

1993

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Real Property (Amendment) Bill 1993

A BILL

FOR

An Act to amend the *Real Property Act 1925*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Short title

1. This Act may be cited as the *Real Property (Amendment) Act 1993*.

5 Commencement

2. (1) Sections 1, 2 and 3 commence on the day on which this Act is notified in the *Gazette*.

(2) The remaining provisions commence on a day fixed by the Minister by notice in the *Gazette*.

10 (3) If a provision referred to in subsection (2) has not commenced before the end of the period of 6 months commencing on the day on which this Act is notified in the *Gazette*, that provision, by force of this subsection, commences on the first day after the end of that period.

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Principal Act

3. In this Act, "Principal Act" means the *Real Property Act 1925*.¹

Renumbering—Seventh Schedule and Schedule 18

4. The Seventh Schedule and Schedule 18 are renumbered as Schedule 1 and Schedule 2, respectively.

Further amendments

5. The Principal Act is amended as set out in the Schedule.

Savings

6. The Register to be kept under section 43 of the Principal Act as amended by this Act is a continuance of the Register kept under section 43 of the Principal Act before the commencement of this Act.

SCHEDULE

Section 5

FURTHER AMENDMENTS**Paragraph 6 (1) (a)—**

Insert the following definitions:

“ ‘computer’ means a device for storing or processing information;

‘computer folio’ means a folio of the Register that is kept or maintained in or on a computer;”.

Paragraph 6 (1) (b)—

Omit “and”.

Paragraph 6 (1) (c)—

Omit the paragraph.

Insertion—

After section 6 insert the following section in Part II:

Registrar-General’s seal of office etc.

“7. 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.”.

SCHEDULE—continued

Paragraphs 14 (1) (d) and (f)—

Omit “Book”.

Subsection 14 (2)—

Omit “Book”.

Subsection 14 (4)—

Omit “Book or on a grant or certificate of title relating to the name, address, occupation or status”, substitute “or on a grant or certificate of title relating to the name or address”.

Subsection 14 (5)—

Omit “append to the alteration”, substitute “enter in the Register”.

Section 14—

Add at the end the following subsection:

“(6) The Registrar-General may allow a document that is required or permitted to be presented or lodged with the Registrar-General for the purposes of this or any other Act to be presented by such means, including electronic means, as the Registrar-General thinks fit.”.

Subsection 18 (2)—

Omit “the form of the First Schedule.”, substitute “a form approved by the Registrar-General”.

Subsection 21 (2)—

Omit “under his hand”.

Section 23—

Omit “the Eighteenth Schedule”, substitute “Schedule 2”.

Section 25—

Omit “under his hand”.

Subsection 26 (1)—

Omit “under his hand”.

Section 30—

Omit “the form of the Second Schedule”, substitute “a form approved by the Registrar-General”.

SCHEDULE—continued

Subsection 35 (1)—

- (a) Omit “stamp as cancelled”, substitute “cancel”.
- (b) Omit “under his hand”, substitute “by his or her signature”.

Subsection 35 (3)—

Omit “stamped” (wherever occurring), substitute “cancelled”.

Subsection 38 (4)—

Omit “Book”.

Subsections 43 (1) and (2)—

Omit the subsections, substitute the following subsections:

“(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;
 - (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.

“(2A) A reference to a medium in subsection (2) includes but is not limited to—

- (a) a computer;
- (b) micro film; or
- (c) paper.

“(2B) The Register consists of folios of the Register, instruments, plans and registered documents.”.

Paragraph 43 (3) (a)—

Omit “Book”.

Subsection 43 (3)—

Omit “Book” (last occurring).

SCHEDULE—continued

Subsection 44 (1)—

Omit “duplicate in the form of the Third Schedule”, substitute “a form approved by the Registrar-General”.

Subsection 44 (2)—

Omit “one original of each certificate of title to be bound up in the Register Book, and deliver the other”, substitute “a certificate of title to be delivered”.

Section 46—

Omit “Book” (wherever occurring).

Section 47—

Omit “Book” (wherever occurring).

Subsection 47A (1)—

Omit “endorsed on the mortgage, encumbrance, lease or sub-lease so dealt with, and it shall not be necessary to enter that memorial in the Register Book upon”, substitute “entered in the Register on”.

Subsection 48 (1)—

Omit “and memoranda of provisions”.

Subsection 48 (1A)—

Omit “(other than grants and memoranda of provisions)”.

Subsection 48 (2)—

Omit the subsection, substitute the following subsection:

“(2) The Registrar-General may dispense with the requirement that grants and instruments be presented in duplicate in a particular case or class of cases.”.

Subsection 48 (4)—

Omit all the words from and including “drawn” to and including “Book”, substitute “in a form approved by the Registrar-General, shall be deemed to be embodied in the Register”.

Section 49—

Omit “Book shall”, substitute “shall, unless the entry is in a computer folio,”.

SCHEDULE—continued**Subsection 50 (1)—**

Omit “Book, the Registrar-General shall”, substitute “, the Registrar-General shall, unless the entry is in a computer folio,”.

Subsection 50 (2)—

Omit “Book”.

Subsections 50 (4) and (5)—

Omit the subsections.

Subsection 50A (2)—

Omit all the words after “shall be in”, substitute “a form approved by the Registrar-General”.

Subsection 50A (4)—

(a) Omit “shall endorse on the original memorandum of lease, mortgage or encumbrance or on the original notice of determination, as the case may be,”, substitute “shall enter in the Register”.

(b) Omit all the words after “issued” (last occurring).

Subsection 52 (1)—

(a) Omit “duly authenticated under the hand and seal of”, substitute “signed and sealed by”.

(b) Omit “Book”.

Subsection 53 (2)—

Omit “the Seventh Schedule”, substitute “Schedule 1”.

Section 58—

Omit “Book”.

Subsection 61 (2)—

Omit “Upon”, substitute “Subject to subsection (3), on”.

Section 61—

Add at the end the following subsection:

“(3) Where the certificate of title delivered up under subsection (2) is entered in a computer folio of the Register, the Registrar-General shall issue a new certificate of title instead of endorsing a memorandum of cancellation on the certificate delivered up.”.

SCHEDULE—continued

Subsection 62 (1)—

Omit "Book".

Section 63—

Omit "Book".

Subsection 65 (1)—

Omit all the words after "therefor," substitute "a certified copy of any part of the Register to which the application relates".

Subsection 65 (2)—

Omit all the words after "contained", substitute "in the Register".

Section 66—

Repeal the section, substitute the following section:

Searches

"66. (1) A person shall, on payment of the determined fee, 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.

"(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;

(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."

Section 68—

Omit "Book".

SCHEDULE—continued**Subsection 70 (1)—**

- (a) Omit “Book”.
- (b) Omit all the words after “Commonwealth”, substitute “by entering the lease in a folio of the Register”.

Subsection 70 (2)—

- (a) Omit “Book”.
- (b) Omit all the words after “1986”, substitute “by entering the lease in a folio of the Register”.

Subsection 71 (1)—

Omit “Book”.

Subsection 71 (2)—

Omit “Book” (wherever occurring).

Subsection 72A (2)—

Omit “Book”.

Section 72AB—

Omit “Book”.

Subsection 72C (1)—

Omit “Book, on the folium constituted by a copy of the lease.”.

Subsection 73 (1)—

Omit “the form of the Fourth, Fifth or Sixth Schedule”, substitute “a form approved by the Registrar-General”.

Section 74—

Omit “Book”.

Section 75—

Repeal the section, substitute the following section:

Procedure as regards dealing with certificate of title in case of transfer

“75. If a memorandum of transfer purports to transfer the whole or part of the land mentioned in any grant or certificate of title, the transferor shall deliver up the grant or certificate of title of the land, and the Registrar-General may issue a new certificate of title or certificates of title, as the case

SCHEDULE—continued

requires, instead of entering a memorandum of the transfer on the grant or certificate of title.”.

Section 80—

Omit all the words after “notification”, substitute “to the effect that the land has become vested in the Commonwealth as Crown land, to be made in the Register”.

Section 81—

Omit “the Seventh Schedule”, substitute “Schedule 1”.

Subsection 82 (1)—

Omit “the form in the Eighth Schedule”, substitute “a form approved by the Registrar-General”.

Subsection 82 (3)—

Omit “the form in the Eighth Schedule”, substitute “a form approved by the Registrar-General”.

Subsection 82 (4)—

Omit “the form in the Eighth Schedule”, substitute “a form approved by the Registrar-General”.

Subsection 86 (1)—

Omit all the words after “executed”, substitute “in a form approved by the Registrar-General”.

Subsection 86 (3)—

Omit “Book”.

Subsection 86 (8)—

Omit “Book or endorsement on the duplicate lease”.

Subsection 86 (9)—

(a) Omit “Book”.

(b) Omit “, and on the duplicate thereof,”.

Subsection 87 (1)—

Omit “Book”.

Section 87A—

Omit “Book”.

SCHEDULE—continued**Subsection 87B (1)—**

Omit "Book".

Subsection 88 (1)—

Omit "the form of the Eighth Schedule", substitute "a form approved by the Registrar-General".

Subsection 88 (1A)—

Omit "the form in the Eighth Schedule", substitute "a form approved by the Registrar-General".

Subsection 88 (1B)—

Omit "the form in the Eighth Schedule", substitute "a form approved by the Registrar-General".

Subsection 92 (1)—

Omit "the form of the Ninth Schedule", substitute "a form approved by the Registrar-General".

Subsection 92 (2)—

Omit "the form of the Tenth Schedule", substitute "a form approved by the Registrar-General".

Subsection 92 (3A)—

(a) Omit "in the form in the Ninth Schedule".

(b) Omit "in the form in the Tenth Schedule", substitute "in a form approved by the Registrar-General".

Subsection 92 (3B)—

Omit "in the form in the Ninth Schedule" and "in the form in the Tenth Schedule".

Subsection 92 (5)—

Omit "Book".

Subsection 92A (2)—

Omit "accordance with the form in the Twenty-fourth Schedule", substitute "a form approved by the Registrar-General".

Subsection 92A (5)—

Omit "Book and upon the memoranda of mortgage".

SCHEDULE—continued

Section 92A—

After subsection (5) insert the following subsection:

“(5A) The Registrar-General may dispense with the requirement of paragraph (5) (b) in a particular case or class of cases.”.

Subsection 94 (6)—

Omit “the form of the Eleventh Schedule”, substitute “a form approved by the Registrar-General”.

Subsection 98 (2)—

Omit “under the hand of the Registrar-General, and entered in the Register Book,”, substitute “entered in the Register”.

Paragraph 100A (1) (c)—

Omit “the Schedule to”, substitute “Schedule 1 of”.

Subsection 101 (1)—

Omit “Book”.

Subsection 101A (2)—

Omit “accordance with the form contained in the Twenty-second Schedule to this Act”, substitute “a form approved by the Registrar-General”.

Subsection 101A (3)—

Omit “Book and upon the memorandum of mortgage”.

Subsection 102 (1)—

Omit “Book”.

Subsection 102 (3)—

Omit the subsection.

Paragraph 103 (3) (a)—

Omit all the words after “make”, substitute “such entries in the Register as are necessary; and”.

Paragraph 103 (3) (b)—

Omit “and” (last occurring).

Paragraph 103 (3) (c)—

Omit the paragraph.

SCHEDULE—continued**Paragraph 103A (1) (a)—**

Omit “in the form in the Eighth Schedule”.

Paragraph 103A (1) (b)—

Omit “in the form in the Ninth Schedule”.

Paragraph 103A (1) (c)—

Omit “in the form in the Tenth Schedule”.

Subsection 103A (2)—

Omit “accordance with the form in the Twenty-fifth Schedule”, substitute “a form approved by the Registrar-General”.

Subsection 104 (1)—

Omit “the form of the Fifteenth Schedule”, substitute “a form approved by the Registrar-General”.

Section 107—

Omit “Book”.

Section 108C—

Omit “the Schedule to”, substitute “Schedule 1 of”.

Paragraph 108C (b)—

Omit “Book”.

Subsection 124 (1)—

Omit “Book”.

Subsection 124 (3)—

(a) Insert “in the folium of the Register comprising the land referred to in the document” after “enter”.

(b) Omit all the words after “document” (second occurring).

Subsection 126 (1)—

Omit all the words after “case”, substitute “make such entries in the Register as is necessary”.

SCHEDULE—continued

Subsection 126 (2)—

- (a) Insert “in the Register” after “enter”.
- (b) Omit all the words from and including “upon” (first occurring) to and including “case”, substitute “on the relevant folio of the Register, and, after the entry has been made,”.

Subsection 128 (1)—

Omit all the words from and including “Book” to and including “person” (second occurring), substitute “the date of the order, the date and hour of its service and the name and residence of the person”.

Section 131—

Omit all the words after “document”, substitute “in a form approved by the Registrar-General”.

Subsection 132 (2)—

Omit “Book”.

Subsection 133 (1)—

Omit “Book”.

Subsection 133 (2)—

Omit “Book”.

Subsection 135 (1)—

Omit “Book, and on the mortgage, encumbrance or lease evidencing title to the estate or interest transmitted,”.

Subsection 135 (2)—

Omit “under his hand”.

Subsection 136 (1)—

Omit “the form of the Sixteenth Schedule”, substitute “a form approved by the Registrar-General”.

Subsection 136 (8)—

Omit “Book”.

Subsection 137 (4)—

Omit “Book”.

SCHEDULE—continued**Subsection 138A (1)—**

Omit "Register Book upon the folium constituted by the grant or certificate of title of the land affected and on such terms as he thinks fit", substitute "folio of the Register constituted by the grant or certificate of title effected".

Section 138B—

Omit "Book as is proper in the circumstances", substitute "as is necessary".

Subsection 139 (2)—

Omit "18", substitute "2".

Subsection 139 (3)—

Omit the subsection, substitute the following subsections:

"(3) The Registrar-General may require a fee determined in relation to any matter specified in column 2 of an item in Schedule 2 not referred to in subsection (2) to be paid in advance.

"(4) The Registrar-General may enter into an agreement or arrangement with a person for the payment of fees under this Act.

"(5) An amount payable by a person in accordance with an agreement or arrangement entered into under subsection (4) is recoverable as a debt due to the Registrar-General by the person in a court of competent jurisdiction."

Section 142—

Omit "18", substitute "2".

Paragraph 154 (1) (d)—

Omit "Book".

Section 155—

Omit "Book".

Subsection 161 (3)—

Omit "Book".

Section 162—

Omit "Book".

Paragraph 165 (1) (a)—

Omit "Book" (wherever occurring).

SCHEDULE—continued

Sections 168, 169 and 169A—

Repeal the sections.

Subsection 170 (1)—

Omit “Register Book and also upon the document or instrument evidencing title to the estate or interest, if produced for that purpose,”, substitute “folio of the Register relating to that land, estate or interest”.

Subsection 170 (4)—

Omit “Book”.

Subsection 170 (6)—

Omit “Book”.

Subsection 174 (1)—

Omit “the form of the Seventeenth Schedule”, substitute “a form approved by the Registrar-General”.

Subsection 178 (2)—

Omit “Book”.

Subsection 178 (5)—

Omit “Book”.

Subsection 178 (7)—

Omit “by the Postmaster-General”.

Heading to The Schedules—

Omit the heading.

The Schedules (other than Seventh Schedule and Schedule 18)—

Repeal the Schedules (other than the Seventh Schedule and Schedule 18).

NOTE

1. Reprinted as at 30 June 1992. See also Acts Nos. 44 and 64, 1993.

NOTE ABOUT SECTION HEADINGS

On the day on which the *Real Property Act 1925* is amended by this Act, headings to sections and subsections of the Principal Act are altered as set out in the following table:

Section	Alteration
25	Omit the heading, substitute the following heading: Registrar-General bringing land under Act
43	Omit from the heading "Book".
44	Omit the subsection headings to subsections (1) and (2).
57	Omit from the heading "Book".
72C	Omit the heading, substitute the following heading: Memorial of compliance with a building or development provision in a lease
87A	Omit from the heading "Book".
124	Omit from the heading "Book".

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