



New South Wales

Real Property Amendment (Torrens Assurance Levy Repeal) Bill 2011

Explanatory note

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

Overview of Bill

The object of this Bill is to abolish the tax on home buyers imposed on 1 July 2010 called the Torrens assurance levy (a *Torrens assurance levy*).

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.

Schedule 1 Amendment of Real Property Act 1900 No 25

Schedule 1 [5] repeals the provisions of the *Real Property Act 1900* (the *Principal Act*) that enable regulations to be made to require a Torrens assurance levy to be paid in respect of any dealing, caveat, withdrawal of caveat, instrument, application or request lodged under the Principal Act.

Schedule 1 [1]–[4] and [6]–[8] are consequential amendments.

Schedule 1 [9] and [10] make provisions of a savings and transitional nature.

Schedule 2 Amendment of Real Property Regulation 2008

Schedule 2 [3] repeals the requirement in the *Real Property Regulation 2008* that a Torrens assurance levy be paid in respect of certain specified dealings, caveats, withdrawal of caveats, instruments, applications or requests lodged with the Registrar-General under the Principal Act.

Schedule 2 [1], [2], [4]–[7] and [14] are consequential amendments.

Schedule 2 [8]–[13] increase certain other fees payable under the Principal Act by \$4 to reflect the previous arrangements that were in force for funding the Torrens Assurance Fund.



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Contents

	Page
1 Name of Act	2
2 Commencement	2
Schedule 1 Amendment of Real Property Act 1900 No 25	3
Schedule 2 Amendment of Real Property Regulation 2008	5



New South Wales

Real Property Amendment (Torrens Assurance Levy Repeal) Bill 2011

No. , 2011

A Bill for

An Act to amend the *Real Property Act 1900* and the *Real Property Regulation 2008* to abolish the Torrens assurance levy.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Real Property Amendment (Torrens Assurance Levy Repeal) Act 2011*.

2 Commencement

This Act commences or is taken to have commenced on 1 July 2011.

Schedule 1	Amendment of Real Property Act 1900	1
	No 25	2
[1] Section 3 Definitions		3
	Omit the definition of <i>Torrens assurance levy</i> from section 3 (1) (a).	4
[2] Section 134 Torrens Assurance Fund		5
	Omit section 134 (2) (a). Insert instead:	6
	(a) any amounts that the Minister directs to be paid from fees paid to the Registrar-General for lodgment of any dealing, caveat or withdrawal of caveat,	7 8 9
[3] Section 134 (2A)		10
	Omit the subsection.	11
[4] Section 134 (4)		12
	Insert after section 134 (3):	13
	(4) The fee payable to the Registrar-General for lodgment of any dealing, caveat or withdrawal of caveat may be prescribed so as to include the amount to be paid into the Torrens Assurance Fund.	14 15 16 17
[5] Section 134A Torrens assurance levy		18
	Omit the section.	19
[6] Section 144 Regulations		20
	Omit section 144 (1) (b).	21
[7] Section 144 (1) (c)		22
	Omit “, expenses or levies”. Insert instead “or expenses”.	23
[8] Section 144A Payment and recovery of fees or levies		24
	Omit the section.	25
[9] Schedule 3 Savings and transitional provisions		26
	Insert at the end of clause 1 (1):	27
	<i>Real Property Amendment (Torrens Assurance Levy Repeal) Act 2011</i>	28 29

[10] Schedule 3, Part 10	1
Insert after Part 9:	2
 Part 10 Real Property Amendment (Torrens Assurance Levy Repeal) Act 2011	 3 4
 25 Definitions	 5
In this Part:	6
<i>amending Act</i> means the <i>Real Property Amendment (Torrens Assurance Levy Repeal) Act 2011</i> .	7 8
<i>Torrens assurance levy</i> means a levy paid under:	9
(a) section 134A of this Act (as in force before its repeal by the amending Act), or	10 11
(b) clause 26 of this Schedule.	12
 26 Torrens assurance levy	 13
Despite the repeal of clauses 12A and 18A and Part 2 of Schedule 1 to the <i>Real Property Regulation 2008</i> by Schedule 2 to the amending Act, a levy is payable as if those provisions had not been repealed in respect of any dealing that is:	14 15 16 17
(a) a transfer executed to give effect to a contract for the sale of land entered into on or after 1 July 2010 but before 1 July 2011, and	18 19 20
(b) lodged with the Registrar-General after 1 July 2011.	21
 27 Torrens Assurance Fund	 22
(1) The Minister (after consultation with the Treasurer) may direct that all or a proportion of amounts that have been paid to the Registrar-General as Torrens assurance levies are to be paid into the Torrens Assurance Fund.	23 24 25 26
(2) The Minister may make such a direction at any time after the levies are paid into the Consolidated Fund, in which case the amounts are to be paid into the Torrens Assurance Fund without further appropriation.	27 28 29 30

Schedule 2 Amendment of Real Property Regulation 2008

[1] Clause 4 Lodgment of dealings and caveats

Omit clause 4 (b) and (c). Insert instead:

(b) be accompanied by the relevant fee set out in Schedule 1.

[2] Clauses 10 (4), 11 (c) and 12 (1)

Omit “Part 1 of” wherever occurring.

[3] Clause 12A Torrens assurance levy

Omit the clause.

[4] Clause 18A Transitional—introduction of ad valorem Torrens assurance levy

Omit the clause.

[5] Schedule 1, heading

Omit “and levies”.

[6] Schedule 1, clause reference

Omit “, 12 and 12A”. Insert instead “and 12”.

[7] Schedule 1, Part 1, heading

Omit the heading.

[8] Schedule 1, items 8–13

Omit the items. Insert instead:

- | | | |
|---|---|-------|
| 8 | On lodgment of an application under section 45D of the Act by a person in possession of land to be recorded as proprietor of an estate or interest in that land | 97.00 |
| | In addition, for each quarter-hour or part of a quarter-hour occupied in examining the application | 50.00 |
| 9 | On lodgment of a transfer by way of discharge of mortgage where a mortgagee has been recorded as registered proprietor pursuant to section 12B of the Act | 97.00 |

Real Property Amendment (Torrens Assurance Levy Repeal) Bill 2011

Schedule 2 Amendment of Real Property Regulation 2008

10	On lodgment of a dealing for registration or recording of a unilateral severance of a joint tenancy pursuant to section 97 of the Act	97.00
11	On lodgment of a dealing to transfer an estate in land that changes the tenancy of co-tenants without altering their shares	97.00
12	On lodgment of a dealing to transfer the ownership of an estate in land pursuant to section 46 of the Act	194.00
13	On lodgment of an application, request or dealing for which no fee is otherwise provided	97.00

[9] Schedule 1, items 15–20

1

Omit the items. Insert instead:

2

15	On lodgment of an application to dispose of Crown land arising from the closing of a public road under the <i>Roads Act 1993</i> , regardless of how many recordings will ensue	194.00
16	On lodgment of an application or request for amendment of a folio of the Register, Crown grant or certificate of title	97.00
17	On lodgment of an application to record in the Register an appurtenant easement created by a deed	97.00
	In addition, for each quarter-hour or part of a quarter-hour occupied in processing the application	50.00
18	On lodgment of an application under section 81A of the Act for the extinguishment of a restrictive covenant	97.00
	In addition:	
(a)	for each quarter-hour or part of a quarter-hour occupied in examining the application	50.00
(b)	for the Registrar-General's costs of giving notice under section 81D of the Act by way of registered post	Such reasonable fee (determined by the Registrar-General) as is warranted by the cost incurred in posting the notice
19	On lodgment of an application under section 49 of the Act for the cancellation of an easement that has been abandoned or extinguished	97.00
	In addition, for each quarter-hour or part of a quarter-hour occupied in examining the application	50.00

20	On lodgment of an application for the determination under Part 14A of the Act of the position of the common boundary of adjoining lands	97.00	
[10]	Schedule 1, items 24–29		1
	Omit the items. Insert instead:		2
24	On lodgment or recording of a caveat	97.00	
25	On withdrawal or partial withdrawal of a caveat pursuant to section 74M (1) of the Act	97.00	
26	On lodgment of a request for withdrawal or partial withdrawal of a Registrar-General's caveat (no fee is payable for withdrawal or partial withdrawal of a Registrar-General's caveat consequent on lodgment and registration of a dealing)	97.00	
27	On lodgment of a request for the Registrar-General to direct the manner of service of a notice on a caveator pursuant to section 74N (1) (e) of the Act	97.00	
28	On lodgment of an application for preparation of a notice for service on a caveator pursuant to section 74C (3), 74I (1) or (2), 74J (1) or 74JA (2) of the Act	97.00	
29	On lodgment of a notice of a change of name of a caveator or of the address for service of a notice on a caveator	97.00	
[11]	Schedule 1, item 34		3
	Omit the item. Insert instead:		4
34	On lodgment of an application for a new certificate of title under section 111 of the Act	194.00	
[12]	Schedule 1, item 35		5
	Omit the item. Insert instead:		6
35	On depositing an instrument declaratory of trusts	97.00	
[13]	Schedule 1, item 36		7
	Omit the item. Insert instead:		8
36	On lodgment of an application for a statement of reasons under section 121 of the Act	97.00	

Real Property Amendment (Torrens Assurance Levy Repeal) Bill 2011

Schedule 2 Amendment of Real Property Regulation 2008

[14] Schedule 1, Part 2

Omit the Part.

1

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