

1995  
THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

---

(As presented)

(Attorney-General)

## Land Titles (Amendment) Bill 1995

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### TABLE OF PROVISIONS

Section	
1.	Short title
2.	Commencement
3.	Principal Act
4.	Long title
5.	Short title of Principal Act
6.	Interpretation
7.	Powers of Registrar-General
8.	Crown grants and certain Crown leases under the Act
9.	Land brought under Act
10.	Parties interested may enter caveat
11.	Form of certificate of title
12.	Substitution—
	45. One certificate may be issued for lands not contiguous
13.	Substitution—
	48. Instruments—registration and priority
	48A. Refusal to accept instruments for lodgment

**TABLE OF PROVISIONS—continued**

## Section

- 48B. Refusal of registration  
 48C. Correction of errors prior to registration
14. Issue of duplicate when document lost or destroyed  
 15. Instruments not to be registered  
 16. Certificate of title as evidence that land duly brought under Act  
 17. Evidence as to title  
 18. Substitution—
54. Joint tenants and tenants in common
19. Survivor of joint tenants  
 20. Instruments not effectual until entry in the Register  
 21. Estate of registered proprietor paramount  
 22. Substitution—
60. Protection as to notice of transferee before registration
23. Combining or dividing grants or certificates of title  
 24. Substitution—
62. Lost grant or certificate
25. Power of Registrar-General to issue new certificate  
 26. Registrar-General may require map to be deposited  
 27. Certified copies of the Register  
 28. Substitution—
67. Issue of uncertified copies
29. Insertion—
- 70A. Registration of extension of term of Crown lease
30. Substitution—
73. Memorandum of transfer
31. Substitution—
77. Transferee—interests and obligations
32. Transfer of mortgage or lease—right to sue  
 33. Form of lease  
 34. Certain unregistered leases valid, but not rights of purchase or renewal thereunder  
 35. Surrender of lease  
 36. Insertion—
- 87C. Extension or variation of lease
37. Lessee may sub-let  
 38. Surrender of a lease without prejudice to sub-lease or mortgage  
 39. Land—how mortgaged or encumbered  
 40. Mortgage or encumbrance—postponement of priority  
 41. Mortgage or encumbrance—effect  
 42. Power to sell  
 43. Substitution—

TABLE OF PROVISIONS—continued

Section	
	95. Sale by mortgagee—vesting
44.	Default, entry and possession—action for recovery
45.	Substitution—
	101. Discharge of mortgages and encumbrances
46.	Variation of mortgages
47.	Registration of memoranda of provisions
48.	Insertion—
	<i>Division 3B—Easements and other incorporeal rights</i>
	103B. Easements—registration
	103C. Easements in gross—registration, transfer and extinguishment
	103D. Easements—same owner of benefited and burdened land
	103E. Extinguishment of easement
	103F. Easements—variation
	103G. Incorporeal rights—registration
	103H. Incorporeal rights—extinguishment
49.	Lodging of caveat
50.	Insertion—
	104A. Entering a caveat in the Register
	104B. Withdrawal of caveats
51.	Notice of caveat
52.	Substitution—
	106. Caveat lapsing
	107. Removal of caveat
	107A. Effect on dealings
	107B. Removal of caveat by Registrar
	107C. Successive caveats
53.	Fees not payable
54.	Repeal
55.	Revocation of power of attorney
56.	Substitution—
	135. Transmission on death of proprietor
	136. Trusts—protection
57.	Registration of declaration by executor
58.	Heading to Part XV
59.	Insertion—
	138C. Approved forms
60.	Determined fees
61.	Payment of certain fees to Registrar-General
62.	Substitution—

**TABLE OF PROVISIONS—continued****Section****PART XVII—CORRECTIONS AND ALTERATIONS**

- 160. Correction of errors
- 161. Power of Court
- 162. Correction of duplicate certificate etc.
- 162A. Amend or alter name or address entered in the Register

## 63. Insertion—

164A. Registrar-General may hold instrument for safekeeping

## 64. Substitution—

173. Attesting of instruments

## 65. Substitution—

178. Service of notices

179. Regulations

## 66. Substitution

## 67. Further amendments

## 68. Savings

**SCHEDULE 1****NEW SCHEDULES 2 AND 3 OF PRINCIPAL ACT****SCHEDULE 2****FURTHER AMENDMENTS**

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(Attorney-General)

**Land Titles (Amendment) Bill 1995**

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**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 *Land Titles (Amendment) Act 1995*.

**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, or respective days, 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.

**Principal Act**

3. In this Act, "Principal Act" means the *Real Property Act 1925*.<sup>1</sup>

**Long title**

4. The long title to the Principal Act is repealed and the following title substituted:

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

**Short title of Principal Act**

5. Section 1 of the Principal Act is amended by omitting "*Real Property*" and substituting "*Land Titles*".

**Interpretation**

6. Section 6 of the Principal Act is amended—

(a) by omitting from paragraph (1) (a) "(a) 'Caveator'" and substituting "'caveator'";

(b) by omitting from the definition of "instrument" in paragraph (1) (a) all the words after "provisions" and substituting ", a memorandum of easement, and any other document that is required or permitted by a law of the Territory or the Commonwealth to be lodged with the Registrar-General for registration under this Act, but does not include a caveat, a Grant or a Crown Lease;"

(c) by omitting from the definition of "Land" in paragraph (1) (a) "estate or interest therein" and substituting "interest in the land";

(d) by inserting in paragraph (1) (a) the following definitions:

" 'approved form', in relation to an instrument, means the form (if any) approved by the Registrar-General under section 138C for that instrument;

'lodge' means deposit for registration in the Registrar-General's office;

'memorial' means a notation, entered in the Register, or endorsed on a document;

'Register' means the Register kept pursuant to section 43;"

(e) by omitting paragraph (1) (b) and substituting the following subsection:

"(1A) In this Act, unless the contrary intention appears, a reference to a person as a proprietor, transferor, transferee,

mortgagor, mortgagee, encumbrancer, encumbrancee, lessor or lessee, or as a trustee, or as seised of, having or taking, any interest in any land, shall be deemed to include the heirs, executors, executrices, administrators, administratrices and assigns of that person.”; and

5 (f) by adding at the end the following subsection:

“(3) An instrument is in registrable form if—

(a) the instrument does not require a material correction, alteration or addition;

10 (b) the instrument is in the approved form (if any);

(c) where the Registrar-General requires a certificate of title or other document to be produced under paragraph 14 (1) (a)—the certificate of title or other document is produced when the instrument is lodged; or

15 (d) the instrument is otherwise in accordance with this Act or another law of the Territory or a law of the Commonwealth.”.

### **Powers of Registrar-General**

7. Section 14 of the Principal Act is amended—

20 (a) by omitting paragraph (1) (d) and substituting the following paragraphs:

“(d) correct or alter the Register to the extent and in the manner provided by sections 160, 161 and 162A;

25 (da) 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;”;

30 (b) by omitting from paragraph (1) (e) “the disability of infancy, lunacy, mental incapacity or absence” and substituting “a legal disability or who is absent”; and

(c) by omitting subsections (2), (4) and (5).

### **Crown grants and certain Crown leases under the Act**

8. Section 17 of the Principal Act is amended by omitting from subsection (2) “fee for the grant” and substituting “determined fee”.

**Land brought under Act**

9. Section 18 of the Principal Act is amended by omitting from subsection (2) "in a form approved by the Registrar-General".

**Parties interested may enter caveat**

5 10. Section 30 of the Principal Act is amended by omitting from subsection (1) "in a form approved by the Registrar-General".

**Form of certificate of title**

10 11. Section 44 of the Principal Act is amended by omitting from subsection (2) "dower, lease or rent charge" and substituting "other interests".

**Substitution**

12. Section 45 of the Principal Act is repealed and the following section substituted:

**One certificate may be issued for lands not contiguous**

15 "45. The Registrar-General may issue 1 certificate of title for several parcels of land even if they are not contiguous."

**Substitution**

13. Section 48 of the Principal Act is repealed and the following sections are substituted:

**20 Instruments—registration and priority**

"48. (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.

25 "(3) An instrument lodged, other than—

(a) an order of the Court;

(b) a grant;

(c) a memorandum of provisions; or

30 (d) a notice of determination or memorandum of discharge under the *Rates and Land Rent (Relief) Act 1970*;

shall be attested by a witness.

"(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.

5 “(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.

10 “(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—

15 ‘instrument’ includes a caveat.

#### **Refusal to accept instruments for lodgment**

“48A. The Registrar-General may refuse to accept an instrument for registration if it is not in registrable form.

#### **Refusal of registration**

20 “48B. (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 law of the Territory or the Commonwealth; and

25 (b) in the manner provided by this Act.

“(2) Where an instrument is lodged that is not in registrable form, the Registrar-General may—

30 (a) refuse to register it and require 1 or more of the parties to the instrument to alter or correct the instrument or produce a specified document under paragraph 14 (1) (a); or

(b) reject it.

#### **Correction of errors prior to registration**

35 “48C. 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.”

**Issue of duplicate when document lost or destroyed**

14. Section 50A of the Principal Act is amended by omitting subsection (2).

**Instruments not to be registered**

5 15. Section 51 of the Principal Act is amended by omitting subsection (1).

**Certificate of title as evidence that land duly brought under Act**

16. Section 52 of the Principal Act is amended—

10 (a) by omitting subsection (1) and substituting the following subsection:

“(1) A certificate of title signed and sealed by the Registrar-General is conclusive evidence that the property comprised in the certificate of title has been duly brought under this Act.”; and

(b) by omitting subsection (3).

**15 Evidence as to title**

17. Section 53 of the Principal Act is amended by inserting before subsection (1) the following subsections:

“(1A) The Register is conclusive evidence—

(a) as to the interests held in land under the Act; and  
20 (b) that the registered proprietor of each such interest is entitled to that interest.

“(1B) 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  
25 certified copy was furnished.

“(1C) A certificate of title signed and sealed by the Registrar-General is evidence of the matters stated in the certificate.”.

**Substitution**

30 18. Section 54 of the Principal Act is repealed and the following section substituted:

**Joint tenants and tenants in common**

“54. (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.

5 “(3) Except in the case of a Crown lease, a person registered as a joint tenant is entitled to receive a separate duplicate certificate of title, but is not bound to take such a certificate.

“(4) A person registered as a tenant in common is entitled to receive a separate certificate of title showing the person’s interest, but is not bound to take such a certificate.

10 “(5) A certificate of title relating to the share of a person registered as a tenant in common shall specify the person’s share.”.

#### **Survivor of joint tenants**

19. Section 55 of the Principal Act is amended by omitting from paragraph (c) “proprietor” and substituting “tenant”.

#### **15 Instruments not effectual until entry in the Register**

20. Section 57 of the Principal Act is amended by omitting “No” and substituting “Subject to section 60, no”.

#### **Estate of registered proprietor paramount**

21. Section 58 of the Principal Act is amended—

20 (a) by omitting “encumbrances, liens, estates or” (wherever occurring); and

(b) by omitting paragraph (d) and substituting the following paragraph:

“(d) any prior tenancy for a term not exceeding 3 years;”.

#### **25 Substitution**

22. Section 60 of the Principal Act is repealed and the following section substituted:

#### **Protection as to notice of transferee before registration**

30 “60. (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;

35 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.”.

### **Combining or dividing grants or certificates of title**

5       **23.** Section 61 of the Principal Act is amended by omitting subsections (2) and (3) and substituting the following subsection:

“(2) On issuing a certificate or certificates of title in accordance with subsection (1), the Registrar-General shall—

- 10       (a) cancel the document or documents delivered up; and  
      (b) make such entries in the Register as he or she considers necessary to preserve a record of the transaction.”.

### **Substitution**

**24.** Section 62 of the Principal Act is repealed and the following section substituted:

#### **15   Lost grant or certificate**

“62. (1) Where a grant or certificate of title under this Act is lost, mislaid or destroyed, the proprietor of the land to which the grant or certificate relates may apply to the Registrar-General for the issue of a new grant or certificate.

20       “(2) An application under subsection (1) shall be supported by such evidence as the Registrar-General requires.

25       “(3) Subject to subsection (5), if the Registrar-General is satisfied that a grant or certificate of title has been lost, mislaid or destroyed, the Registrar-General shall issue a new grant or certificate, as the case requires, and shall record in the Register that the new grant or certificate has been issued.

30       “(4) A new grant or certificate issued under subsection (3) shall be valid to the same extent as, and available for all purposes for which, the grant or certificate lost, mislaid or destroyed would have been valid or available.

“5) The Registrar-General shall, at least 14 days before issuing a new grant or certificate and at the expense of the applicant, cause notice of the Registrar-General’s intention to issue the grant or certificate to be published in a daily newspaper circulating in the Territory.”.

#### **35   Power of Registrar-General to issue new certificate**

**25.** Section 62A of the Principal Act is amended by omitting subsection (1A).

**Registrar-General may require map to be deposited**

26. Section 64 of the Principal Act is amended by omitting subsection (1A) and substituting the following subsection:

5 “(1A) The Registrar-General may supply stationery for the purposes of preparing a map or plan for deposit at the office of the Registrar-General in accordance with subsection (1).”.

**Certified copies of the Register**

27. Section 65 of the Principal Act is amended by omitting subsection (2).

10 **Substitution**

28. Section 67 of the Principal Act is repealed and the following section substituted:

**Issue of uncertified copies**

15 “67. The Registrar-General may provide an uncertified copy of any part of the Register or of any information contained in the Register.”.

**Insertion**

29. After section 70 of the Principal Act the following section is inserted:

**Registration of grant of further Crown lease**

20 “70A. The Registrar-General shall, on lodgment of a document executed under section 171 or 172 of the Land Act, register the document and make such entries in the Register as he or she thinks appropriate.”.

**Substitution**

25 30. Sections 73 and 74 of the Principal Act are repealed and the following section is substituted:

**Memorandum of transfer**

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

30 “(2) The Registrar-General shall not register a memorandum of transfer under subsection (1) unless the transfer has been executed by the registered proprietor of the land and accepted by the transferee or the transferee’s solicitor on his or her behalf.

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

- (a) in the case of a natural person—by his or her signature; or
- (b) in the case of a corporation—in accordance with section 172.”.

### **Substitution**

5       **31.** Section 77 of the Principal Act is repealed and the following section substituted:

#### **Transferee—interests and obligations**

“77. (1) On the registration of a transfer, the interest in land described in the transfer, shall pass to the transferee.

10       “(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.

15       “(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.”.

#### **Transfer of mortgage or lease—right to sue**

**32.** Section 78 of the Principal Act is amended—

- (a) by omitting from subsection (1) “at law as well as in equity”; and
- 20       (b) by omitting subsection (2).

#### **Form of lease**

**33.** Section 82 of the Principal Act is amended—

- (a) by omitting subsection (1) and substituting the following subsection:

25       “(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.”;

- (b) by omitting from subsection (3) “in a form approved by the Registrar-General may incorporate by reference” and substitute
- 30       “may incorporate by reference, with or without amendment.”; and

- (c) by omitting subsection (4) and substituting the following subsection:

“(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.”.

**Certain unregistered leases valid, but not rights of purchase or renewal thereunder**

34. Section 85 of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:

“(1) A registered lease is subject to any prior unregistered lease, or agreement for a lease, for a term not exceeding 3 years.”.

**Surrender of lease**

35. Section 86 of the Principal Act is amended—

- (a) by omitting from subsection (1) “in a form approved by the Registrar-General”;
- (b) by omitting from subsection (3) “The” and substituting “Subject to this section, the”; and
- (c) by inserting after subsection (6) the following subsection:

“(6A) 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 90A;
  - (ii) the priority of the mortgage relative to each other mortgage (if any) continuing in force under section 90A, 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.”.

**Insertion**

36. After section 87B of the Principal Act the following section is inserted:

**Extension or variation of lease**

5 “87C. (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.

10 “(2) A memorandum of variation shall—

- (a) be signed by the lessor and lessee;
- (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—

15 (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

20 (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.

25 “(4) For the purposes of this section, a reference in any law of the Territory or in any instrument or other document, to a lease or to the interest of a lessee shall, unless a contrary intention appears, be read as a reference to the lease or the interest as affected by any memorandum of variation.

30 “(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.”.

**Lessee may sub-let**

37. Section 88 of the Principal Act is amended—

35 (a) by omitting from subsection (1) all the words after “sub-let” and substituting “by signing a sub-lease for a life or lives or a term that expires on a date specified in the sub-lease”; and



- (b) by omitting from subsections (1A) and (1B) “in a form approved by the Registrar-General”.

**Surrender of a lease without prejudice to sub-lease or mortgage**

38. Section 90A of the Principal Act is amended—

- 5 (a) by omitting subsections (1) and (2) and substituting the following subsection:

“(1) Where a lease of land is surrendered and a new lease is granted and accepted in its place—

- 10 (a) any sub-lease or mortgage of the land shall not be terminated or discharged, as the case may be, by force only of the surrender; and

- (b) unless otherwise terminated or discharged, as the case may be, the sub-lease or mortgage shall operate as if it were made under the new lease.”;

- 15 (b) by omitting from subsection (4) “or mortgage” and “or mortgagee” (respectively) (wherever occurring);

- (c) by inserting after subsection (4) the following subsection:

20 “(4A) Where a mortgage continues in force after a new lease is granted under subsection (1) the mortgage shall be read as if references to the land comprised in the original lease were references to the land comprised in the new lease.”;

- (d) by omitting from paragraph (6) (a) “or mortgages of land which is wholly included in the new lease; and” and substitute “where the land comprised in the sub-lease is wholly within the new lease.”;

- 25 (e) by omitting from paragraph (6) (b) “or mortgage”;

- (f) by adding at the end of paragraph (6) (b) “and”; and

- (g) by adding at the end of subsection (6) the following paragraph:

30 “(c) this section shall apply only in relation to a mortgage where the land comprised in the new lease includes all or part of the land comprised in the surrendered lease.”.

**Land—how mortgaged or encumbered**

39. Section 92 of the Principal Act is amended—

- (a) by omitting from subsections (1) and (2) “in a form approved by the Registrar-General”;

(b) by omitting from subsection (3A) “in a form approved by the Registrar-General, may incorporate by reference” and substituting “may incorporate by reference, with or without amendment.”; and

5 (c) by omitting subsections (3B), (4), (5) and (6) and substituting the following subsection:

“(4) Where a memorandum of mortgage, or a memorandum of encumbrance—

(a) incorporates by reference provisions contained in a memorandum of provisions; or

10 (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.”.

15 **Mortgage or encumbrance—postponement of priority**

40. Section 92A of the Principal Act is amended—

(a) by omitting subsections (5) and (5A) and substituting the following subsection:

20 “(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—

25 (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).”; and

(b) by omitting subsection (7).

**Mortgage or encumbrance—effect**

30 41. Section 93 of the Principal Act is amended by omitting from subsection (1) “, when registered under this Act,”.

**Power to sell**

42. Section 94 of the Principal Act is amended—
- (a) by omitting from subsection (6) “An instrument of transfer” and substituting “A memorandum of transfer executed”; and
  - 5 (b) by omitting from subsection (6) “made in a form approved by the Registrar-General”.

**Substitution**

43. Section 95 of the Principal Act is repealed and the following section substituted:

10 **Sale by mortgagee—vesting**

“95. (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.
- 15 “(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;
  - 20 (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 first-mentioned mortgage or encumbrance has priority under a memorandum of variation registered under section 92A.
- 25

“(3) Where—

- (a) there is a caveat entered in the Register in respect of the land comprised in the transfer; and
- 30 (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).”.

**Default, entry and possession—action for recovery**

44. Section 96 of the Principal Act is amended—

(a) by omitting paragraph (b);

5 (b) by omitting from paragraph (c) all the words from and including “of ejectment” to and including “preceding paragraphs” and substituting “to recover the land, either before or after commencing to take the rents and profits”; and

(c) by omitting “distress or”.

**Substitution**

10 45. Section 101 of the Principal Act is repealed and the following section substituted:

**Discharge of mortgages and encumbrances**

15 “101. (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.

“(2) The discharge of mortgage or encumbrance may discharge the debt or annuity secured in relation to—

(a) subject to subsection (3), 1 or more parcels of land;

20 (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.

25 “(3) A discharge of mortgage or encumbrance in relation to a parcel of land does not discharge the debt or annuity in respect of the parcel of land unless there is a separate certificate of title for that parcel.

“(4) 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.”.

**Variation of mortgages**

30 46. Section 101A of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:

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

**Registration of memoranda of provisions**

47. Section 103A of the Principal Act is amended—
- (a) by omitting from subsection (2) “shall be in a form approved by the Registrar-General and”; and
  - 5 (b) by omitting from subsection (3) “complies with the requirements of this section” and substituting “is in registrable form”.

**Insertion**

48. After Division 3A of Part X of the Principal Act the following Division is inserted:

10 ***“Division 3B—Easements and other incorporeal rights***

**Easements—registration**

“103B. (1) Where a memorandum of easement has been lodged in registrable form, the Registrar-General shall register the easement and enter in the Register—

- 15 (a) particulars of the land that is benefited by the easement or of the person in whose favour it is registered;
- (b) particulars of the land that is burdened by the easement; and
- (c) such other particulars as the Registrar-General considers necessary.

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

**Easements in gross—registration, transfer and extinguishment**

“103C. (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:

- 25 (a) the Territory or a body corporate established by or under a law of the Territory;
- (b) the Commonwealth or a body corporate established by or under a law of the Commonwealth;
- 30 (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 Territory.

“(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.

“(3) Where—

- 5
- (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—

- 10
- (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.

15 “(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.

#### **Easements—same owner of benefited and burdened land**

20 “103D. 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.

#### **25 Extinguishment of easement**

“103E. (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.

30 “(2) 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.

“(3) 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
- 5 (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.

“(4) An easement is not extinguished merely because—

- 10 (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.

#### **Easements—variation**

15 “103F. (1) Subject to subsection (2), a registered easement may be varied by registration of a memorandum of variation of easement.

“(2) A registered easement can not be varied—

- (a) by changing the location of the easement;
- 20 (b) by increasing or decreasing the area of land affected by the easement;
- (c) by changing the burdened or benefited land; or
- (d) if it is an easement registered in accordance with subsection 103C (1)—by changing the person or body in whose favour the easement is registered.

25 “(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
- 30 (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.

#### **Incorporeal rights—registration**

“103G. (1) The Registrar-General may register a memorandum of incorporeal right that creates an incorporeal right other than an annuity or rent charge.

35 “(2) Where the Registrar-General registers a memorandum under subsection (1), he 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.

### **Incorporeal rights—extinguishment**

5 “103H. (1) The Registrar-General may register a memorandum of extinguishment of incorporeal right.

“(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.”.

### **Lodging of caveat**

10 49. Section 104 of the Principal Act is amended—

(a) by omitting subsection (1) and substituting the following subsections:

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

- 15 (a) if the land is to be held by the transferee as trustee—the transferor of the land;
- (b) a person claiming an interest in the land or his or her solicitor; or
- 20 (c) where a person claiming an interest in the land so authorises in writing—the agent of that person.

“(1A) Subject to subsections (1B), (1C) and (1D), a caveat may prohibit the registration of any document affecting the land or interest in respect of which it is entered in the Register.

“(1B) A caveat may be restricted in operation by stating—

- 25 (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 (1D) are prohibited from registration by the caveat.

30 “(1C) A caveat can not prohibit—

- (a) the registration of a writ or the lapsing, withdrawal, cancellation or removal of a writ;
- (b) the registration of a caveat or the lapsing, withdrawal or removal of a caveat;



- (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 subsection 107C (2) or section 160, 161 or 162A.

“(1D) 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;
- (j) registration of the extinguishment of an incorporeal right under section 103H;
- (k) registration of a transmission by bankruptcy or insolvency under section 132;
- (m) registration of a transmission by death to an executor, executrix, administrator or administratrix under section 135;
- (n) registration of new or additional trustees under section 138A;
- (p) registration of a declaration by an executor or executrix under section 138B;

- (q) 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.”;
- 5 (b) by omitting from subsection (3) all the words after “is” and substituting “specified in the caveat as the address for service of notices and proceedings relating to the caveat.”; and
- (c) by omitting subsections (4) and (5).

### Insertion

10 50. After section 104 of the Principal Act the following sections are inserted:

#### Entering a caveat in the Register

“104A. (1) The Registrar-General shall enter in the Register a caveat that—

- (a) is lodged in the form approved under section 138C;
- 15 (b) does not require a material correction, alteration or addition; and
- (c) otherwise complies on its face with the requirements of this Act.

“(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.

#### 20 Withdrawal of caveats

“104B. A caveat may be withdrawn—

- (a) by the caveator or his or her solicitor;
- (b) where the caveator so authorises in writing—by the agent of the caveator;
- 25 (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;
- 30 (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
- 35 (e) where the interest claimed in the caveat has vested, pursuant to a law in force in the Territory 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.”.

**Notice of caveat**

51. Section 105 of the Principal Act is amended—

- (a) by omitting from subsection (1) “any such” and substituting “a”;
- (b) by omitting subsection (2) and substituting the following subsection:

“(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.”; and

- (c) by omitting from subsection (3) “summoned, may make such order in the premises,” and substituting “given notice of the application for the order, may make such order in relation to the land.”.

**Substitution**

52. Sections 106 and 107 of the Principal Act are repealed and the following sections substituted:

**Caveat lapsing**

“106. (1) Except in the case of a caveat lodged—

- (a) by a settlor;
- (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.

**Removal of caveat**

“107. (1) A registered proprietor to whose interest in land a caveat relates may, on payment of the determined fee, apply to the Registrar-General to have the caveat removed.

5 “(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.

10 “(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—

15 (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—

20 (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.

**Effect on dealings**

25 “107A. (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.

30 “(2) Subsection (1) does not operate to prohibit the registration of a document lodged in registrable form before the caveat was lodged.

**Removal of caveat by Registrar**

35 “107B. 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.

**Successive caveats**

5 “107C. (1) Where a caveat has been removed by the Registrar-General in accordance with subsection 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—

- 10 (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.”.

**Fees not payable**

53. Section 108D of the Principal Act is amended—

15 (a) by omitting all the words after “or for the” and substituting “registration of—

- (a) a notice of a determination or memorandum of discharge under the *Rates and Land Rent (Relief) Act 1970*; or  
20 (b) an application, together with any evidence of the change, to amend or alter the name or address entered in the Register in relation to the applicant, under section 162A.”; and

(b) by adding at the end the following subsection:

“(2) In paragraph (1) (b)—

‘applicant’ means a natural person.”.

**25 Repeal**

54. Sections 126, 127 and 129 of the Principal Act are repealed.

**Revocation of power of attorney**

55. Section 131 of the Principal Act is amended by omitting all the words after “execute” and substituting “a revocation of power of attorney”.

**30 Substitution**

56. Sections 135 to 138 (inclusive) of the Principal Act are repealed and the following sections substituted:

**Transmission on death of proprietor**

5 “135. (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
- 10 (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.

15 “(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.

20 “(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.

25 “(5) Where, pursuant to an application, a person is registered as proprietor with the consent of another person given under paragraph (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—

- 30 (a) a grant of probate, or of letters of administration, under the *Administration and Probate Act 1929*;
- (b) a grant of an order to collect and administer under section 88 of that Act;
- (c) an election to administer under section 87C of that Act; or
- 35 (d) a corresponding grant or election under a law in force in a State or another Territory.

**Trusts—protection**

5 “136. (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.”.

**Registration of declaration by executor**

10 57. Section 138B of the Principal Act is amended by omitting “upon payment of the determined fee,”.

**Heading to Part XV**

58. The heading to Part XV of the Principal Act is amended by inserting “FORMS AND” before “FEES”.

15 **Insertion**

59. Before section 139 of the Principal Act the following section is inserted in Part XV:

**Approved forms**

20 “138C. (1) For the purposes of this Act, the Registrar-General may approve the form of the documents listed in column 2 of Schedule 2.

“(2) Where the Registrar-General has approved a form for a document under subsection (1), that document shall not be issued by the Registrar-General, or accepted for registration, unless it is in the approved form.”.

**Determined fees**

25 60. Section 139 of the Principal Act is amended—

- (a) by inserting in subsection (1) “in relation to the matters listed in column 2 of Schedule 3,” after “fees”;
- (b) by omitting subsection (2) and substituting the following subsection:

30 “(2) Where the Minister has determined a fee in relation to a matter under subsection (1), the process referred to in that matter shall not be completed unless the determined fee has been paid or an arrangement has been made for its payment under subsection (3) or (4).”; and

- (c) by omitting from subsection (3) all the words after “Schedule” and substituting “3 to be paid in advance or at such other time as the Registrar-General considers appropriate.”.

### **Payment of certain fees to Registrar-General**

- 5      **61.** Section 142 of the Principal Act is amended by omitting “2” and substituting “3”.

### **Substitution**

**62.** Part XVII of the Principal Act is repealed and the following Part substituted:

## 10           **“PART XVII—CORRECTIONS AND ALTERATIONS**

### **Correction of errors**

“160. (1) The Registrar-General may—

- (a) on application by the registered proprietor of an interest in land or the registered proprietor’s solicitor; and

- 15      (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—

- 20      (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—

- 25           (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.

30      “(3) A person notified under paragraph (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.

35      “(4) Where the Registrar-General takes action under paragraph (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 subparagraph (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.

5       “(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.

## 10   **Power of Court**

      “161. (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—

- 15       (a) any land;
- (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—

- 20       (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
- 25       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.

## 30   **Correction of duplicate certificate etc.**

      “162. Where the Register is corrected in accordance with section 160 or 161, the Registrar-General may—

- (a) correct a duplicate grant, certificate of title or other instrument; and
- (b) require the production of any such duplicate for that purpose.

**Amend or alter name or address entered in the Register**

“162A. 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 solicitor; and
- 5 (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.”.

**Insertion**

- 10 63. Before section 165 of the Principal Act the following section is inserted in Part XIX:

**Registrar-General may hold instrument for safekeeping**

- 15 “164A. (1) On application, by a person entitled to hold a document, including a duplicate of a certificate of title or Crown lease, or by his or her solicitor, and on payment of the determined fee, the Registrar-General may accept the document to be held in his or her office for safekeeping.

- 20 “(2) A person who has deposited a document with the Registrar-General under subsection (1), or his or her solicitor, may, in writing at any time, request the return of the document and the Registrar-General shall return that document.”.

**Substitution**

64. Sections 173, 174 and 176 of the Principal Act are repealed and the following section is substituted:

**Attesting of instruments**

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

**Substitution**

65. Sections 178 and 179 of the Principal Act are repealed and the following sections substituted:

**30 Service of notices**

- 35 “178. (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—

- 5           (a) cause a further notice to be served, given or sent;  
             (b) cause substituted service to be effected; or  
             (c) proceed without notice.

### **Regulations**

10           “179. The Executive may make regulations for the purposes of this Act.”.

### **Substitution**

          66. Schedule 2 to the Principal Act is repealed and the Schedules contained in Schedule 1 are substituted.

### **Further amendments**

15           67. The Principal Act is amended as set out in Schedule 2.

### **Savings**

20           68. In relation to any registered title which, at the commencement of this Act, has the words “no survivorship” endorsed on it, subsection 126 (2) (insofar as it requires the sanction of the Court or the Judge for any dealings with the land or interest), and section 127, of the Principal Act shall, notwithstanding section 53 of this Act, continue to have effect on and after the date of commencement of this Act.

**SCHEDULE 1**

Section 66

## New Schedules 2 and 3 of the Principal Act

**SCHEDULE 2**

Section 138C

**DOCUMENTS REQUIRED TO BE IN APPROVED FORM**

Column 1	Column 2
Item	Document
1	application to bring land under the Act under subsection 18 (2)
2	caveat under subsection 30 (1) to prevent application to bring land under the Act
3	certificate of title under subsection 44 (1)
4	certificate of lease under subsection 50A (1)
5	certificate of mortgage under subsection 50A (1)
6	certificate of encumbrance under subsection 50A (1)
7	certificate of notice of determination under subsection 50A (1)
8	map or plan lodged for purposes of section 64 or purposes of <i>Land Titles (Unit Titles) Act 1970</i>
9	memorandum of transfer under subsection 73 (1)
10	lease under section 82
11	memorandum of surrender under subsection 86 (1)
12	memorandum of variation under section 87C
13	sub-lease under section 88
14	memorandum of mortgage under subsection 92 (1)
15	memorandum of encumbrance under subsection 92 (2)
16	memorandum of postponement of mortgage under subsection 92A (2)
17	discharge of mortgage or encumbrance under section 101
18	memorandum of variation of mortgage under section 101A
19	memorandum of provisions under section 103A
20	memorandum of easement under section 103B
21	application for transfer of easement in gross under section 103C
22	memorandum of extinguishment of easement under section 103E

## SCHEDULE 1—continued

Column 1 Item	Column 2 Document
23	memorandum of variation of easement under section 103F
24	memorandum of incorporeal right under section 103G
25	memorandum of extinguishment of incorporeal right under section 103H
26	caveat under section 104A
27	application to remove caveat under subsection 107 (1)
28	revocation of power of attorney under section 131
29	application for transfer on bankruptcy or insolvency under section 132
30	application for transfer on death of proprietor under section 135
31	any other document that may be registered or entered in the Register in accordance with this Act

## SCHEDULE 3

Section 139

## MATTERS SUBJECT TO DETERMINATION OF FEES

Column 1 Item	Column 2 Matter
1	issue of duplicate grant under subsection 17 (2)
2	issue of certificate of title under subsection 44 (1)
3	issue of replacement certificate of title under section 62A
4	lodgment of map or plan for purposes of section 64 or purposes of <i>Land Titles (Unit Titles) Act 1970</i>
5	stationery for map or plan under subsection 64 (1A)
6	issue of certified copy of part of the Register under subsection 65 (1)
7	inspection of Register under subsection 66 (1)
8	furnishing a copy, other than a certified copy, of information contained in the Register, under section 67
9	lodgment of memorandum of transfer under section 73
10	lodgment of lease under section 82
11	lodgment of memorandum of surrender under subsection 86 (1)

**SCHEDULE 1—continued**

<b>Column 1</b>	<b>Column 2</b>
<b>Item</b>	<b>Matter</b>
12	lodgment of memorandum of variation under section 87C
13	lodgment of sub-lease under section 88
14	lodgment of memorandum of mortgage under subsection 92 (1)
15	lodgment of memorandum of encumbrance under subsection 92 (2)
16	lodgment of memorandum of postponement of mortgage under subsection 92A (2)
17	lodgment of discharge of mortgage or encumbrance under section 101
18	lodgment of memorandum of variation of mortgage under section 101A
19	lodgment of discharge of mortgage by court order under subsection 103 (3)
20	lodgment of memorandum of provisions under section 103A
21	lodgment of memorandum of easement under section 103B
22	lodgment of application for transfer of easement in gross under section 103C
23	lodgment of application for transfer of all easements in gross relating to a specified public utility business under section 103C
24	lodgment of memorandum of extinguishment of easement under section 103E
25	lodgment of memorandum of variation of easement under section 103F
26	lodgment of memorandum of incorporeal right under section 103G
27	lodgment of memorandum of extinguishment of incorporeal right under section 103H
28	lodgment of caveat under section 104A
29	lodgment of application to remove caveat under subsection 107 (1)
30	lodgment of revocation of power of attorney under section 131
31	lodgment of application to register transmission on bankruptcy or insolvency under section 132
32	lodgment of application to register transmission on death of proprietor under section 135
33	lodgment of declaration by executor under section 138B
34	lodgment of application to hold a duplicate of a registered instrument under subsection 164A (1)

## SCHEDULE 1—continued

Column 1	Column 2
Item	Matter
35	lodging a request for approval for printing of a document bearing a representation of the imprint of the Registrar-General's seal
36	examining a document which has been printed without the Registrar-General's seal
37	subject to section 108D, lodging for registration, or entry on the Register, any other document that affects land under the Act

## SCHEDULE 2

Section 67

## FURTHER AMENDMENTS

**Subsection 2 (2)—**

5 Omit "the first day of January, One thousand nine hundred and fifty-seven", substitute "1 January 1957".

**Section 3A—**

(a) Omit "Real Property Act, 1900,", substitute "*Real Property Act 1900*".

(b) Omit "(2) of section six", substitute "6 (2)".

10 (c) Omit "four", substitute "4".

**Paragraph 3A (a)—**

Omit "the next succeeding paragraph", substitute "paragraph (b)".

**Paragraph 3A (b)—**

15 Omit "*Real Property Act 1925* or that Act as amended by the *Real Property Act 1957*", substitute "*Land Titles Act 1925*".

**Subsection 14 (1)—**

Omit "exercise the following powers, that is to say".

**Paragraph 14 (1) (a)—**

Omit "He may".

## SCHEDULE 2—continued

**Paragraph 14 (1) (b)—**

(a) Omit “He may”.

(b) Omit “the last preceding paragraph”, substitute “paragraph (a)”.

**Paragraphs 14 (1) (c) and (e)—**

5 Omit “He may”.

**Paragraph 14 (1) (f)—**

Omit “He may.”.

**Subsection 14 (3)—**

(a) Omit “three”, substitute “3”.

10 (b) Omit “eighteen”, substitute “18”.

(c) Omit “of this section”.

**Subsection 15 (1)—**

Omit “in pursuance of the provisions of paragraph (a) or (b) of the last preceding section”, substitute “under paragraph 14 (1) (a) or (b)”.

**Subsection 15 (1) (penalty provision)—**

Omit “Two hundred dollars”, substitute “\$200”.

**Subsection 17 (1)—**

Omit “five”, substitute “5”.

**Subsection 17 (2)—**

20 Omit “one”, substitute “1”.

**Paragraph 18 (2) (b)—**

(a) Omit “twenty-five”, substitute “25”.

(b) Omit “five”, substitute “5”.

**Subsection 18 (6)—**

25 Omit “(c) of subsection (2) of this section”, substitute “(2) (c)”.

**Subsection 19 (2)—**

Omit “the last preceding subsection”, substitute “subsection (1)”.

**Subsection 21 (1)—**

Omit “himself”.



**SCHEDULE 2—continued**

**Subsection 21 (2)—**

Omit “the succeeding provisions of”.

**Section 22—**

- (a) Omit “he” (first occurring), substitute “the Registrar-General”.
- 5 (b) Omit “one”, substitute “1”.
- (c) Omit “twelve”, substitute “12”.
- (d) Insert “or she” after “he” (second occurring).

**Section 23—**

- (a) Omit “one”, substitute “1”.
- 10 (b) Omit “two” (wherever occurring), substitute “2”.
- (c) Omit “the last preceding section”, substitute “section 22”.
- (d) Omit “in Schedule 2”, substitute “under section 139”.

**Section 25—**

- (a) Omit “the last preceding section”, substitute “section 24”.
- 15 (b) Omit “the succeeding provisions of” (wherever occurring).
- (c) Omit “he” (first occurring), substitute “the Registrar-General”.
- (d) Omit “he” (second occurring), substitute “the applicant”.

**Subsection 30 (1)—**

- (a) Omit “the last preceding Division”, substitute “Division 2”.
- 20 (b) Omit “estate,”.

**Section 31—**

Omit “the next succeeding section”, substitute “section 32”.

**Section 32—**

Omit “three”, substitute “3”.

25 **Paragraph 32 (a)—**

Omit “estate,”.

**Subsection 33 (1)—**

Omit “the last preceding section”, substitute “section 32”.

## SCHEDULE 2—continued

## Section 34—

- (a) Omit “thirty-two of this Act”, substitute “32”.
- (b) Omit “six”, substitute “6”.
- (c) Omit “one”, substitute “1”.
- 5 (d) Omit “thirty”, substitute “30”.
- (e) Omit “the provisions of section thirty-one of this Act”, substitute “section 31”.

## Subsection 35 (1)—

- (a) Insert “or her” after “his” (first occurring).
- 10 (b) Omit “indorse”, substitute “endorse”.
- (c) Insert “or her” after “his” (third and last occurring).
- (d) Omit “twenty of this Act”, substitute “20”.

## Subsection 35 (2)—

Omit “indorse”, substitute “endorse”.

## 15 Section 36—

Omit “the preceding provisions of”.

## Subsection 38 (1)—

Omit “Real Property Act, 1900,”, substitute “*Real Property Act 1900*”.

## Subsection 38 (2)—

- 20 (a) Omit “the last preceding subsection”, substitute “subsection (1)”.
- (b) Omit “Real Property Act, 1900,”, substitute “*Real Property Act 1900*”.

## Section 39—

Omit “of this Act”.

## 25 Section 40—

Omit “the last preceding section”, substitute “section 39”.

## Subsections 41 (1) and (2)—

Omit “thirty-nine of this Act”, substitute “39”.

## Paragraph 41 (2) (a)—

- 30 Omit “of this Act”.

**SCHEDULE 2—continued**

**Section 42—**

(a) Omit “of this Act”.

(b) Omit “hypothec”, substitute “mortgage”.

**Section 46—**

5 Omit “the succeeding provisions of”.

**Section 47—**

Omit “forty-nine of this Act”, substitute “49”.

**Subsection 47A (1)—**

Omit “the last preceding section”, substitute “section 47,”.

10 **Subsection 50 (1)—**

Omit “the succeeding provisions of”.

**Subsection 50 (3)—**

Omit “his”, substitute “the party’s”.

**Subsection 50A (1)—**

15 Omit “three”, substitute “3”.

**Subsection 57 (1)—**

Omit “the preceding provisions of” (wherever occurring).

**Subsection 57 (2)—**

Omit “two”, substitute “2”.

20 **Section 58—**

(a) Omit “estate or” (first and second occurring).

(b) Omit “, estate”.

**Paragraphs 58 (a), (b) and (c)—**

Omit “and”.

25 **Section 61—**

Omit “one” (wherever occurring), substitute “1”.

**Section 63—**

Omit “the preceding provisions of” (wherever occurring).

**SCHEDULE 2—continued****Subsection 64 (3)—**

Omit “two”, substitute “2”.

**Subsection 72B (2)—**

Omit “the last preceding subsection”, substitute “subsection (1)”.

**5 Subsection 72C (2)—**

Omit “the last preceding subsection”, substitute “subsection (1)”.

**Section 79—**

(a) Omit “estate or” (first occurring).

(b) Omit “the provisions of”.

10 (c) Omit “, estate” (wherever occurring).

(d) Omit “wife, or, if the registered proprietor be a married woman, she may make the transfer to her husband”, substitute “or her spouse”.

(e) Insert “or herself” after “himself”.

**15 Section 80—**

Omit “sixty-one”, substitute “61”.

**Subsection 86 (4)—**

Omit “the last preceding subsection”, substitute “subsection (3)”.

**Subsection 86 (9)—**

20 (a) Omit “of this section”.

(b) Omit “ninety A of this Act”, substitute “90A”.

(c) Omit “ninety A of the *Real Property*”, substitute “90A of the *Land Titles*”.

**Section 87 (penalty provision)—**

25 Omit “Two hundred dollars”, substitute “\$200”.

**Section 90—**

Omit “ninety A of this Act”, substitute “90A”.

**Section 91—**

Omit “he”, substitute “the sub-lessor”.

**SCHEDULE 2—continued**

**Subsection 92 (2)—**

Omit “, estate”.

**Paragraph 92A (2) (a)—**

Omit “two”, substitute “2”.

**5 Subsection 92A (2)—**

(a) Omit “two” (second and last occurring), substitute “2”.

(b) Omit “(3) of section forty-eight of this Act”, substitute “48 (3)”.

(c) Omit “in a form approved by the Registrar-General”.

**Subsection 92A (3)—**

**10** Omit “the last preceding subsection”, substitute “subsection (2)”.

**Paragraph 92A (4) (b)—**

Omit “one”, substitute “1”.

**Paragraph 92A (4) (c)—**

Omit “(3) of section forty-eight of this Act”, substitute “48 (3)”.

**15 Subsection 93 (2)—**

(a) Omit “the succeeding provisions of”.

(b) Omit “one”, substitute “1”.

**Subsection 94 (1)—**

(a) Omit “one”, substitute “1”.

**20** (b) Omit “estate and” (wherever occurring).

**Subsection 94 (2)—**

(a) Omit “the last preceding subsection”, substitute “subsection (1)”.

(b) Omit “, estate”.

**Subsection 94 (3)—**

**25** Omit “the last preceding section”, substitute “section 93”.

**Paragraph 94 (7) (a)—**

Omit “three”, substitute “3”.

**Subsection 94 (7)—**

Omit “one hundred and eight B of this Act”, substitute “108B”.

## SCHEDULE 2—continued

**Subsection 97 (1)—**

Omit “six”, substitute “6”.

**Subsection 97 (2)—**

Omit “, estate”.

**5 Subsection 98 (1)—**

Omit “one”, substitute “1”.

**Paragraph 100A (1) (a)—**

(a) Omit “three”, substitute “3”.

(b) Omit “nine, twelve or thirteen”, substitute “9, 12 or 13”.

**10 Paragraph 100A (1) (b)—**

Omit “one hundred and eight B of this Act”, substitute “108B”.

**Subsection 100A (1)—**

(a) Omit “of this subsection”.

**15** (b) Omit “(2) of section ninety-three, and under sections ninety-four, ninety-six, ninety-seven, ninety-nine and one hundred, of this Act”, substitute “93 (2), and under sections 94, 96, 97, 99 and 100”.

**Paragraphs 100A (1) (d) and (f)—**

Omit “of this subsection”.

**20 Subsection 100A (2)—**

(a) Omit “(2) of section ninety-three and sections ninety-four to one hundred (inclusive) of this Act”, substitute “93 (2) and sections 94 to 100 (inclusive)”.

(b) Omit “the last preceding subsection”, substitute “subsection (1)”.

**25** (c) Omit “(d) of the last preceding subsection”, substitute “(1) (d)”.

**Subsection 100A (3)—**

Omit “of this section” (first occurring).

**Paragraph 100A (3) (a)—**

(a) Omit “(b) of subsection (1) of this section”, substitute “(1) (b)”.

**30** (b) Omit “one”, substitute “1”.

(c) Omit “(1) of section 15”, substitute “15 (1)”.

**SCHEDULE 2—continued**

**Paragraph 100A (3) (b)—**

- (a) Omit “(b) of subsection (1) of this section”, substitute “(1) (b)”.
- (b) Omit “one”, substitute “1”.
- (c) Omit “(2) or (3) of section 15”, substitute “15 (2) or (3)”.

**5 Subsection 101A (3)—**

Omit “the last preceding subsection”, substitute “subsection (2)”.

**Subsection 102 (2)—**

Omit “, estate”.

**Subsection 103 (2)—**

- 10** Omit “his executors, administrators”, substitute “his or her executors, executrices, administrators, administratrices”.

**Subsection 103 (3)—**

Omit “of this section”.

**Paragraphs 103A (1) (a), (b) and (c)—**

- 15** Omit “him”, substitute “the person”.

**Subsection 108A (1)—**

- (a) Omit “the next succeeding subsection”, substitute “subsection (2)”.
- (b) Omit “three”, substitute “3”.
- 20** (c) Omit “eighteen”, substitute “18”.

**Subsection 108A (2)—**

- (a) Omit “sixty-seven of this Act”, substitute “67”.
- (b) Omit “the last preceding subsection”, substitute “subsection (1)”.

**Section 108B—**

- 25** (a) Omit “three”, substitute “3”.
- (b) Omit “(3) of section four, or under section sixteen”, substitute “4 (3), or section 16”.

**Section 108C—**

Omit “him”, substitute “the Registrar-General”.

## SCHEDULE 2—continued

**Subsection 109 (1)—**

Omit “his heirs, executors, administrators”, substitute “his or her heirs, executors, executrices, administrators, administratrices”.

**Subsection 109 (2)—**

5 Omit “two”, substitute “2”.

**Section 110—**

(a) Omit “the last preceding section”, substitute “section 109”.

(b) Insert “or herself” after “himself”.

**Section 111—**

10 (a) Omit “one”, substitute “1”.

(b) Omit “two”, substitute “2”.

**Section 115—**

Omit “one”, substitute “1”.

**Subsection 117 (2)—**

15 (a) Omit “one hundred and eight B of this Act”, substitute “108B”.

(b) Omit “one”, substitute “1”.

**Paragraphs 119 (a) and (b)—**

Omit “he”, substitute “the lessee”.

**Paragraph 120 (a)—**

20 (a) Omit “he”, substitute “the lessor”.

(b) Insert “or herself” after “himself”.

(c) Omit “two”, substitute “2”.

**Paragraph 120 (b)—**

Omit “he”, substitute “the lessor”.

25 **Paragraph 120 (c)—**

(a) Omit “he”, substitute “the lessor”.

(b) Insert “or herself” after “himself”.

**Paragraph 120 (d)—**

(a) Omit “one”, substitute “1”.



**SCHEDULE 2—continued**

- (b) Omit “two”, substitute “2”.
- (c) Omit “of this section”.
- (d) Omit “he”, substitute “the lessor”.
- (e) Omit “him”, substitute “the lessee”.

- 5 **Paragraphs 121 (b) and (c)—**  
Omit “two”, substitute “2”.

**Section 123—**  
Omit “of this Act”.

- Subsection 124 (2)—**
- 10 (a) Omit “as well land under the provisions of this Act as land which is not under the provisions thereof”, substitute “both, land under this Act, and land that is not under this Act”.
- (b) Omit “the provisions of” (second and last occurring).

- Subsection 124 (4)—**
- 15 Omit “one hundred and five of this Act”, substitute “105”.

**Subsection 130 (1)—**  
Omit “, estate” (wherever occurring).

**Subsections 132 (1), (2) and (3)—**  
Omit “, estate” (wherever occurring).

- 20 **Subsection 133 (2)—**  
Omit “the last preceding subsection” (wherever occurring), substitute “subsection (1)”.

**Subsection 138A (1)—**  
Omit “, estate” (first occurring).

- 25 **Paragraph 138A (1) (b)—**  
Omit “, estate”.

**Subsection 138A (2)—**  
Omit “, estate” (wherever occurring).

## SCHEDULE 2—continued

**Subsection 138A (3)—**

Omit “or administrator”, substitute “, executrix, administrator or administratrix”.

**Section 138B—**

- 5 Insert “or executrix” after “executor”.

**Section 143—**

Omit “one hundred and fifty-four of this Act”, substitute “154”.

**Paragraph 143 (a)—**

Omit “(5) of that section”, substitute “154 (5)”.

10 **Section 144—**

Omit “one hundred and forty-three or section one hundred and fifty-five of this Act”, substitute “143 or 155”.

**Subsection 146 (3)—**

Omit “the last preceding subsection”, substitute “subsection (2)”.

15 **Subsection 148 (2)—**

Omit “six”, substitute “6”.

**Subsection 149 (2)—**

- (a) Omit “one hundred and forty-three or section one hundred and fifty-five of this Act”, substitute “143 or 155”.
- 20 (b) Omit “the last preceding section of this Act”, substitute “section 148”.

**Section 151—**

Omit “any of the last three preceding sections”, substitute “section 148, 149 or 150”.

25 **Paragraph 152 (1) (ba)—**

Omit “one hundred and eight B of this Act”, substitute “108B”.

**Paragraph 152 (1) (f)—**

- (a) Omit “two” (wherever occurring), substitute “2”.
- (b) Omit “provisions of” (second occurring).

**SCHEDULE 2—continued**

**Subsection 152 (2)—**

Omit “the last preceding subsection”, substitute “subsection (1)”.

**Subsection 153 (1)—**

(a) Omit “two”, substitute “2”.

5 (b) Omit “the last preceding section”, substitute “section 152”.

**Subsection 153 (4)—**

Omit “three”, substitute “3”.

**Subsection 153 (6)—**

Omit “his co-defendant”, substitute “the Territory”.

10 **Paragraph 154 (1) (c)—**

Omit “, estate”.

**Subsection 154 (2)—**

Omit “two”, substitute “2”.

**Subsection 154 (3)—**

15 Omit “of this section”.

**Section 155—**

Omit “, estate”.

**Subsection 165 (1) (penalty provision)—**

) Omit “One thousand dollars, or imprisonment for three years”, substitute “\$1,000, or imprisonment for 3 years”.

**Subsection 170 (1)—**

(a) Omit “, estate” (wherever occurring).

(b) Omit “estate or” (second occurring).

**Subsection 170 (2)—**

5 (a) Omit “, estate”.

(b) Omit “estate or” (last occurring).

**Subsection 170 (3A)—**

(a) Omit “The last preceding subsection”, substitute “Subsection (3)”.

(b) Omit “one hundred and eight B of this Act”, substitute “108B”.

**SCHEDULE 2—continued**

(c) Omit “three”, substitute “3”.

**Subsection 170 (5)—**

Omit “six”, substitute “6”.

**Subsection 170 (6)—**

5 Omit “three”, substitute “3”.

**Schedule 1—**

(a) Omit “his, her and their” (wherever occurring), substitute “his or her”.

(b) Insert “or her”, after “his” (last occurring).

**10 Further amendments—**

The following provisions are amended by inserting “or she” after “he” (wherever occurring):

15 Subsections 15 (1) and 21 (1) and (2), sections 23 and 24, subsections 26 (1) and (2), section 28, subsection 33 (1), section 34, subsection 35 (3), section 36, subsections 44 (2) and 53 (1), section 56, subsection 57 (2), section 63, subsections 72C (2) and 76 (2), section 84, subsections 88 (2), 90A (5) and 94 (1), (3) and (6), section 96, paragraph 103 (3) (a), sections 116 and 118, paragraph 121 (g), subsection 138A (2), section 138B, subsections 146 (3), 148 (1), 149 (1) and 153 (1), (3), (4), (6) and (7), 20 section 159, subsections 165 (1) and 170 (4) and paragraph 171 (1) (d).

**Further amendments—**

The following provisions are amended by inserting “or her” after “him” (wherever occurring):

25 Paragraph 14 (1) (e), subparagraph 14 (1) (f) (ii), subsections 14 (3) and 15 (2), subparagraph 18 (2) (d) (iii), paragraphs 18 (2) (e) and 20 (1) (b), sections 22, 23, 24, 25, 27, 31 and 34, subsection 35 (3), section 36, subsections 44 (2), 57 (2), 62A (2), 64 (6), 86 (3) and (8) and 90A (3) and (5), paragraph 92A (3) (b), subsection 94 (3), section 96, subsection 98 30 (2), section 100, subsection 103A (3), section 115, paragraphs 120 (a) and 121 (a), sections 122 and 150, subsection 154 (5) and paragraph 171 (1) (a).

**Further amendments—**

The following provisions are amended by inserting “or her” after “his” (wherever occurring):

35 Paragraph 14 (1) (a), subparagraphs 18 (2) (d) (iii) and (iv), paragraphs 18 (2) (e) and (3) (a), subsections 19 (1) and 20 (1), paragraphs 20 (1) (a)

**SCHEDULE 2—continued**

5 and (b), subsections 20 (2) and 21 (1) and (2), sections 22, 23, 24, 25, 27 and 28, paragraph 32 (a), subsection 33 (1), section 34, subsection 35 (3), sections 36, 55 and 63, subsections 83 (3), 87 (1), (2) and (3), 87B (1) and 88 (1), section 91, paragraph 93 (2) (b), subsections 94 (2) and (5), paragraph 96 (c), subsection 97 (1), (2) and (4), 99 (1) and (2), 103A (2) and 104 (2), paragraphs 120 (a) and (c) and 121 (a), section 122, subsections 130 (1), 132 (2) and 133 (1), paragraph 138A (1) (a), subsections 145 (1), 148 (1) and (2), 153 (2) and 154 (5), sections 155, 158, 159 and 166, paragraph 171 (1) (d) and section 172.

**10 Further amendments—**

The following provisions are amended by omitting “the provisions of” (wherever occurring):

15 Subsection 3 (2), section 3A, paragraphs 3A (a) and (b) and 14 (1) (a), subsections 15 (2) and 18 (1), paragraph 18 (3) (b), subsections 18 (5) and (6) and 21 (2), sections 22, 23, 24 and 25, subsection 26 (2), sections 28 and 29, subsection 30 (1), section 31, paragraph 32 (b), subsections 33 (1), 35 (1) and 38 (1) and (3), section 39, paragraph 41 (2) (b), subsection 41 (2), sections 46 and 47, subsections 47A (2), 52 (2) and 57 (1), section 58, paragraph 58 (a), section 63, subsections 64 (1) and (6), paragraph 68 (b), 20 section 68, subsections 71 (1) and 72B (2), section 80, subsections 86 (1), 90A (7) and 92 (1), paragraph 92A (2) (a), section 100, subsections 102 (1), 105 (1) and 109 (3), section 116, subsection 117 (1) and (2), paragraph 119 (a), subsections 128 (1), 130 (1), 132 (1) and (3), 133 (1), 138A (1) and (2), 148 (1), 149 (1) and 152 (1), paragraphs 152 (1) (f) and 154 (1) 25 (b), subsection 154 (3), paragraph 154 (3) (a), subsection 154 (5), sections 155 and 159, paragraph 165 (1) (c), section 167, subsections 170 (1), (2), (3) and (5) and 171 (1) and section 172.

**Further amendments—**

30 The following provisions are amended by omitting “estate or” (wherever occurring):

35 Paragraphs 6 (1) (a) (definitions of “Encumbrancer”, “Mortgagor” and “Transfer”) and 20 (1) (b), sections 22, 46 and 47, subsection 50 (1), paragraph 55 (c), section 55, subsections 57 (1) and (2), paragraph 58 (a), section 59, subsections 72B (1), 86 (4) and 92 (1) and (3), paragraph 92A (2) (a), section 100, subsection 104 (2), sections 113 and 116, subsections 117 (1) and (2), 132 (3) and 154 (1), paragraph 154 (3) (c), section 159 and subsection 170 (3).

## NOTES

### Principal Act

1. Reprinted as at 31 January 1994. See also Act No. 45, 1994.

### Penalty units

See section 33AA of the *Interpretation Act 1967*.

### Section headings

On the day on which the Principal Act is amended by this Act, in addition to any alteration of section headings indicated in the text of this Act, headings to sections of the Principal Act are altered as set out in the following table:

Section	Alteration
27	Omit from the heading "his".
32	Omit from the heading "three", substitute "3".
79	Omit from the heading "himself", substitute "self".
84	Omit from the heading "he consents", substitute "consent given".
99	Omit the heading, substitute the following heading: <b>Mortgagee to receive rent</b>
108A	Omit from the heading "Determinations under section 3, and memorandum under section 15, of", substitute "Certain documents under".
110	Omit from the heading "himself", substitute "self".
151	Omit from the heading "under last three preceding sections".

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