

AUSTRALIAN CAPITAL TERRITORY.

No. 12 of 1957.

AN ORDINANCE

To amend the *Real Property Ordinance 1925-1956*.

I, THE GOVERNOR-GENERAL in and over the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910-1955*.

Dated this eighth day of November, 1957.

W. J. SLIM
Governor-General.

By His Excellency's Command,

NEIL O'SULLIVAN
Attorney-General for and on behalf of
the Minister of State for the Interior.

REAL PROPERTY ORDINANCE 1957.*

1.—(1.) This Ordinance may be cited as the *Real Property Ordinance 1957*. Short title
and citation.

(2.) The *Real Property Ordinance 1925-1956*† is in this Ordinance referred to as the Principal Ordinance.

(3.) The Principal Ordinance, as amended by this Ordinance, may be cited as the *Real Property Ordinance 1925-1957*.

2. Section six of the Principal Ordinance is amended— Interpretation.

(a) by inserting in sub-section (1.), after the definition of "Crown Lease", the following definition:—
" 'Curator' means the Curator of Estates of Deceased Persons appointed under the *Administration and Probate Ordinance 1929-1953* and includes an Acting Curator of Estates of Deceased Persons and a Deputy Curator of Estates of Deceased Persons so appointed;";

* Notified in the *Commonwealth Gazette* on 21st November, 1957.

† Ordinance No. 1, 1925, as amended by Ordinance No. 12, 1925; No. 8, 1926; Nos. 15 and 21, 1927; No. 19, 1930; Nos. 26 and 34, 1933; No. 14, 1934; No. 15, 1936; No. 27, 1937; Nos. 15, 25 and 35, 1938; No. 16, 1940; No. 15, 1942; No. 9, 1951; and No. 16, 1956.

5410/57.—PRICE 3d.

(b) by omitting from sub-section (1.) the definition of “Proprietor” and inserting in its stead the following definition:—

“ ‘Proprietor’ means a person seized or possessed of, or entitled to, land, at law or in equity;”;

(c) by omitting from that sub-section the definition of “Public Trustee”.

3.—(1.) Section seven of the Principal Ordinance is repealed and the following section inserted in its stead:—

“ 7.—(1.) For the purposes of this Ordinance, the Attorney-General may appoint—

(a) a Registrar of Titles;

(b) an Acting Registrar of Titles to act in the office of Registrar of Titles during a vacancy in that office or during the illness or absence of the Registrar of Titles; and

(c) such Deputy Registrars of Titles and other officers as the Attorney-General considers necessary.

“ (2.) An Acting Registrar of Titles while acting in the office of Registrar of Titles has, and may exercise and perform, all the powers and functions of the Registrar of Titles.

“ (3.) Subject to the directions of the Registrar of Titles, a Deputy Registrar of Titles has, and may exercise and perform, all the powers and functions of the Registrar of Titles.

“ (4.) The appointment of a Deputy Registrar of Titles does not affect the exercise of a power or the performance of a function by the Registrar of Titles or an Acting Registrar of Titles.”

(2.) A person holding office immediately before the date of commencement of this Ordinance as Registrar of Titles or Deputy Registrar of Titles under the *Real Property Ordinance 1925-1956* continues to hold office on and after that date as Registrar of Titles or Deputy Registrar of Titles, as the case may be, as if he was so appointed under the *Real Property Ordinance 1925-1957*.

4. Section forty-three of the Principal Ordinance is amended by adding at the end thereof the following sub-section:—

“ (3.) Where the Registrar is satisfied—

(a) that the Register Book 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 may cancel the entry in the Register Book.”

Registrar of
Titles, Acting
Registrar of
Titles and
Deputy
Registrars of
Titles.

Registrar to
keep Register
Book.

5. Section forty-seven A of the Principal Ordinance is amended by omitting from sub-section (2.) the words “, the day and hour of the production of the instrument for registration and the names of the parties thereto, and shall refer by number or by symbol to the instrument” and inserting in their stead the words “ and such other particulars as the Registrar directs,”.

Registration of transfers of mortgages, sub-leases, &c.

6. Section forty-nine of the Principal Ordinance is amended by omitting the words “, the day and hour of the production of the instrument for registration, and the names of the parties thereto, and shall refer by number or symbol to the instrument,” and inserting in their stead the words “ and such other particulars as the Registrar directs,”.

Form of memorial.

7. Section fifty of the Principal Ordinance is amended by omitting sub-section (1.) and inserting in its stead the following sub-section:—

Memorial to be recorded on duplicate grant, certificate or instrument, unless dispensed with.

“ (1.) Where a memorial of an instrument is entered in the Register Book, the Registrar shall endorse a corresponding memorial on the duplicate grant, certificate of title or instrument evidencing title to the estate or interest intended to be dealt with or in any way affected, unless the Registrar dispenses with the production of the duplicate grant, certificate of title or instrument under the succeeding provisions of this Ordinance.”

8. Section sixty-two A of the Principal Ordinance is amended by omitting sub-section (1.) and inserting in its stead the following sub-sections:—

Power of Registrar to issue new certificate.

“ (1.) Where—

(a) a duplicate grant or certificate of title lodged with the Registrar is in such a condition that, in the opinion of the Registrar, a new certificate of title should be issued in its place; or

(b) it appears to the Registrar to be desirable that a new certificate of title should be issued in respect of the whole or part of the land in respect of which a person is registered as proprietor,

the Registrar may issue the new certificate of title and cancel or partly cancel, as the case requires, the existing grant or certificate of title.

“ (1A.) Where the Registrar issues a certificate of title under the last preceding sub-section, the person registered as proprietor of the land in respect of which the certificate of title is issued is liable to pay the prescribed fees for the issue of a certificate of title.”

Registrar may register as proprietor a person entitled to land by operation of statute or by defeasance of estate.

9. Section sixty-eight of the Principal Ordinance is amended by omitting the words “stamp duty and”.

Dealing with land before grant or registration of Crown lease.

10. After section seventy-two A of the Principal Ordinance the following section is inserted in Part IX.:—

“72B.—(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 estate or interest in the land as may be registered under this Ordinance shall be deemed to confer on the person intended to take the estate or interest in the land under the instrument, and on any other person claiming through or under the person intended to take that estate or interest, the right, upon the registration of the Crown lease under this Ordinance, to have the instrument registered under this Ordinance.

“(2.) The right conferred by the last preceding sub-section 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 the provisions of this Ordinance.”

Powers of attorney.

11. Section one hundred and thirty of the Principal Ordinance is amended by adding at the end of sub-section (2.) the words “or under the *Registration of Deeds Ordinance 1957*.”

Transmission of mortgage or lease on death of proprietor.

12. Section one hundred and thirty-five of the Principal Ordinance is amended by omitting the words “Public Trustee” (wherever occurring) and inserting in their stead the word “Curator”.

Registration of executors, administrators, &c., by transmission.

13. Section one hundred and thirty-six of the Principal Ordinance is amended by omitting from sub-section (2.) the words “Public Trustee” and inserting in their stead the word “Curator”.

By Authority: A. J. ARTHUR, Commonwealth Government Printer, Canberra.