

## REAL PROPERTY (CONVERSION OF TITLES)

### No. 29 of 1967

An Ordinance to provide for the bringing under the *Real Property Ordinance 1925-1963* of land alienated from the Crown but not yet subject to that Ordinance.

#### PART I.—PRELIMINARY.

- Short title.** 1. This Ordinance may be cited as the *Real Property (Conversion of Titles) Ordinance 1967*.\*
- Administration.** 2. This Ordinance shall be administered by the Attorney-General.
- Parts.** 3. This Ordinance is divided into Parts, as follows:—  
     Part I.—Preliminary (Sections 1-4).  
     Part II.—Bringing Land under the Real Property Ordinance (Sections 5-21).  
     Part III.—Miscellaneous (Sections 22-26).
- Interpretation.** 4.—(1.) In this Ordinance, unless the contrary intention appears—  
     “limited certificate” means a limited certificate of title under this Ordinance;  
     “Registrar’s minute” means a minute of the Registrar referred to in section 11 of this Ordinance;  
     “the Principal Ordinance” or “the Real Property Ordinance” means the *Real Property Ordinance 1925-1963*.  
     (2.) Words and expressions used in this Ordinance shall, unless the contrary intention appears, have the same meanings as the corresponding words and expressions in the Principal Ordinance.

#### PART II.—BRINGING LAND UNDER THE REAL PROPERTY ORDINANCE.

- Duty of Registrar to bring land under Real Property Ordinance.** 5.—(1.) The Registrar shall bring under the Principal Ordinance all land alienated from the Crown but not yet brought under the Principal Ordinance and in respect of which application might be made under Part V. of the Principal Ordinance to bring the land under that Ordinance.

\* Made on 31 August 1967; notified in the *Commonwealth Gazette* and commenced on 21 September 1967.

(2.) The Registrar may proceed to bring land under the Principal Ordinance in pursuance of this Ordinance notwithstanding the lodgment, whether before or after the Registrar commences so to proceed, of an application under Part V. of the Principal Ordinance.

6.—(1.) Before proceeding to bring land under the Principal Ordinance in pursuance of this Ordinance, the Registrar shall cause a notice of his intention so to proceed to be published in the *Gazette* and in such newspapers as he thinks fit, and shall specify in the notice a date, being a date not less than one month nor more than twelve months from the date of publication of the notice in the *Gazette*, after which the Registrar intends so to proceed.

Notice of intention to bring land under Principal Ordinance.

(2.) A person having or claiming an estate or interest in land referred to in any such notice may, at any time before the date so specified, give notice in writing to the Registrar of that estate or interest.

7.—(1.) The Registrar may, by notice in writing served personally or by registered post, require a person—

Surrender of documents, &c.

- (a) to produce for his inspection or to surrender to him, within such period, not being less than seven days, as is specified in the notice, a document in the possession or under the control of that person affecting land or the title to land; or
- (b) to appear before him at a time and place specified in the notice and to give an explanation demanded by, or to answer questions put to him by, the Registrar with respect to land or the title to land or a document affecting land or title to land.

(2.) A person upon whom a notice is so served shall not—

- (a) without lawful excuse, refuse or fail to comply with a requirement of the notice;
- (b) without lawful excuse, refuse or fail to give an explanation demanded from him by, or answer a question put to him by, the Registrar; or
- (c) knowingly give to the Registrar an explanation or answer that is incorrect in a material particular.

Penalty: Two hundred dollars.

(3.) The Registrar may withhold delivery of a certificate of title signed in pursuance of this Ordinance to the person entitled to the certificate until he complies with the requirements of a notice served upon him under this section and gives any explanations demanded from him by, and answers any questions put to him by, the Registrar.

(4.) In this section, "land" means land that the Registrar has brought or proposes to bring under the Principal Ordinance in pursuance of this Ordinance.

Certificates  
of title.

**8.**—(1.) Where, in pursuance of this Ordinance, the Registrar proposes to bring land under the Principal Ordinance, the Registrar shall sign a certificate of title for the land in the name of the person appearing to him to be entitled to be registered as the proprietor of the land and, subject to subsection (3.) of the last preceding section, deliver the certificate to the person entitled to receive it.

(2.) The Registrar may, for a reason that he deems sufficient, delay bringing land under the Principal Ordinance in pursuance of this Ordinance.

(3.) The Registrar shall give notice, by registered post, of the signing of a certificate of title to land to each person who has an estate or interest in the land as evidenced by the certificate of title or by a memorial written on the certificate.

(4.) Where, in pursuance of this section, the Registrar signs a certificate of title for land, the land shall, upon the signing of the certificate, be deemed to have been brought under the Principal Ordinance.

Ordinary  
certificate of  
title.

**9.**—(1.) If, in respect of land that the Registrar proposes to bring under the Principal Ordinance in pursuance of this Ordinance, the Registrar is satisfied that—

(a) if an application to bring the land under the Principal Ordinance were to be made by the person in whose name the Registrar proposes to issue the certificate of title, he would issue a certificate of title in the name of that person; and

(b) the land is not in the occupation of a person adversely to the title of that person,

the certificate of title for the land shall be an ordinary certificate of title in accordance with the form in the Third Schedule to the Principal Ordinance.

(2.) An ordinary certificate of title issued in pursuance of this Ordinance has the same effect as a certificate of title issued under the Principal Ordinance on the bringing of land under that Ordinance in pursuance of Part V. of that Ordinance, and the Principal Ordinance applies to the certificate issued in pursuance of this Ordinance as if it had been issued under the Principal Ordinance.

Limited  
certificate of  
title.

**10.**—(1.) If, in respect of any land that the Registrar proposes to bring under the Principal Ordinance in pursuance of this Ordinance, the Registrar is not satisfied as provided in subsection (1.) of the last preceding section, the certificate of title for the land shall be a limited certificate of title in accordance with the form in the Schedule to this Ordinance.

- (2.) A limited certificate may be limited as to—
- (a) description of land;
  - (b) title; or
  - (c) description of land and title.

**11.—(1.)** Before signing a limited certificate for land, the Registrar shall file with his records a minute signed by him specifying—

Registrar's minutes of defects found in titles.

- (a) any probable or possible estate or interest in the land that has not been proved to the satisfaction of the Registrar; and
  - (b) the acts or matters that should be done or proved, and the requisitions, including requisitions for the surrendering of documents affecting the land or the title to the land, that should be complied with, in order to justify the issue of an ordinary certificate of title.
- (2.) The Registrar may, by writing under his hand—
- (a) amend the minute so as to indicate any change in the position with respect to estates or interests specified in the minute and which of the acts or matters or requisitions so referred to have been done, proved or complied with; and
  - (b) subject to the next succeeding sub-section, add to or alter the minute in any other manner.

(3.) Where a person acquires, in good faith and for valuable consideration, any land comprised in a limited certificate of title or an interest in any such land from a registered proprietor of the land or the interest and becomes the registered proprietor of the land or the interest, the Registrar shall not amend, add to or alter the minute relating to that certificate so as to prejudice the limited title of, or throw an onus upon, that person or any other person claiming in good faith through or under that person.

(4.) Upon filing the minute the Registrar shall send by registered post a copy of the minute to each person who appears to him to have an estate or interest in the land.

(5.) Where the Registrar amends, adds to or alters the minute, the Registrar shall send by registered post a copy of the minute as so amended, added to or altered to each person referred to in the last preceding sub-section whose estate or interest appears to the Registrar to be affected by the amendment, addition or alteration.

**12.—(1.)** A Registrar's minute does not form part of the Register Book.

Search of Registrar's minutes.

(2.) A person shall, upon payment of the fee in accordance with section 66 of the Principal Ordinance, have access to Registrar's minutes for the purposes of inspection during the hours and upon the days appointed for search.

Application of  
Principal  
Ordinance to  
limited  
certificates.

**13.**—(1.) Subject to this Ordinance, the provisions of the Principal Ordinance relating to certificates of title and to land comprised in certificates of title apply, so far as they are capable of application, to limited certificates and to the land comprised in those certificates and to the registration of instruments and other matters affecting limited certificates.

(2.) For the purpose of applying the provisions of the Principal Ordinance to and in relation to a limited certificate of title and land comprised in a limited certificate of title in accordance with the last preceding sub-section, an estate or interest specified in the Registrar's minute relating to that certificate and in fact existing when the certificate is signed shall be deemed to be an estate or interest notified on the certificate of title.

(3.) Subject to the next succeeding sub-section, a limited certificate is evidence as to title in all respects as if it were an ordinary certificate of title issued under the Principal Ordinance and the provisions of that Ordinance shall, with necessary modifications, be read and construed and take effect accordingly.

(4.) Where, in any proceedings, a question arises concerning—

- (a) the estate or interest of any person the existence or possible or probable existence of which is specified in the Registrar's minute relating to land; or
- (b) the estate or interest of a person in actual occupation of, and entitled to, land,

a limited certificate in respect of that land, or of land in which that land is included, is not, in relation to that question, evidence as to the title to that land or any estate or interest in that land.

(5.) Notwithstanding the provisions of section 69 of the Principal Ordinance, the signing of a limited certificate of title for land does not stop the running of time under any statute of limitations in force in the Territory relating to real estate in favour of a person in adverse possession of the land at the time of the signing of the certificate or in favour of a person claiming through or under him.

Dealings with  
interests  
mentioned in  
Registrar's  
minute.

**14.** Where a Registrar's minute specifies the existence, or the probable or possible existence, of a registrable estate or interest in land, a dealing with that estate or interest is not capable of being registered until the estate or interest is registered.

Interests  
comprised in  
limited  
certificate to be  
limited.

**15.** The registered title to an estate or interest less than freehold as evidenced by a limited certificate or by a memorial written or endorsed on that certificate shall be deemed to be limited to the same extent as the certificate.

Restriction of  
issue of  
ordinary  
certificate for  
land in limited  
certificate.

**16.** The Registrar shall not issue a new certificate of title, not being a limited certificate, in substitution for a limited certificate except as provided in this Ordinance or, if the new certificate is issued in respect of part of the land comprised in the

limited certificate, unless the matters in respect of which the limited certificate is limited do not affect or relate to that part of the land.

**17.—(1.)** Where the Registrar is satisfied—

- (a) that the acts, matters and requisitions specified in the Registrar's minute relating to the land comprised in a limited certificate have been done, proved and complied with; or
- (b) that, by reason of lapse of time or for any other reason, the doing or proving of, or compliance with, those acts, matters and requisitions has become unnecessary,

Substitution of ordinary certificate for limited certificate.

and, in either case, he is satisfied that no part of the land is held in possession adverse to the title of the proprietor to be named in the ordinary certificate, the Registrar shall, subject to the next succeeding sub-section, call in and cancel the limited certificate and issue an ordinary certificate of title in substitution for the limited certificate.

(2.) The Registrar shall not issue, under the last preceding sub-section, an ordinary certificate of title in substitution for a limited certificate of title that is limited as to description of land if it appears to him that the land or part of the land in respect of which it is proposed to issue an ordinary certificate of title is included in the title of an adjoining occupier or proprietor as evidenced by an instrument registered, recorded, deposited or enrolled in the office of the Registrar-General for New South Wales or by a certificate of title limited as to description of land unless—

- (a) he has given to each person who appears to him to be such an occupier or proprietor such notice as he deems necessary of his intention, after the expiration of the period specified in the notice, to issue the certificate; and
- (b) each of the periods specified in such a notice has expired.

**18.—(1.)** A person who claims an estate of freehold in the land or part of the land comprised in a limited certificate—

- (a) by virtue of possession adverse to the title of the proprietor named in the certificate; or
- (b) under any estate or interest the existence of which, or the probable or possible existence of which, is indicated in the Registrar's minute,

Applications by persons claiming title adverse to proprietor of limited certificate.

may apply under the Principal Ordinance to have the land in respect of which he claims the estate of freehold brought under the Principal Ordinance as if this Ordinance had not been made and the certificate had not been issued.

(2.) If the Registrar proposes to issue a certificate under the Principal Ordinance, he shall call in and cancel or correct the limited certificate.

Substitution of ordinary certificate for limited certificate as to title after 12 years.

19.—(1.) Where the certificate of title to land is limited as to title but not as to description of land, the Registrar shall, twelve years after the first signing of a limited certificate for the land, inquire whether a person is in possession of the land or part of the land adversely to the title of the registered proprietor named in the limited certificate.

(2.) Where the Registrar is satisfied that a person is not so in possession of the land or part of the land, the Registrar shall call in and cancel the limited certificate and issue an ordinary certificate of title for the land comprised in the limited certificate.

(3.) Where the Registrar is satisfied that a person is so in possession of the land or part of the land, the Registrar may refrain from or delay calling in and cancelling the limited certificate and issuing an ordinary certificate of title.

Caveat as to trustees without power to sell.

20. Where a certificate of title is issued in pursuance of this Ordinance in the name of trustees who do not have express power to sell the land comprised in the certificate, the Registrar shall enter a caveat as provided for in sub-section (3.) of section 124 of the Principal Ordinance for the protection of the interests of persons beneficially interested under the trust.

Amendment of description of land in limited certificate.

21. The Registrar may, upon such information as he deems sufficient, amend the description of land in, or the plan upon, a certificate of title limited as to description of land, but not so as to exclude from the description land of which the proprietor named in the certificate is in possession and to which he is entitled for the estate or interest evidenced by the certificate.

### PART III.—MISCELLANEOUS.

Actions against the Commonwealth and officers.

22.—(1.) Part XVI. of the Principal Ordinance applies to the bringing of land under the Principal Ordinance in pursuance of this Ordinance as if—

(a) a reference to the person upon whose application land is brought under the Principal Ordinance were read as a reference to the Commonwealth; and

(b) sub-section (5.) of section 154 and sub-section (3.) of section 157 of the Principal Ordinance were omitted.

(2.) The Registrar, or a person acting under his authority, shall not be liable to an action, suit or proceeding by the registered proprietor of land comprised in a certificate limited as to description of land, or by any other person, by reason of a *bona fide* error or omission in the description of the land comprised in the certificate of title.

23. An instrument that is not in accordance with a form prescribed by the Principal Ordinance may be registered under the Principal Ordinance if—

Registration of informal deeds affecting land subject to this Ordinance.

- (a) it affects land brought under the Principal Ordinance in pursuance of this Ordinance; and
- (b) it bears a date before, or within six months after, the date of the first certificate of title for the land.

24. Fees are not payable in respect of the bringing of land under the Principal Ordinance in pursuance of this Ordinance.

Fees.

25.—(1.) A photographic copy of the registration copy of an original instrument registered in the office of the Registrar-General for New South Wales is, if certified to be such a photographic copy by a Deputy Registrar-General of that State, evidence of the contents of the registration copy.

Evidence of documents registered with Registrar-General.

(2.) A document purporting to be a photographic copy of such a registration copy and to be certified as required by the last preceding sub-section shall, in the absence of evidence to the contrary, be deemed to be a photographic copy and to have been duly certified.

26. The Attorney-General may make regulations, not inconsistent with this Ordinance, prescribing all matters required or permitted by this Ordinance to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance.

Regulations.

## THE SCHEDULE

Section 10.

AUSTRALIAN CAPITAL TERRITORY.

Case No.

Register Book  
Vol. Fol.

*Real Property Ordinance 1925-1963.*

*Real Property (Conversion of Titles) Ordinance 1967.*

### LIMITED CERTIFICATE OF TITLE.

AB, of [here insert description] is now seised of an estate [here state whether in fee simple or leasehold for a life or lives or for a term of years] subject, nevertheless, to the encumbrances, liens and interests notified by memorial underwritten or endorsed hereon and to the limitations expressed or implied by or under the *Real Property (Conversion of Titles) Ordinance 1967* in that piece of land situated in the Australian Capital Territory being [here insert sufficient description to identify the land, referring to a map or diagram] which said piece of land is [or is part of] the [county, section or town allotment] as delineated on [here insert reference to appropriate map or sub-divisional plan] deposited in the office of the Registrar of Titles in the said Territory.

This certificate of title is LIMITED [AS TO DESCRIPTION OF LAND or AS TO TITLE or AS TO DESCRIPTION OF LAND AND TITLE, as the case may be]. The estates and interests and probable or possible estates or interests in the land, the acts or matters that should be done or proved and the requisitions that should be complied with in order to justify the Registrar in issuing an ordinary certificate of title are set forth in the Registrar's minute filed in Case No.

In witness whereof I have hereunto signed my name and affixed my seal, this day of

Signed in the presence of

, the

day of

(L.S.)

Registrar of Titles.