [Ord1977-18](#) s 16; [Ord1989-38](#) sch 1; [A1995-53](#) sch 2

Where person liable is out of jurisdiction

s 146 am [Ord1930-19](#) sch; [Ord1937-27](#) sch 2; [Ord1977-18](#) s 17; [Ord1989-38](#) sch 1; [A1991-53](#) s 12; [A1995-53](#) sch 2

Territory only liable in certain cases

s 147 am [Ord1930-19](#) sch; [Ord1989-38](#) sch 1; [A2020-16](#) s 65

Proprietor may summon registrar-general to show cause if dissatisfied

s 148 am [Ord1937-27](#) sch 2; [A1995-53](#) sch 2; [A1997-96](#) sch 1

Special case when applicant dissatisfied with objection of registrar-general

s 149 am [A1995-53](#) sch 2

Registrar-general may state case for court

s 150 am [A1995-53](#) sch 2

Costs of proceedings

s 151 hdg am [A1995-53](#) notes

s 151 am [Ord1930-19](#) sch; [Ord1989-38](#) sch 1; [A1995-53](#) sch 2

Registered proprietor protected against ejectment except in certain cases

s 152 am [Ord1970-6](#) s 11; [Ord1989-38](#) sch 1; [A1995-53](#) sch 2; pars renum R3 LA; [A2020-16](#) ss 66-68

In case of ejectment of defendant who has made improvements their value may be assessed

s 153 am [Ord1930-19](#) sch; [Ord1989-38](#) sch 1; [A1995-53](#) sch 2; [A2002-40](#) amdt 3.26; [A2020-16](#) s 69, s 70; ss renum R40 LA

Compensation for party deprived of land

s 154 am [Ord1930-19](#) sch; [Ord1989-38](#) sch 1; [A1993-89](#) sch; [A1995-53](#) sch 2; [A2020-16](#) s 71, s 72

When actions may lie against registrar-general as nominal defendant

s 155 am [Ord1930-19](#) sch; [Ord1989-38](#) sch 1; [A1993-89](#) sch; [A1995-53](#) sch 2; [A2020-16](#) s 73

Notice of action

s 156 am [Ord1930-19](#) sch; [Ord1985-66](#) sch; [Ord1989-38](#) sch 1; ss renum R3 LA
sub [A2006-40](#) amdt 2.115

Limitation of actions

s 157 am [Ord1930-19](#) sch
om [Ord1985-66](#) sch

Registrar-general not to be liable for acts done bona fide

s 158 am [Ord1930-19](#) sch; [Ord1989-38](#) sch 1; [A1995-53](#) sch 2

Purchasers and mortgagees protecteds 159 am [A1995-53](#) sch 2**Corrections and alterations**pt 17 hdg sub [A1995-53](#) s 62**Correction of errors**s 160 am [Ord1937-27](#) sch 2
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sub [A1995-53](#) s 62**Correction of duplicate certificate etc**s 162 am [Ord1937-27](#) sch 2; [A1993-89](#) sch
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ins [A2020-4](#) s 34
def **applicant** ins [A2020-4](#) s 34
def **reviewable decision** ins [A2020-4](#) s 34**Reviewable decision notices**s 163A ins [A2020-4](#) s 34**Applications for review**s 164 am [Ord1937-27](#) sch 2
om [A2001-44](#) amdt 1.2592
ins [A2020-44](#) s 34**Registrar-general may hold instrument for safekeeping**s 164A ins [A1995-53](#) s 63
am [A1997-96](#) sch 1; [A2001-44](#) amdt 1.2593, amdt 1.2594
om [A2020-16](#) s 74**Offence for certain fraudulent acts**s 165 hdg sub [A2007-3](#) amdt 3.311
s 165 am [Ord1967-46](#) sch; [A1993-89](#) sch; [A1995-53](#) sch 2;
[A1998-54](#) sch; [A2001-44](#) amdt 1.2595, amdt 1.2596;
[A2020-16](#) ss 75-77

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Conviction not to affect civil remedy

s 166 am [A1995-53](#) sch 2

Prosecutions and recovery of penalties

s 167 am [A1995-53](#) sch 2

Use of prescribed forms

s 168 sub [Ord1979-16](#) s 6
om [A1993-89](#) sch

Document bearing imprint of seal of registrar-general

s 168A ins [Ord1979-16](#) s 6
am [A1998-54](#) sch

Alteration of forms

s 169 am [Ord1925-12](#) s 4; [Ord1930-19](#) sch; [Ord1977-18](#) s 18;
[Ord1979-16](#) s 7
om [A1993-89](#) sch

General form of application

s 169A ins [Ord1961-7](#) s 12
om [A1993-89](#) sch

Sales by order of court etc

s 170 am [Ord1970-6](#) s 12, sch 2; [Ord1989-38](#) sch 1; [A1991-22](#) s 11;
[A1993-89](#) sch; [A1995-53](#) sch 2; ss renum R3 LA; [A2006-40](#)
amdt 2.116

Surrender and regrant of lease of land affected by writ

s 170A ins [A2000-82](#) s 18
am [A2006-40](#) amdt 2.117

Conditions of sale of land under this Act

s 171 am [A1995-53](#) sch 2; [A2020-16](#) s 78; pars renum R40 LA

Seal of corporation substituted for signature

s 172 am [A1995-53](#) sch 2
om [A2000-82](#) s 19

Attesting of instruments

s 173 am [Ord1961-7](#) s 13
sub [A1995-53](#) s 64
am [A2020-16](#) s 79

Mode of proving execution

s 174 am [Ord1937-27](#) sch 2; [A1993-89](#) sch
om [A1995-53](#) s 64

Acknowledgment by married woman not necessary

s 175 om [Ord1986-31](#) s 8

Place of signing to be stated

s 176 om [A1995-53](#) s 64

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sub [A1995-53](#) s 65**Registrar-general may collect information**s 178A ins [A2016-37](#) amdt 1.28**Registrar-general must give information about certain transactions and instruments to revenue commissioner**s 178B ins [A2017-1](#) amdt 1.106
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[Ord1989-38](#) sch 1
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[Ord1967-46](#) sch; [Ord1975-33](#) s 7; [Ord1983-39](#) s 11;
[Ord1986-31](#) s 9; [A1993-64](#) sch 1
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[Ord1967-46](#) sch; [A1993-64](#) sch 1
om [A1993-89](#) sch
(prev sch 18) renum by [A1993-89](#) s 4
sub [A1995-53](#) s 66, sch 1
om [A2001-44](#) amdt 1.2598**Matters subject to determination of fees**sch 3 (prev 3rd sch) am [Ord1930-19](#) sch; [A1993-64](#) sch 1
om [A1993-89](#) sch
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- sch 4 (prev 4th sch) am [Ord1930-19](#) sch; [Ord1967-46](#) sch; [Ord1975-33](#) sch; [Ord1986-31](#) s 10; [A1993-64](#) sch 1 om [A1993-89](#) sch
- sch 5 (prev 5th sch) am [Ord1930-19](#) sch; [Ord1967-46](#) sch; [Ord1975-33](#) sch; [Ord1986-31](#) s 11; [A1993-64](#) sch 1 om [A1993-89](#) sch
- sch 6 (prev 6th sch) am [Ord1930-19](#) sch; [Ord1967-46](#) sch; [Ord1975-33](#) sch; [Ord1986-31](#) s 12; [A1993-64](#) sch 1 om [A1993-89](#) sch
- sch 7 (prev 7th sch) renum sch 1 [A1993-89](#) s 4
- sch 8 (prev 8th sch) am [Ord1930-19](#) sch; [Ord1967-46](#) sch; [Ord1975-33](#) sch; [A1993-64](#) sch 1 om [A1993-89](#) sch
- sch 9 (prev 9th sch) am [Ord1930-19](#) sch; [Ord1967-46](#) sch; [Ord1975-33](#) sch; [A1993-64](#) sch 1 om [A1993-89](#) sch
- sch 10 (prev 10th sch) am [Ord1930-19](#) sch; [Ord1967-46](#) sch; [Ord1975-33](#) sch; [A1993-64](#) sch 1 om [A1993-89](#) sch
- sch 11 (prev 11th sch) am [Ord1930-19](#) sch; [Ord1967-46](#) sch; [Ord1975-33](#) sch; [Ord1986-31](#) s 13; [A1993-64](#) sch 1 om [A1993-89](#) sch
- sch 12 (prev 12th sch) am [Ord1930-19](#) sch om [Ord1956-16](#) s 14
- sch 13 (prev 13th sch) am [Ord1930-19](#) sch om [Ord1956-16](#) s 14
- sch 14 om [A1993-89](#) sch

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- sch 15 (prev 15th sch) am [Ord1930-19](#) sch; [Ord1937-27](#) sch 2;
[Ord1967-46](#) sch; [A1993-64](#) sch 1
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- sch 16 (prev 16th sch) am [Ord1930-19](#) sch; [Ord1967-46](#) sch;
[A1993-64](#) sch 1
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- sch 18 (prev 18th sch) am [Ord1925-12](#) s 5; [Ord1930-19](#) s 7;
[Ord1933-26](#) s 7; [Ord1940-16](#) s 5; [Ord1951-9](#) s 5
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- sch 21 (prev 21st sch) ins [Ord1940-16](#) s 6
am [A1993-64](#) sch 1
om [A1993-89](#) sch
- sch 22 (prev 22nd sch) ins [Ord1956-16](#) s 16
am [Ord1967-46](#) sch; [A1993-64](#) sch 1
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- sch 23 (prev 23rd sch) ins [Ord1961-7](#) s 15
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sch 24 (prev 24th sch) ins [Ord1972-11](#) s 3
am [A1993-64](#) sch 1
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ins [A2007-3](#) amdt 3.312
am [A2007-25](#) amdt 1.89; [A2008-14](#) amdt 1.40; [A2009-20](#)
amdt 3.116; [A2011-3](#) amdt 3.278; [A2012-40](#) amdt 3.62;
[A2013-39](#) amdt 2.35 ([A2013-39](#) never effective (see
Commonwealth v Australian Capital Territory [2013]
HCA 55)); [A2015-19](#) s 60; [A2015-33](#) amdt 1.130; [A2017-1](#)
amdt 1.107; [A2020-16](#) s 80
def **administrative interest** ins [A2007-25](#) amdt 1.90
am [A2014-18](#) amdt 3.56
def **applicant** ins [A2020-4](#) s 35
def **approved** ins [A2020-4](#) s 35
def **authorised entity** ins [A2007-25](#) amdt 1.90
sub [A2014-18](#) amdt 3.57
def **building management committee** ins [A2020-4](#) s 35
def **building management statement** ins [A2020-4](#) s 35
def **building sublease** ins [A2015-19](#) s 61
def **caveator** am [A1995-53](#) s 6
reloc from s 6 [A2007-3](#) amdt 3.304
def **computer folio** ins [A1993-89](#) sch
reloc from s 6 [A2007-3](#) amdt 3.304
def **court** ins [A2007-3](#) amdt 3.298
reloc from s 6 [A2007-3](#) amdt 3.304
def **Crown land** reloc from s 6 [A2007-3](#) amdt 3.304
def **Crown lease** am [Ord1927-21](#) s 2; [A2007-3](#) amdt 3.299
reloc from s 6 [A2007-3](#) amdt 3.304
sub [A2007-25](#) amdt 1.91
def **daily newspaper** ins [A2015-33](#) amdt 1.131
om [A2018-33](#) s 85
def **declared land sublease** ins [A2015-19](#) s 61
def **E-Conveyancing Law** ins [A2020-16](#) s 81
def **encumbrance** reloc from s 6 [A2007-3](#) amdt 3.304
def **encumbrancee** reloc from s 6 [A2007-3](#) amdt 3.304
def **encumbrancer** am [A1995-53](#) sch 2
reloc from s 6 [A2007-3](#) amdt 3.304
def **Federal Capital Commission** ins [A2007-3](#) amdt 3.300
reloc from s 6 [A2007-3](#) amdt 3.304
am [A2014-18](#) amdt 3.58

- def **grant** am [Ord1927-21](#) s 2
sub [A2007-3](#) amdt 3.301
reloc from s 6 [A2007-3](#) amdt 3.304
- def **instrument** am [Ord1961-7](#) s 5
sub [Ord1983-68](#) s 3
am [A1995-53](#) s 6
reloc from s 6 [A2007-3](#) amdt 3.304
am [A2015-19](#) s 62
- def **Land Act** ins [A1991-118](#) sch 1 pt 9
reloc from s 6 [A2007-3](#) amdt 3.304
om [A2007-25](#) amdt 1.92
- def **land sublease** ins [A2015-19](#) s 63
- def **lodge** ins [A1995-53](#) s 6
reloc from s 6 [A2007-3](#) amdt 3.304
- def **memorandum of provisions** ins [Ord1983-68](#) s 3
reloc from s 6 [A2007-3](#) amdt 3.304
- def **memorial** ins [A1995-53](#) s 6
reloc from s 6 [A2007-3](#) amdt 3.304
- def **mortgage** reloc from s 6 [A2007-3](#) amdt 3.304
- def **mortgagee** reloc from s 6 [A2007-3](#) amdt 3.304
- def **mortgagee corporation** ins [A2020-16](#) s 81
- def **mortgagor** am [A1995-53](#) sch 2
reloc from s 6 [A2007-3](#) amdt 3.304
- def **parties** ins [A2020-4](#) s 35
- def **proprietor** sub [Ord1957-12](#) s 2
reloc from s 6 [A2007-3](#) amdt 3.304
- def **register** ins [A1995-53](#) s 6
reloc from s 6 [A2007-3](#) amdt 3.304
- def **registered building management statement** ins
[A2020-4](#) s 35
- def **registrable form** ins [A2007-3](#) amdt 3.312
- def **reviewable decision** ins [A2020-4](#) s 35
- def **transfer** am [A1995-53](#) sch 2
reloc from s 6 [A2007-3](#) amdt 3.304
- def **transmission** am [A2006-22](#) amdt 1.70 ([A2006-22](#) rep
before commenced by disallowance (see Cwlth Gaz 2006
No S93))
reloc from s 6 [A2007-3](#) amdt 3.304
am [A2008-14](#) amdt 1.39; [A2012-40](#) amdt 3.61
- def **units plan** ins [A2015-19](#) s 63
- def **verification of authority rules** ins [A2020-16](#) s 81
- def **verification of identity rules** ins [A2020-16](#) s 81

Endnotes

5 Earlier republications

5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	A1995-53	20 June 1996
2	A1998-4	1 July 1998
3	A2001-58	7 March 2002
4*	A2001-58	11 March 2002
5	A2001-58	1 July 2002
6	A2002-39	11 October 2002
7	A2002-40	1 November 2002
8	A2003-14	28 March 2003
9	A2003-14	1 July 2003
10*	A2003-34	1 September 2003
11	A2004-15	9 April 2004
12	A2005-21	12 November 2005
13	A2006-40	29 September 2006
14	A2006-40	19 October 2006
15	A2007-3	12 April 2007
16	A2007-3	30 May 2007
17	A2007-33	14 November 2007
18	A2008-4	31 March 2008
19	A2008-14	19 May 2008
20*	A2009-20	22 September 2009
21	A2010-6	3 March 2010
22	A2010-18	3 June 2010

Republication No	Amendments to	Republication date
23	A2010-50	21 December 2010
24	A2011-3	1 March 2011
25	A2011-41	30 March 2012
26	A2012-40	11 September 2012
27	A2013-7	4 March 2013
28	A2013-11	4 April 2013
29	A2013-39 (never effective)	7 November 2013
29 (RI)	A2013-39 (never effective) ≠	24 February 2014
30	A2014-18	10 June 2014
31	A2015-6	29 June 2015
32	A2015-19	1 July 2015
33	A2015-33	14 October 2015
34	A2016-18	27 April 2016
35	A2016-37	29 June 2016
36	A2017-1	18 September 2017
37	A2018-2	1 March 2018
38	A2018-33	2 October 2018
39	A2019-28	2 April 2020
40	A2020-16	1 June 2020
41	A2020-20	1 July 2020

≠ reissue because of High Court decision in relation to [A2013-39](#)

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