



New South Wales

# Conveyancing Amendment (Central Register of Restrictions) Bill 2000

## Explanatory note

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

## Overview of Bill

The object of this Bill is to amend the *Conveyancing Act 1919* to provide for the establishment of a Central Register of Restrictions (*the Central Register*) with the following features:

- (a) the Central Register will be maintained by the Registrar-General and will be used to record certain information affecting land (such as proposals that affect land) on behalf of persons (*participating parties*) who enter into an agreement with the Registrar-General to participate in the Central Register,
- (b) the Registrar-General will be authorised to answer inquiries on behalf of participating parties in relation to matters about which information is recorded in the Central Register, and for that purpose inquiries that would ordinarily be made to a participating party will instead be able to be made directly to the Registrar-General,

- (c) a response to such an inquiry by the Registrar-General will be a response as agent for and on behalf of the participating party and will have the same effect for all purposes as a response by the participating party concerned.

## 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 a day or days to be appointed by proclamation.

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

## Schedule 1 Amendments

**Schedule 1 [1]** inserts a new Part 24 into the *Conveyancing Act 1919*, containing the following provisions:

- (a) Proposed section 205 contains definitions for the purposes of the new Part. Under these definitions, a **participating party** is a person who is a party to an **information agreement** with the Registrar-General providing for the recording in the Central Register on behalf of the participating party of information about proposals that affect land and other information.
- (b) Proposed section 206 provides for the establishment of the Central Register by the Registrar-General with the Central Register to be kept in such form as the Registrar-General considers appropriate.
- (c) Proposed section 207 details the kinds of information that can be recorded in the Central Register. An example is information concerning a proposal that affects land, the use of land or the alienation of land or an interest in land.
- (d) Proposed section 208 deals with access to information recorded in the Central Register. Information recorded on behalf of a participating party must not be provided to a person except as permitted by the relevant information agreement. The use of and access to information recorded in the Central Register on behalf of a participating party is also governed by the relevant information agreement.

- (e) Proposed section 209 sets up procedures whereby information recorded on the Central Register on behalf of a participating party can be provided by the Registrar-General on application to the Registrar-General on behalf of the participating party. The information provided by the Registrar-General is taken to have been provided by the participating party.
- (f) Proposed section 210 deals with the fees to be paid to the Registrar-General on behalf of a participating party to obtain information from the Central Register and the entitlement of the Registrar-General to deduct a service fee or commission before paying the balance to the participating party.
- (g) Proposed section 211 protects the Registrar-General and others from liability for acts and omissions in good faith in the administration of the Central Register but without affecting any liability that may be provided for by an information agreement. The liability of a participating party for information provided on its behalf by the Registrar-General is not affected.
- (h) Proposed section 212 provides for the entering into of information agreements and the matters for which such an agreement can provide.
- (i) Proposed section 213 sets out the responsibilities of participating parties to ensure that information in the Central Register is accurate and up to date and makes it clear that their rights as custodians and managers of information are not affected by the recording of the information in the Central Register.
- (j) Proposed section 214 requires that there be consultation with participating parties before certain aspects of the Central Register and its administration are altered.
- (k) Proposed section 215 makes it clear that the proposed Part extends to land under the provisions of the *Real Property Act 1900*.

**Schedule 1 [2]** authorises the making of consequential savings and transitional regulations.

**Schedule 1 [3]** enacts a consequential savings provision to continue with appropriate modifications information agreements entered into before the commencement of the new provisions.

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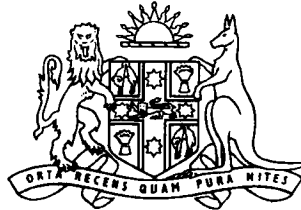
New South Wales

# Conveyancing Amendment (Central Register of Restrictions) Bill 2000

## Contents

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	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Conveyancing Act 1919 No 6	2
Schedule 1 Amendments	3



New South Wales

# Conveyancing Amendment (Central Register of Restrictions) Bill 2000

No. , 2000

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## A Bill for

An Act to amend the *Conveyancing Act 1919* to provide for the Central Register of Restrictions; and for other purposes.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Conveyancing Amendment (Central Register of Restrictions) Act 2000</i> .	3 4
<b>2 Commencement</b>	5
This Act commences on a day or days to be appointed by proclamation.	6 7
<b>3 Amendment of Conveyancing Act 1919 No 6</b>	8
The <i>Conveyancing Act 1919</i> is amended as set out in Schedule 1.	9

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<b>Schedule 1</b>	<b>Amendments</b>	1
	(Section 3)	2
<b>[1] Part 24</b>		3
	Insert after Part 23:	4
	<b>Part 24 Central Register of Restrictions</b>	5
	<b>205 Definitions</b>	6
	In this Part:	7
	<i>information agreement</i> (see section 212).	8
	<i>participating party</i> means a person who is a party to an information agreement that provides for the recording in the Central Register of information on behalf of the person.	9 10 11
	<i>the Central Register</i> means the Central Register of Restrictions established and maintained under this Part.	12 13
	<b>206 Establishment of the Central Register</b>	14
	(1) The Registrar-General is to establish and maintain a register to be called the Central Register of Restrictions.	15 16
	(2) The Central Register is to be kept in such form as the Registrar-General considers appropriate.	17 18
	<b>207 Recording information in the Central Register</b>	19
	(1) The following kinds of information can be recorded in the Central Register:	20 21
	(a) information concerning a proposal that affects land, the use of land or the alienation of land or an interest in land,	22 23 24
	(b) such other information with respect to land or an interest in land as the Registrar-General considers appropriate,	25 26 27
	(c) such information as may be prescribed by the regulations.	28 29

- (2) Information can be recorded in the Central Register by the Registrar-General either on behalf of the Registrar-General or on behalf of a participating party and is to be recorded in such manner and in accordance with such procedures as the Registrar-General determines from time to time. 1  
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- (3) The Registrar-General may permit a participating party access to the Central Register for the purpose of enabling the participating party to record information in the Central Register as information recorded on behalf of the participating party. 6  
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- 208 Access to information in the Central Register** 10
- (1) The Registrar-General may provide a person with information recorded in the Central Register, in such manner and on such terms and conditions as the Registrar-General determines. Information can be provided in such form as the Registrar-General determines. 11  
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- (2) Information recorded in the Central Register on behalf of a participating party must not be provided to a person under this section except as permitted by the information agreement applicable to the information. 16  
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- (3) The Registrar-General must not use, permit the use of or permit access to information recorded in the Central Register on behalf of a participating party except as permitted by the information agreement applicable to the information. 20  
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- 209 Providing information on behalf of participating party** 24
- (1) An application for information to be provided by a participating party (whether in the form of a certificate, an answer to an inquiry or otherwise) can, in the case of information recorded in the Central Register on behalf of the participating party, be made to the Registrar-General as agent for the participating party. The application is taken to have been made to the participating party. 25  
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- (2) When the Registrar-General provides information in response to such an application, the Registrar-General provides the information as agent for and on behalf of the participating party and the information is, for all purposes, taken to have been provided by the participating party. 32  
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(3) The information can be provided in the form of a statement or certificate or in such other form as may be appropriate to the nature of the application.	1 2 3
<b>210 Fees</b>	4
(1) When an application for information is made to the Registrar-General as agent for a participating party, any fee payable to the participating party in respect of the application is instead payable to the Registrar-General on behalf of the participating party.	5 6 7 8 9
(2) The Registrar-General is entitled to deduct and retain from any such fee such amount by way of service fee or commission:	10 11
(a) as may be authorised to be retained by, or as may be required to be paid to, the Registrar-General (as commission or otherwise) under the relevant information agreement, or	12 13 14 15
(b) in the absence of any such authority or requirement in the information agreement, as may be determined by the Registrar-General following consultation with the participating party.	16 17 18 19
(3) The Registrar-General is to pay the balance of the fees received on behalf of a participating party to the participating party. The relevant information agreement may provide for the method and frequency of payment of the balance of fees to the participating party.	20 21 22 23 24
<b>211 Protection from liability</b>	25
(1) Nothing done or omitted to be done in good faith by the Registrar-General, or a person acting under the authority of the Registrar-General, for the purpose of executing this Part subjects the Registrar-General or a person so acting, the Minister or the Crown to any action, liability, claim or demand.	26 27 28 29 30
(2) This section does not affect any liability (whether by way of indemnity or otherwise) that the Registrar-General or the Minister may have to a participating party under an information agreement.	31 32 33 34

(3) This section does not affect any liability of a participating party in respect of any act or omission by the Registrar-General, or a person acting under the authority of the Registrar-General, on behalf of the participating party.	1 2 3 4
<b>212 Agreements</b>	5
(1) The Registrar-General may enter into an agreement for the purposes of this Part with a person on such terms and conditions as the Minister approves. Such an agreement is referred to in this Part as an <i>information agreement</i> .	6 7 8 9
(2) An information agreement may make provision for or with respect to the following:	10 11
(a) the information to be recorded in the Central Register on behalf of the person,	12 13
(b) the obligations of the parties with respect to the accuracy of information recorded in the Central Register,	14 15 16
(c) rights of indemnity between the parties,	17
(d) any matter that a provision of this Part contemplates will be provided for by such an agreement,	18 19
(e) such other matters as the parties consider necessary or desirable.	20 21
<b>213 Rights and responsibilities of participating parties</b>	22
(1) It is the responsibility of a participating party to ensure that the information recorded in the Central Register on behalf of the participating party is accurate and up to date.	23 24 25
(2) The recording of information in the Central Register on behalf of a participating party does not confer any right of property in respect of the information on the Registrar-General or any other person and does not affect any right or responsibility of the participating party as custodian or manager of the information.	26 27 28 29 30 31
<b>214 Consultation with participating parties</b>	32
The Registrar-General must consult with participating parties before changing:	33 34
(a) the form in which the Central Register is kept, or	35

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(b)	the manner in which and the procedures in accordance with which information is to be recorded in the Central Register, or	1 2 3
(c)	the manner in which information recorded in the Central Register on behalf of a participating party is to be provided to a person, or	4 5 6
(d)	the form in which information recorded in the Central Register is to be provided in response to an application for information made to the Registrar-General on behalf of a participating party.	7 8 9 10
<b>215</b>	<b>Application to Real Property Act land</b>	11
	This Part applies to land under the provisions of the <i>Real Property Act 1900</i> .	12 13
<b>[2]</b>	<b>Schedule 9 Savings, transitional and other provisions</b>	14
	Insert at the end of clause 1 (1):	15
	<i>Conveyancing Amendment (Central Register of Restrictions) Act 2000</i>	16 17
<b>[3]</b>	<b>Schedule 9, Part 4</b>	18
	Insert after clause 8:	19
	<b>Part 4 Provisions consequent on enactment of Conveyancing Amendment (Central Register of Restrictions) Act 2000</b>	20 21 22
<b>9</b>	<b>Existing agreements continued</b>	23
	An agreement in force immediately before the commencement of this clause that makes provision for or with respect to the matters for which an information agreement can make provision under Part 24 continues to operate after that commencement as an information agreement under that Part, subject to the following:	24 25 26 27 28 29
(a)	the agreement is taken to have been entered into by the Registrar-General rather than the Minister,	30 31

Conveyancing Amendment (Central Register of Restrictions) Bill 2000

Schedule 1 Amendments

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| (b) | a reference to the Minister or to the Director of the Land Titles Office is taken to be a reference to the Registrar-General, | 1<br>2<br>3 |
| (c) | the agreement is of no effect to the extent (if any) that it is inconsistent with Part 24.                                    | 4<br>5      |