

Conveyancing Amendment (Rule in Pigot's Case) Bill 2001

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The rule of law known as the Rule in *Pigot's Case* (1614) 11 Co Rep 26b, 77 ER 1177) was stated by the New South Wales Court of Appeal in *Farrow Mortgage Services Pty Ltd v Slade* (1996) 38 NSWLR 636 at 639–640 in the following terms:

where a deed or other written contract is, after execution, materially altered without the consent of the obligor, by the obligee, or by someone else without the consent of the obligee, or by a stranger whilst it is in the obligee's custody, the deed becomes void (or, according to some, voidable at the election of the obligor).

The Rule, which essentially is to the effect that any material alteration to a document after execution will void it (or make it voidable), was originally laid down to prevent the physical alteration of deeds. However, the courts have attempted to modify the operation of the Rule so as to avoid its more unjust operation.

The object of this Bill is to abolish the Rule, and to provide, accordingly, that a material alteration to a deed does not, by itself, invalidate the deed or render it voidable, or otherwise affect any obligation under the deed.

This Bill gives effect to the recommendations of the New South Wales Law Reform Commission in its Report dealing with the Rule in *Pigot's Case* (Report 97, January 2001).

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent.

Clause 3 is a formal provision giving effect to the amendment to the *Conveyancing Act 1919* set out in Schedule 1.

Schedule 1 amends the *Conveyancing Act 1919* for the purposes described in the above overview.