

CONVEYANCING (AMENDMENT) BILL.

SCHEDULE of Amendments referred to in Message of 15th December, 1932.

Page 3, clause 3. *Insert* new paragraph (g)

Page 9, clause 4. *Omit* paragraphs (c) and (d), *insert* new paragraph (c)

COPYRIGHT ACT (AMENDMENT) BILL

SCHEDULE of Amendments referred to in Clause 1 of the Bill, 1956

Page 2, clause 2. Insert new paragraph (b)
Page 2, clause 2. Omit paragraph (c) and the former new paragraph (e)

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

W. R. McCOURT,
Clerk of the Legislative Assembly.
Legislative Assembly Chamber,
Sydney, 7 December, 1932.

The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.

C. H. H. CALVERT,
Clerk of the Parliaments.
Legislative Council Chamber,
Sydney, 15th December, 1932.

New South Wales.



ANNO VICESIMO TERTIO

GEORGI V REGIS.

Act No. , 1932.

An Act to apply certain provisions of the Conveyancing Act, 1919-1930, to lands under the Real Property Act, 1900; to make provision for the issue of certificates of title upon a resumption; and for these and other purposes to amend the Conveyancing Act, 1919-1930, and certain other Acts in certain respects; and for purposes connected therewith.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Conveyancing Short title, (Amendment) Act, 1932."

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(2)

NOTE.—The words to be omitted are ruled through; those to be inserted are printed in black letter.

Conveyancing (Amendment).

(2) The Conveyancing Act, 1919-1930, as amended by this Act, may be cited as the Conveyancing Act, 1919-1932.

2. The Conveyancing Act, 1919-1930, is amended—

5 (a) by omitting section fifty-two and by inserting in lieu thereof the following new section :—

Amendment of Part IV of Conveyancing Act, 1919-1930. Substituted s. 52.

10 52. Divisions 1, 2, 3, and 4 of this Part shall not apply, but Divisions 5 and 6 shall apply and shall be deemed to have applied from the commencement of the Conveyancing (Amendment) Act, 1930, to land under the provisions of the Real Property Act, 1900, except where otherwise provided.

Application of Part IV to land under Real Property Act, 1900.

15 (b) by inserting at the end of section 54A the following new subsection :—

Sec. 54A.

(Contracts for sale, &c., of land to be in writing.)

20 (3) This section applies and shall be deemed to have applied from the commencement of the Conveyancing (Amendment) Act, 1930, to land under the provisions of the Real Property Act, 1900.

(c) by inserting at the end of section sixty-one the following new subsection :—

Sec. 61.

(Conditions of sale and agreements as to stamp duty void.)

25 (2) This section applies to conditions of sale contracts, arrangements or undertakings relating to land under the provisions of the Real Property Act, 1900.

30 (d) by omitting from paragraph (b) of subsection three of section 66G the words "section nine" and by inserting in lieu thereof the words "section seventy-eight."

Sec. 66g, subsec. (3) (b).

(Statutory trusts for sale or partition of property held in co-ownership.)

3. (1) The Conveyancing Act, 1919-1930, is further amended—

Further amendment of the Conveyancing Act, 1919-1930.

35 (a) by omitting from section sixty-nine the word and figure "Division 1." and by inserting in lieu thereof the words and figures "Divisions 1 and 4";

Sec. 69.

(Application of Part VI.)

(b)

Conveyancing (Amendment).

- (b) by inserting at the end of section 88A the following new subsection :—
 (2) This section applies and shall be deemed to have applied from the commencement of the Conveyancing (Amendment) Act, 1930, to land under the provisions of the Real Property Act, 1900.
- Sec. 88A.
(Easements in gross and easements and restrictions appurtenant to easements.)
- (c) by inserting at the end of section 96A the following new subsection :—
 (4) This section applies and shall be deemed to have applied from the commencement of the Conveyancing (Amendment) Act, 1930, to mortgages under the Real Property Act, 1900.
- Sec. 96A.
(Notice of trusts affecting mortgage debts.)
- (d) by adding at the end of subsection sixteen of section one hundred and six the words “and the mortgagee may, by deed, delegate such power to the receiver” ;
- Sec. 106.
(Leasing powers of mortgagor and of mortgagee in possession.)
cf. Act No. 15, Geo. V, c. 20, s. 99 (19).
- (e) by adding at the end of subsection eleven of section one hundred and seven the words “and the mortgagee may, by deed, delegate such power to the receiver” ;
- Sec. 107.
(Powers (with a view to the grant of an authorised lease) for mortgagor and mortgagee in possession to accept surrenders of lease.)
cf. *Ibid.* s. 106 (13).
- (f) by inserting at the end of subsection three of section one hundred and fifteen the words “and to exercise any powers which may have been delegated to him by the mortgagee pursuant to this Act” ;
- Sec. 115, subsec. (3).
(Powers of receiver.)
cf. *Ibid.* s. 109 (3).
- (g) by inserting after subsection six of section one hundred and fifteen the following new subsection :—
 (6a) Where a trust corporation being a mortgagee is entitled to appoint a receiver under the power in that behalf conferred by this Act or by the mortgage deed, or is in possession of the mortgaged property, such trust corporation may appoint itself receiver, and in that event shall be entitled to retain out of any money received by it as such receiver for its remuneration
- Sec. 115, subsec. (3).
(Powers of receiver.)
cf. *Ibid.* s. 109 (3).

Conveyancing (Amendment).

remuneration, and in satisfaction of all costs, charges and expenses incurred by it as such receiver, such commission as would under the provisions of this Act or of the mortgage deed, as the case may be, be retainable by another person if appointed receiver.

Provided that when a trust corporation so appoints itself receiver it shall not be deemed to be the agent of the mortgagor.

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- 10 (g h) by omitting from subsection eight of section one hundred and twenty-nine the words "save as otherwise mentioned"; Sec. 120. (Restrictions on and relief against forfeiture of lease.)
- 15 (h i) by omitting from paragraph (a) of subsection four of section one hundred and sixty the words "the last preceding subsection" and by inserting in lieu thereof the words "subsection three"; Sec. 60. subsec. (4)(a). (Statement as to non-revocation of power of attorney.)
- (i j) by omitting from subsection two of section 181A the word "subsection" and by inserting in lieu thereof the word "section"; Sec. 181A, subsection (2). (Construction of expressions "right of carriage way" and "right of footway.")
- 20 (j k) by inserting next after subsection one of section two hundred and two the following new subsection:— Sec. 202. (General rules under this Part of this Act as to registration and fees.)
- 25 (1A) In this section the expression "the office of the Registrar-General" shall include and shall be deemed always to have included the office of the Registrar of Joint Stock Companies.
- 30 (k l) by omitting from Schedule VI the note at the end thereof and by inserting in lieu thereof the following new note:— Sch. VI note.
- 35 NOTE.—The lessor will be entitled to re-enter or forfeit the lease in the event of the lessee failing to comply with this notice within a reasonable time—see section one hundred and twenty-nine of the Conveyancing Act, 1919–1932.
- (2) The Conveyancing (Amendment) Act, 1930, is amended by omitting subparagraph (iii) of paragraph (b) of section twenty-two. Amendment of Act No. 44, 1930, s. 22. (Revision.)

Conveyancing (Amendment).

4. (1) The Real Property Act, 1900, is amended— Amendment of Real Property Act, 1900.
 (a) by inserting next after section thirty-one the New Part VA. following new Part:—

PART VA.

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ISSUE OF CERTIFICATES OF TITLE FOR RESUMED LAND.

31A. (1) In this section "resumption" means the compulsory acquisition of land for an estate in fee simple under the provisions of the Public Works Act, 1912, or any other Act authorising the compulsory acquisition of land, and "resumed" has a meaning corresponding with that of "resumption." Registrar-General to issue certificates of title in respect of resumed land. cf. Act No. 39, 1905, s 20A.

(2) Where any land described in a Gazette notification declaring such land to be so resumed is not under the provisions of this Act the Registrar-General shall, upon the application of the person, body, or corporation in whom the land so described is by virtue of such notification vested, and upon payment of the fees prescribed, issue to such person, body, or corporation a certificate of title under this Act in respect of such land without causing any examination or report to be made as to the title to the land and without considering such title except so far as may be necessary to give effect to the provisions of subsection three of this section.

(3) In dealing with the application it shall not be necessary to locate the boundaries of the Crown grant (if any) of the land, but it shall be sufficient if the Registrar-General is satisfied with respect to any certificate of title proposed to be issued by him in pursuance of this section that the land to be comprised in the certificate is included in the resumed land.

(4)

Conveyancing (Amendment).

(4) In any certificate of title issued in pursuance of this section the land may be described in the terms of or by reference to the notification of resumption.

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(5) No contribution to the assurance fund shall be payable upon the issue of any such certificate of title.

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(6) This section shall apply to land resumed before or after the commencement of the Conveyancing (Amendment) Act, 1932.

(b) by inserting next after section forty-six the New s. 46A. following new section :—

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46A. Where a notice of resumption of land Notices of resumption. subject to the provisions of this Act, is sent to the Registrar-General in pursuance of section 196A of the Conveyancing Act, 1919-1932, or a copy of a notification of acquisition under the Lands Acquisition Act, 1906-1916, of land subject to the provisions of this Act, is lodged with him, the following provisions shall have effect :—

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(a) The Registrar-General shall, notwithstanding anything in this Act contained, make such entries, notifications, and cancellations in the register book as may be necessary to give effect to the resumption or acquisition.

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(b) Where the duplicate Crown grant or certificate of title is presented with the notice of resumption or the copy of the notification of acquisition, the provisions of this Act relating to the registration of transfer and action consequent thereon shall, mutatis mutandis, apply to and in respect of such notice or copy of notification.

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(c) Where the duplicate Crown grant or certificate of title is not presented with the notice of resumption or the copy of the notification of acquisition the Registrar-General

Conveyancing (Amendment).

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Registrar-General shall at the request of the person lodging such notice or copy of notification, where the land has been resumed or acquired for an estate in fee-simple, cancel wholly or in part as the case may require the folium of the register book constituted by the Crown grant or certificate of title, and shall make out to the constructing authority or the Commonwealth of Australia, or the person in whom by the notification in the Gazette or in the Government Gazette of the Commonwealth of Australia as the case may be, the land is vested, a certificate of title for the land resumed or acquired.

(d) If the grant or certificate of title is in the possession of some person other than the person, body, or corporation in whom the land is vested by virtue of the resumption or acquisition, and such first-named person declines to deliver it up for cancellation when required in writing by the Registrar-General so to do, the grant or certificate of title shall be deemed to be wrongfully retained within the meaning of section one hundred and thirty-six of this Act.

(c) by inserting next after section 56A the following new section :—

56B. (1) Where by an instrument executed prior to the first day of January, one thousand nine hundred and thirty-one, the proprietor of a registered mortgage (in this section referred to as the "prior mortgage") has agreed to postpone such mortgage in its entirety to a mortgage (in this section referred to as the "subsequent mortgage") affecting the whole of the same land, and no other land which was registered or to be registered after the prior mortgage

Special
provision
as to certain
postpone-
ments.

Conveyancing (Amendment).

mortgage, the Registrar-General may register any dealing by the proprietor of the subsequent mortgage as if the subsequent mortgage had been registered immediately before the prior mortgage.

(2) The power conferred by subsection one of this section shall not be exercised where a registered mortgage intervenes between the prior mortgage and the subsequent mortgage unless the proprietor of the intervening mortgage was joined as a party to the instrument postponing the prior mortgage, or by instrument in the prescribed form, consents to the exercise of such power.

(3) Upon registration of any such dealing the Registrar-General shall make all such entries, notifications, and cancellations in the register-book and upon the duplicate Crown grant, certificate of title, or other instrument evidencing title to the estate or interest affected as may be necessary to give effect to such dealing.

- (d) by inserting at the end of subsection one of section one hundred and seven the words "not being a party to the instrument." Sec. 107. (Instruments, how attested.)
- (e) by inserting in section one next after the matter relating to Part V the following:— Sec. 1. (Division into Parts.)

PART VA.—ISSUES OF CERTIFICATES OF TITLE FOR RESUMED LAND—s. 31A.

(2) The Conveyancing Act, 1919–1930, is further amended by omitting from subsection four of section 196A the words "as if the same were a memorandum of transfer duly executed under that Act" and by inserting in lieu thereof the words "in the manner provided in that Act." Further amendment of Act No. 6, 1919, s. 196A. (Register of resumptions.)

(3) The following Acts are to the extent in this subsection mentioned hereby repealed:— Repeals.

- (a) Darling Harbour Land Titles Act, 1907, the whole, Act No. 10, 1907.

(b)

Conveyancing (Amendment).

- (b) Sydney Harbour Trust Land Titles Act, 1909, Act No. 7, 1909, s. 3 (2).
section three, subsection two.
- (c) Sydney Corporation Amendment Act, 1905, Act No. 30, 1905, s. 20a.
section 20A.
- 5 (d) Sydney Corporation (Amendment) Act, 1924, Act No. 7, 1924, s. 13 (d) (Revision).
section thirteen, paragraph (d).
- (c) Sydney Corporation Act, 1932, section two hundred and fifty-one. Sydney Corporation Act, 1932, s. 251.
5. The Wills, Probate and Administration Act, 1898, Amendment of Act No. 13, 1898.
10 is amended:—
- (a) (i) by inserting at the end of subsection one Sec. 46D. (Application of income of settled, residuary, real or personal estate).
of section 46D the words “or of any legacies bequeathed by such will”;
- 15 (ii) by omitting from subsection two of the same section the words “and liabilities” and by inserting in lieu thereof the words “liabilities and legacies”;
- (iii) by omitting from subsection three of the same section the words “and liabilities” and by inserting in lieu thereof the words
20 “liabilities and legacies”;
- (b) by inserting at the end of paragraph two of Third Schedule.
Part I of the Third Schedule the words:—
- 25 In the application of such rules the date of the death of the deceased person shall be substituted for the date of the sequestration order.
6. (1) Any alteration of the law by this Act shall Saving.
not affect any action, suit or proceeding commenced on or after the first day of January, one thousand nine
30 hundred and thirty-one, and concluded before or pending at the commencement of this Act.
- (2) Any action, suit or proceeding so pending may be carried on and completed as if this Act had not been enacted.

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

W. K. McCOURT,
Clerk of the Legislative Assembly.
Legislative Assembly Chamber,
Sydney, 7 December, 1932.

New South Wales.



ANNO VICESIMO TERTIO

GEORGI V REGIS.

Act No. , 1932.

An Act to apply certain provisions of the Conveyancing Act, 1919-1930, to lands under the Real Property Act, 1900; to make provision for the issue of certificates of title upon a resumption; and for these and other purposes to amend the Conveyancing Act, 1919-1930, and certain other Acts in certain respects; and for purposes connected therewith.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Conveyancing (Amendment) Act, 1932." Short title.

Conveyancing (Amendment).

(2) The Conveyancing Act, 1919-1930, as amended by this Act, may be cited as the Conveyancing Act, 1919-1932.

2. The Conveyancing Act, 1919-1930, is amended—

5 (a) by omitting section fifty-two and by inserting in lieu thereof the following new section :—

Amendment of Part IV of Conveyancing Act, 1919-1930. Substituted s. 52.

10 52. Divisions 1, 2, 3, and 4 of this Part shall not apply, but Divisions 5 and 6 shall apply and shall be deemed to have applied from the commencement of the Conveyancing (Amendment) Act, 1930, to land under the provisions of the Real Property Act, 1900, except where otherwise provided.

Application of Part IV to land under Real Property Act, 1900.

15 (b) by inserting at the end of section 54A the following new subsection :—

Sec. 54A. (Contracts for sale, &c., of land to be in writing.)

20 (3) This section applies and shall be deemed to have applied from the commencement of the Conveyancing (Amendment) Act, 1930, to land under the provisions of the Real Property Act, 1900.

(c) by inserting at the end of section sixty-one the following new subsection :—

Sec. 61. (Conditions of sale and agreements as to stamp duty void.)

25 (2) This section applies to conditions of sale contracts, arrangements or undertakings relating to land under the provisions of the Real Property Act, 1900.

30 (d) by omitting from paragraph (b) of subsection three of section 66G the words "section nine" and by inserting in lieu thereof the words "section seventy-eight."

Sec. 66G, subsec. (3) (b). (Statutory trusts for sale or partition of property held in co-ownership.)

3. (1) The Conveyancing Act, 1919-1930, is further amended—

Further amendment of the Conveyancing Act, 1919-1930.

35 (a) by omitting from section sixty-nine the word and figure "Division 1." and by inserting in lieu thereof the words and figures "Divisions 1 and 4";

Sec. 69. (Application of Part VI.)

(b)

Conveyancing (Amendment).

- (b) by inserting at the end of section 88A the following new subsection :—
 (2) This section applies and shall be deemed to have applied from the commencement of the Conveyancing (Amendment) Act, 1930, to land under the provisions of the Real Property Act, 1900.
- (c) by inserting at the end of section 96A the following new subsection :—
 (4) This section applies and shall be deemed to have applied from the commencement of the Conveyancing (Amendment) Act, 1930, to mortgages under the Real Property Act, 1900.
- (d) by adding at the end of subsection sixteen of section one hundred and six the words “ and the mortgagee may, by deed, delegate such power to the receiver ” ;
- (e) by adding at the end of subsection eleven of section one hundred and seven the words “ and the mortgagee may, by deed, delegate such power to the receiver ” ;
- (f) by inserting at the end of subsection three of section one hundred and fifteen the words “ and to exercise any powers which may have been delegated to him by the mortgagee pursuant to this Act ” ;
- (g) by omitting from subsection eight of section one hundred and twenty-nine the words “ save as otherwise mentioned ” ;
- (h) by omitting from paragraph (a) of subsection four of section one hundred and sixty the words “ the last preceding subsection ” and by inserting in lieu thereof the words “ subsection three ” ;

Sec. 88A.

(Easements in gross and easements and restrictions appurtenant to easements.)

Sec. 96A.

(Notice of trusts affecting mortgage debts.)

Sec. 106.

(Leasing powers of mortgagor and of mortgagee in possession.)

cf. Act No. 15, Geo. V, c. 20, s. 99 (19).

Sec. 107.

(Powers (with a view to the grant of an authorised lease) for mortgagor and mortgagee in possession to accept surrenders of lease.)

cf. *Ibid.* s. 100 (13).

Sec. 115,

subsec. (3).
(Powers of receiver.)cf. *Ibid.* s. 109 (3).

Sec. 129.

(Restrictions on and relief against forfeiture of lease.)

Sec. 160.

subsec. (4)(a).

(Statement as to non-revocation of power of attorney.)

(i)

Conveyancing (Amendment).

- (i) by omitting from subsection two of section 181A the word "subsection" and by inserting in lieu thereof the word "section"; Sec. 181A, subsection (2).
(Construction of expressions "right of carriage way" and "right of footway.")
- 5 (j) by inserting next after subsection one of section two hundred and two the following new subsection:— Sec. 202.
(General rules under this Part of this Act as to registration and fees.)
- 10 (1A) In this section the expression "the office of the Registrar-General" shall include and shall be deemed always to have included the office of the Registrar of Joint Stock Companies.
- (k) by omitting from Schedule VI the note at the end thereof and by inserting in lieu thereof the following new note:— Sch. VI note.
- 15 NOTE.—The lessor will be entitled to re-enter or forfeit the lease in the event of the lessee failing to comply with this notice within a reasonable time—see section one hundred and twenty-nine of the Conveyancing Act, 1919-1932.
- 20 (2) The Conveyancing (Amendment) Act, 1930, is amended by omitting subparagraph (iii) of paragraph (b) of section twenty-two. Amendment of Act No. 44, 1930, s. 22. (Revision.)
4. (1) The Real Property Act, 1900, is amended— Amendment of Real Property Act, 1900.
- 25 (a) by inserting next after section thirty-one the following new Part:— New Part VA.

PART VA.

ISSUE OF CERTIFICATES OF TITLE FOR RESUMED LAND.

- 30 31A. (1) In this section "resumption" means the compulsory acquisition of land for an estate in fee simple under the provisions of the Public Works Act, 1912, or any other Act authorising the compulsory acquisition of land, and "resumed" has a meaning corresponding with that of "resumption." Registrar-General to issue certificates of title in respect of resumed land.
cf. Act No. 33, 1905, s. 20A.

(2)

Conveyancing (Amendment).

5 (2) Where any land described in a
Gazette notification declaring such land to be
so resumed is not under the provisions of this
Act the Registrar-General shall, upon the
application of the person, body, or corporation
in whom the land so described is by virtue of
such notification vested, and upon payment
of the fees prescribed, issue to such person,
body, or corporation a certificate of title
10 under this Act in respect of such land
without causing any examination or report to
be made as to the title to the land and without
considering such title except so far as may be
necessary to give effect to the provisions of
15 subsection three of this section.

(3) In dealing with the application it
shall not be necessary to locate the boundaries
of the Crown grant (if any) of the land, but it
shall be sufficient if the Registrar-General is
20 satisfied with respect to any certificate of title
proposed to be issued by him in pursuance of
this section that the land to be comprised in
the certificate is included in the resumed land.

(4) In any certificate of title issued in
25 pursuance of this section the land may be
described in the terms of or by reference to
the notification of resumption.

(5) No contribution to the assurance
30 fund shall be payable upon the issue of any
such certificate of title.

(6) This section shall apply to land
resumed before or after the commencement of
the Conveyancing (Amendment) Act, 1932.

b) by inserting next after section forty-six the New s. 46A.
35 following new section:—

40 46A. Where a notice of resumption of land Notices of
resumption.
subject to the provisions of this Act, is sent
to the Registrar-General in pursuance of sec-
tion 196A of the Conveyancing Act, 1919-1932,
or a copy of a notification of acquisition under
the Lands Acquisition Act, 1906-1916, of
land

Conveyancing (Amendment).

land subject to the provisions of this Act, is lodged with him, the following provisions shall have effect:—

- 5 (a) The Registrar-General shall, notwithstanding anything in this Act contained, make such entries, notifications, and cancellations in the register book as may be necessary to give effect to the resumption or acquisition.
- 10 (b) Where the duplicate Crown grant or certificate of title is presented with the notice of resumption or the copy of the notification of acquisition, the provisions of this Act relating to the
- 15 registration of transfer and action consequent thereon shall, mutatis mutandis, apply to and in respect of such notice or copy of notification.
- 20 (c) Where the duplicate Crown grant or certificate of title is not presented with the notice of resumption or the copy of the notification of acquisition the Registrar-General shall at the request
- 25 of the person lodging such notice or copy of notification, where the land has been resumed or acquired for an estate in fee-simple, cancel wholly or in part as the case may require the folium of the register book constituted by the Crown
- 30 grant or certificate of title, and shall make out to the constructing authority or the Commonwealth of Australia, or the person in whom by the notification in the Gazette or in the Government
- 35 Gazette of the Commonwealth of Australia as the case may be, the land is vested, a certificate of title for the land resumed or acquired.
- 40 (d) If the grant or certificate of title is in the possession of some person other than the person, body, or corporation
in

Conveyancing (Amendment).

5 in whom the land is vested by virtue of
the resumption or acquisition, and
such first-named person declines to
deliver it up for cancellation when
required in writing by the Registrar-
General so to do, the grant or certi-
10 ficate of title shall be deemed to be
wrongfully retained within the meaning
of section one hundred and thirty-six
of this Act.

(c) by inserting next after section 56A the fol-
lowing new section :—

15 56B. (1) Where by an instrument executed
prior to the first day of January, one thousand
nine hundred and thirty-one, the proprietor of
a registered mortgage (in this section referred
to as the "prior mortgage") has agreed to
postpone such mortgage in its entirety to a
mortgage (in this section referred to as the
20 "subsequent mortgage") affecting the whole
of the same land, and no other land which was
registered or to be registered after the prior
mortgage, the Registrar-General may register
any dealing by the proprietor of the subse-
25 quent mortgage as if the subsequent mortgage
had been registered immediately before the
prior mortgage.

(2) The power conferred by subsection
one of this section shall not be exercised where
30 a registered mortgage intervenes between the
prior mortgage and the subsequent mortgage
unless the proprietor of the intervening mort-
gage was joined as a party to the instrument
postponing the prior mortgage, or by instru-
35 ment in the prescribed form, consents to the
exercise of such power.

(3) Upon registration of any such
dealing the Registrar-General shall make all
such entries, notifications, and cancellations
in the register-book and upon the duplicate
40 Crown grant, certificate of title, or other
instrument

Special
provision
as to certain
postpone-
ments.

Conveyancing (Amendment).

instrument evidencing title to the estate or interest affected as may be necessary to give effect to such dealing.

- 5 (d) by inserting at the end of subsection one of section one hundred and seven the words “not being a party to the instrument.” Sec. 107. (Instruments, how attested.)
- (e) by inserting in section one next after the matter relating to Part V the following:— Sec. 1. (Division into parts.)

PART VA.—ISSUES OF CERTIFICATES OF TITLE FOR RESUMED LAND—s. 31A.

- 10 (2) The Conveyancing Act, 1919–1930, is further amended by omitting from subsection four of section 196A the words “as if the same were a memorandum of transfer duly executed under that Act” and by inserting Further amendment of Act No. 6, 1919, s. 196A. (Register of resumptions.)
- 15 in lieu thereof the words “in the manner provided in that Act.”

(3) The following Acts are to the extent in this subsection mentioned hereby repealed:— Repeals.

- 20 (a) Darling Harbour Land Titles Act, 1907, the whole. Act No. 10, 1907.
- (b) Sydney Harbour Trust Land Titles Act, 1909, section three, subsection two. Act No. 7, 1909, s. 3 (2).
- (c) Sydney Corporation Amendment Act, 1905, section 20A. Act No. 30, 1905, s. 20A.
- 25 (d) Sydney Corporation (Amendment) Act, 1924, section thirteen, paragraph (d). Act No. 7, 1924, s. 13 (d). (Revision.)

5. The Wills, Probate and Administration Act, 1898, is amended:— Amendment of Act No. 13, 1898.

- 30 (a) (i) by inserting at the end of subsection one of section 46D the words “or of any legacies bequeathed by such will”; Sec. 46D. (Application of income of settled, residuary, real or personal estate).
- (ii) by omitting from subsection two of the same section the words “and liabilities” and by inserting in lieu thereof the words “liabilities and legacies”;
- 35 (iii) by omitting from subsection three of the same section the words “and liabilities” and by inserting in lieu thereof the words “liabilities and legacies”; (b)

Conveyancing (Amendment).

(b) by inserting at the end of paragraph two of Part I of the Third Schedule the words :— ^{Third} _{Schedule.}

5 In the application of such rules the date of the death of the deceased person shall be substituted for the date of the sequestration order.

6. (1) Any alteration of the law by this Act shall ^{Saving.} not affect any action, suit or proceeding commenced on or after the first day of January, one thousand nine hundred and thirty-one, and concluded before or pending
10 at the commencement of this Act.

(2) Any action, suit or proceeding so pending may be carried on and completed as if this Act had not been enacted.

Sydney: Alfred James Kent, I.S.O., Government Printer—1932.

[10d.]

The House that originated the bill...
and, being the day passed, is now ready for presentation to the
Legislative Council for its concurrence.

W. R. MURPHY

Chief of the Legislative Assembly
Legislative Council Chamber
Parliament Buildings, Dublin

New South Wales
The Bill for the purpose of...
of the Act...
of the Act...
of the Act...

18.

The Bill
in order
of the
of the
of the
of the
of the
of the

37-11

with

Bill introduced by the Hon. Mr. [Name]...
with the assent and consent of the...
of the Legislative Assembly of New South...
Wales in Parliament assembled, and by the authority of
the same, as follows:—
1. (1) This Act may be cited as the "Conveyancing...
(Amendment) Act, 1932."
37-11

New South Wales.



ANNO VICESIMO TERTIO

GEORGII V REGIS.

Act No. 65, 1932.

An Act to apply certain provisions of the Conveyancing Act, 1919-1930, to lands under the Real Property Act, 1900; to make provision for the issue of certificates of title upon a resumption; and for these and other purposes to amend the Conveyancing Act, 1919-1930, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 30th December, 1932.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Conveyancing Short title.
(Amendment) Act, 1932."

Conveyancing (Amendment).

(2) The Conveyancing Act, 1919-1930, as amended by this Act, may be cited as the Conveyancing Act, 1919-1932.

2. The Conveyancing Act, 1919-1930, is amended—

Amendment of Part IV of Conveyancing Act, 1919-1930. Substituted s. 52.

Application of Part IV to land under Real Property Act, 1900.

Sec. 54A. (Contracts for sale, &c., of land to be in writing.)

Sec. 61. (Conditions of sale and agreements as to stamp duty void.)

Sec. 66g, subsec. (3) (b). (Statutory trusts for sale or partition of property held in co-ownership.)

Further amendment of the Conveyancing Act, 1919-1930.

Sec. 69. (Application of Part VI.)

(a) by omitting section fifty-two and by inserting in lieu thereof the following new section:—

52. Divisions 1, 2, 3, and 4 of this Part shall not apply, but Divisions 5 and 6 shall apply and shall be deemed to have applied from the commencement of the Conveyancing (Amendment) Act, 1930, to land under the provisions of the Real Property Act, 1900, except where otherwise provided.

(b) by inserting at the end of section 54A the following new subsection:—

(3) This section applies and shall be deemed to have applied from the commencement of the Conveyancing (Amendment) Act, 1930, to land under the provisions of the Real Property Act, 1900.

(c) by inserting at the end of section sixty-one the following new subsection:—

(2) This section applies to conditions of sale contracts, arrangements or undertakings relating to land under the provisions of the Real Property Act, 1900.

(d) by omitting from paragraph (b) of subsection three of section 66g the words "section nine" and by inserting in lieu thereof the words "section seventy-eight."

3. (1) The Conveyancing Act, 1919-1930, is further amended—

(a) by omitting from section sixty-nine the word and figure "Division 1." and by inserting in lieu thereof the words and figures "Divisions 1 and 4";

(b)

Conveyancing (Amendment).

- (b) by inserting at the end of section 88A the following new subsection :—
- Sec. 88A.
(Easements in gross and easements and restrictions appurtenant to easements.)
- (2) This section applies and shall be deemed to have applied from the commencement of the Conveyancing (Amendment) Act, 1930, to land under the provisions of the Real Property Act, 1900.
- (c) by inserting at the end of section 96A the following new subsection :—
- Sec. 96A.
(Notice of trusts affecting mortgage debts.)
- (4) This section applies and shall be deemed to have applied from the commencement of the Conveyancing (Amendment) Act, 1930, to mortgages under the Real Property Act, 1900.
- (d) by adding at the end of subsection sixteen of section one hundred and six the words “and the mortgagee may, by deed, delegate such power to the receiver”;
- Sec. 106.
(Leasing power of mortgagor and of mortgagee in possession.)
cf. Act No. 15, Geo. V, c. 20, s. 99 (19).
- (e) by adding at the end of subsection eleven of section one hundred and seven the words “and the mortgagee may, by deed, delegate such power to the receiver”;
- Sec. 107.
(Powers (with a view to the grant of an authorised lease) for mortgagor and mortgagee in possession to accept surrenders of lease.)
cf. *Ibid.* s. 100 (13).
- (f) by inserting at the end of subsection three of section one hundred and fifteen the words “and to exercise any powers which may have been delegated to him by the mortgagee pursuant to this Act”;
- Sec. 115, subsec. (3).
(Powers of receiver.)
cf. *Ibid.* s. 109 (3).
- (g) by inserting after subsection six of section one hundred and fifteen the following new subsection :—
- (6A) Where a trust corporation being a mortgagee is entitled to appoint a receiver under the power in that behalf conferred by this Act or by the mortgage deed, or is in possession of the mortgaged property, such trust corporation may appoint itself receiver, and in that event shall be entitled to retain out of any money received by it as such receiver for its remuneration, and in satisfaction

Conveyancing (Amendment).

satisfaction of all costs, charges and expenses incurred by it as such receiver, such commission as would under the provisions of this Act or of the mortgage deed, as the case may be, be retainable by another person if appointed receiver:

Provided that when a trust corporation so appoints itself receiver it shall not be deemed to be the agent of the mortgagor.

Sec. 129.
(Restrictions on and relief against forfeiture of lease.)

(h) by omitting from subsection eight of section one hundred and twenty-nine the words "save as otherwise mentioned";

Sec. 160.
subsec. (4)(a).
(Statement as to non-revocation of power of attorney.)

(i) by omitting from paragraph (a) of subsection four of section one hundred and sixty the words "the last preceding subsection" and by inserting in lieu thereof the words "subsection three";

Sec. 181A,
subsection (2).
(Construction of expressions "right of carriage way" and "right of footway.")

(j) by omitting from subsection two of section 181A the word "subsection" and by inserting in lieu thereof the word "section";

Sec. 202.
(General rules under this Part of this Act as to registration and fees.)

(k) by inserting next after subsection one of section two hundred and two the following new subsection:—

(1A) In this section the expression "the office of the Registrar-General" shall include and shall be deemed always to have included the office of the Registrar of Joint Stock Companies.

Sch. VI
note.

(l) by omitting from Schedule VI the note at the end thereof and by inserting in lieu thereof the following new note:—

NOTE.—The lessor will be entitled to re-enter or forfeit the lease in the event of the lessee failing to comply with this notice within a reasonable time—see section one hundred and twenty-nine of the Conveyancing Act, 1919-1932.

Amendment of Act No. 44, 1930, s. 22.
(Revision.)

(2) The Conveyancing (Amendment) Act, 1930, is amended by omitting subparagraph (iii) of paragraph (b) of section twenty-two. **4.**

Conveyancing (Amendment).

4. (1) The Real Property Act, 1900, is amended—

Amendment of
Real Property
Act, 1900.

(a) by inserting next after section thirty-one the following new Part :—

New Part VA.

PART VA.

ISSUE OF CERTIFICATES OF TITLE FOR
RESUMED LAND.

31A. (1) In this section "resumption" means the compulsory acquisition of land for an estate in fee simple under the provisions of the Public Works Act, 1912, or any other Act authorising the compulsory acquisition of land, and "resumed" has a meaning corresponding with that of "resumption."

Registrar-
General to
issue certi-
ficates of
title in
respect of
resumed
land.

cf. Act No.
39, 1905,
s. 20A.

(2) Where any land described in a Gazette notification declaring such land to be so resumed is not under the provisions of this Act the Registrar-General shall, upon the application of the person, body, or corporation in whom the land so described is by virtue of such notification vested, and upon payment of the fees prescribed, issue to such person, body, or corporation a certificate of title under this Act in respect of such land without causing any examination or report to be made as to the title to the land and without considering such title except so far as may be necessary to give effect to the provisions of subsection three of this section.

(3) In dealing with the application it shall not be necessary to locate the boundaries of the Crown grant (if any) of the land, but it shall be sufficient if the Registrar-General is satisfied with respect to any certificate of title proposed to be issued by him in pursuance of this section that the land to be comprised in the certificate is included in the resumed land.

(4)

Conveyancing (Amendment).

(4) In any certificate of title issued in pursuance of this section the land may be described in the terms of or by reference to the notification of resumption.

(5) No contribution to the assurance fund shall be payable upon the issue of any such certificate of title.

(6) This section shall apply to land resumed before or after the commencement of the Conveyancing (Amendment) Act, 1932.

New s. 46A.

h) by inserting next after section forty-six the following new section :—

Notices of
resumption.

46A. Where a notice of resumption of land subject to the provisions of this Act, is sent to the Registrar-General in pursuance of section 196A of the Conveyancing Act, 1919-1932, or a copy of a notification of acquisition under the Lands Acquisition Act, 1906-1916, of land subject to the provisions of this Act, is lodged with him, the following provisions shall have effect :—

- (a) The Registrar-General shall, notwithstanding anything in this Act contained, make such entries, notifications, and cancellations in the register book as may be necessary to give effect to the resumption or acquisition.
- (b) Where the duplicate Crown grant or certificate of title is presented with the notice of resumption or the copy of the notification of acquisition, the provisions of this Act relating to the registration of transfer and action consequent thereon shall, mutatis mutandis, apply to and in respect of such notice or copy of notification.
- (c) Where the duplicate Crown grant or certificate of title is not presented with the notice of resumption or the copy of the notification of acquisition the Registrar-General

Conveyancing (Amendment).

Registrar-General shall at the request of the person lodging such notice or copy of notification, where the land has been resumed or acquired for an estate in fee-simple, cancel wholly or in part as the case may require the folium of the register book constituted by the Crown grant or certificate of title, and shall make out to the constructing authority or the Commonwealth of Australia, or the person in whom by the notification in the Gazette or in the Government Gazette of the Commonwealth of Australia as the case may be, the land is vested, a certificate of title for the land resumed or acquired.

- (d) If the grant or certificate of title is in the possession of some person other than the person, body, or corporation in whom the land is vested by virtue of the resumption or acquisition, and such first-named person declines to deliver it up for cancellation when required in writing by the Registrar-General so to do, the grant or certificate of title shall be deemed to be wrongfully retained within the meaning of section one hundred and thirty-six of this Act.
- (e) by inserting next after section 56A the following new section:—

56B. (1) Where by an instrument executed prior to the first day of January, one thousand nine hundred and thirty-one, the proprietor of a registered mortgage (in this section referred to as the "prior mortgage") has agreed to postpone such mortgage in its entirety to a mortgage (in this section referred to as the "subsequent mortgage") affecting the whole of the same land, and no other land which was registered or to be registered after the prior mortgage

Special provision as to certain postponements.

Conveyancing (Amendment).

mortgage, the Registrar-General may register any dealing by the proprietor of the subsequent mortgage as if the subsequent mortgage had been registered immediately before the prior mortgage.

(2) The power conferred by subsection one of this section shall not be exercised where a registered mortgage intervenes between the prior mortgage and the subsequent mortgage unless the proprietor of the intervening mortgage was joined as a party to the instrument postponing the prior mortgage, or by instrument in the prescribed form, consents to the exercise of such power.

(3) Upon registration of any such dealing the Registrar-General shall make all such entries, notifications, and cancellations in the register-book and upon the duplicate Crown grant, certificate of title, or other instrument evidencing title to the estate or interest affected as may be necessary to give effect to such dealing.

Sec. 107.
(Instruments,
how
attested.)

(d) by inserting at the end of subsection one of section one hundred and seven the words "not being a party to the instrument."

Sec. 1.
(Division
into Parts.)

(e) by inserting in section one next after the matter relating to Part V the following:—

PART VA.—ISSUES OF CERTIFICATES OF
TITLE FOR RESUMED LAND—s. 31A.

Further
amendment
of Act No. 6,
1919, s. 196A.
(Register of
resumptions.)

(2) The Conveyancing Act, 1919–1930, is further amended by omitting from subsection four of section 196A the words "as if the same were a memorandum of transfer duly executed under that Act" and by inserting in lieu thereof the words "in the manner provided in that Act."

Repeals.

(3) The following Acts are to the extent in this subsection mentioned hereby repealed:—

Act No. 10,
1907.

(a) Darling Harbour Land Titles Act, 1907, the whole.

(b)

Conveyancing (Amendment).

- (b) Sydney Harbour Trust Land Titles Act, 1909, Act No. 7, 1909, s. 3 (2).
section three, subsection two.
- (c) Sydney Corporation Act, 1932, section two Sydney Corporation Act, 1932, s. 251.
hundred and fifty-one.
- 5.** The Wills, Probate and Administration Act, 1898, Amendment of Act No. 13, 1898.
is amended:—
- (a) (i) by inserting at the end of subsection one Sec. 46D.
of section 46D the words “or of any (Application of income of settled, residuary, real or personal estate.)
legacies bequeathed by such will”;
- (ii) by omitting from subsection two of the
same section the words “and liabilities”
and by inserting in lieu thereof the words
“liabilities and legacies”;
- (iii) by omitting from subsection three of the
same section the words “and liabilities”
and by inserting in lieu thereof the words
“liabilities and legacies”;
- (b) by inserting at the end of paragraph two of Third Schedule.
Part I of the Third Schedule the words:—
- In the application of such rules the date of
the death of the deceased person shall be sub-
stituted for the date of the sequestration order.

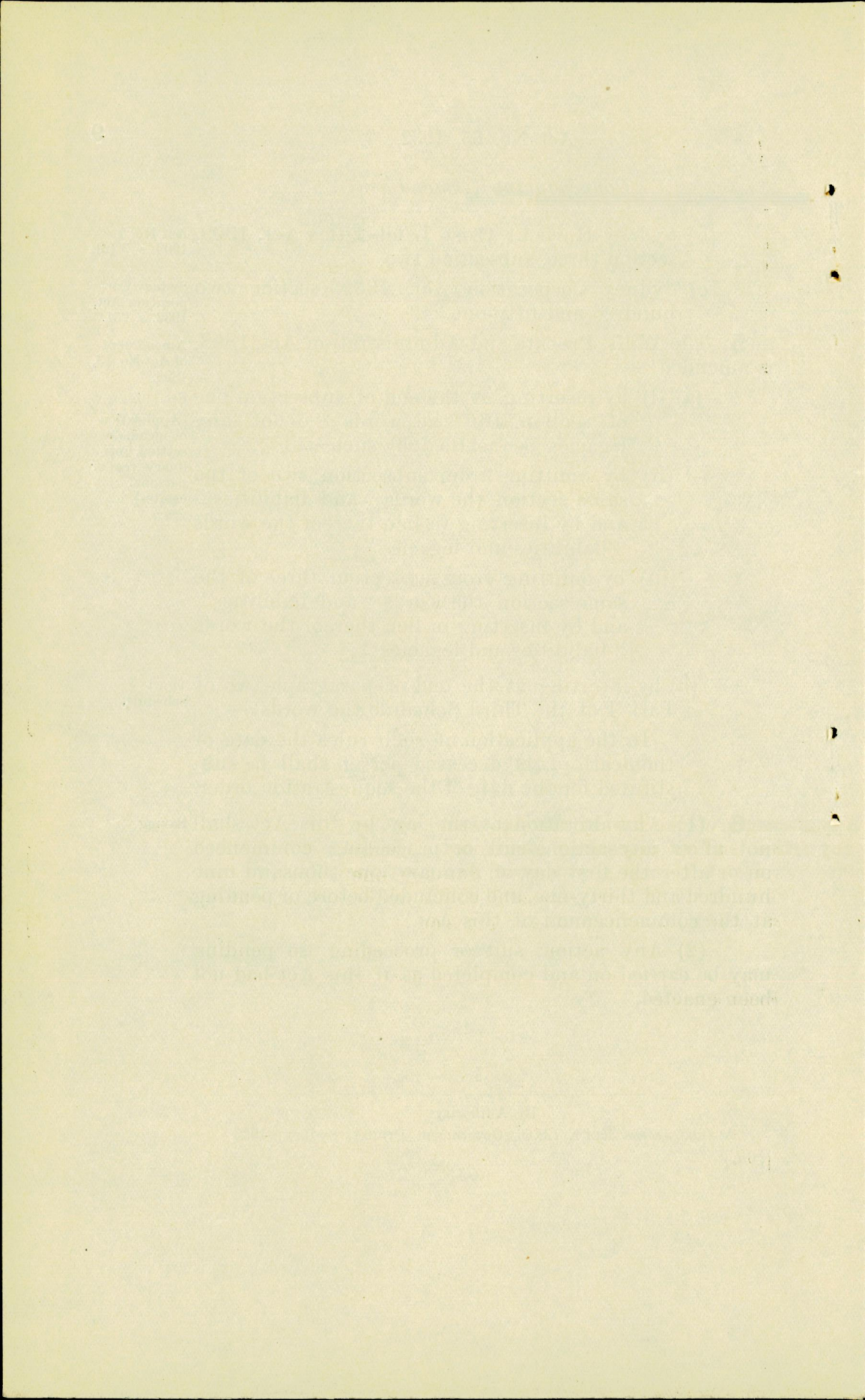
6. (1) Any alteration of the law by this Act shall Saving.
not affect any action, suit or proceeding commenced
on or after the first day of January, one thousand nine
hundred and thirty-one, and concluded before or pending
at the commencement of this Act.

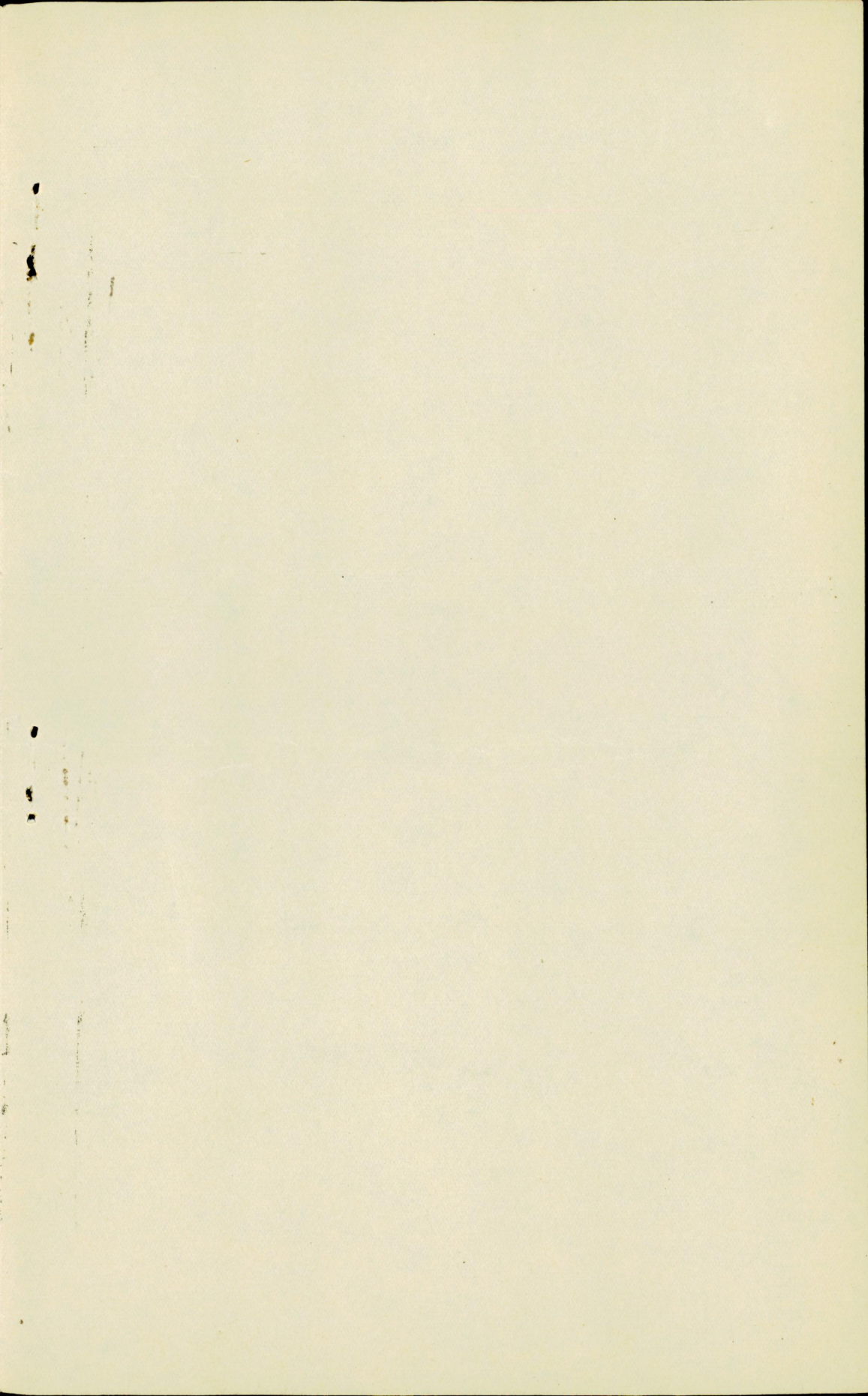
(2) Any action, suit or proceeding so pending
may be carried on and completed as if this Act had not
been enacted.

By Authority:

ALFRED JAMES KENT, I.S.O., Government Printer, Sydney—1933.

[6d.]

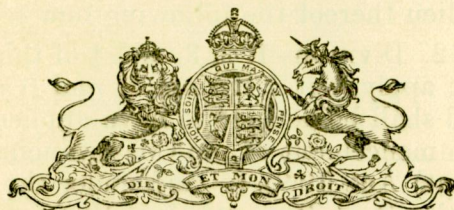




I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

W. R. McCOURT,
Clerk of the Legislative Assembly.
Legislative Assembly Chamber,
Sydney, 16 December, 1932.

New South Wales.



ANNO VICESIMO TERTIO

GEORGI V REGIS.

Act No. 65, 1932.

An Act to apply certain provisions of the Conveyancing Act, 1919-1930, to lands under the Real Property Act, 1900; to make provision for the issue of certificates of title upon a resumption; and for these and other purposes to amend the Conveyancing Act, 1919-1930, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 30th December, 1932.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Conveyancing Short title.
(Amendment) Act, 1932."

(2)

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

W. T. MISSINGHAM,
Chairman of Committees of the Legislative Assembly.

Conveyancing (Amendment).

(2) The Conveyancing Act, 1919-1930, as amended by this Act, may be cited as the Conveyancing Act, 1919-1932.

Amendment of Part IV of Conveyancing Act, 1919-1930. Substituted s. 52.

Application of Part IV to land under Real Property Act, 1900.

Sec. 54A. (Contracts for sale, &c., of land to be in writing.)

Sec. 61. (Conditions of sale and agreements as to stamp duty void.)

Sec. 66G, subsec. 3 (b). (Statutory trusts for sale or partition of property held in co-ownership.)

Further amendment of the Conveyancing Act, 1919-1930.

Sec. 69. (Application of Part VI.)

2. The Conveyancing Act, 1919-1930, is amended—

(a) by omitting section fifty-two and by inserting in lieu thereof the following new section :—

52. Divisions 1, 2, 3, and 4 of this Part shall not apply, but Divisions 5 and 6 shall apply and shall be deemed to have applied from the commencement of the Conveyancing (Amendment) Act, 1930, to land under the provisions of the Real Property Act, 1900, except where otherwise provided.

(b) by inserting at the end of section 54A the following new subsection :—

(3) This section applies and shall be deemed to have applied from the commencement of the Conveyancing (Amendment) Act, 1930, to land under the provisions of the Real Property Act, 1900.

(c) by inserting at the end of section sixty-one the following new subsection :—

(2) This section applies to conditions of sale contracts, arrangements or undertakings relating to land under the provisions of the Real Property Act, 1900.

(d) by omitting from paragraph (b) of subsection three of section 66G the words "section nine" and by inserting in lieu thereof the words "section seventy-eight."

3. (1) The Conveyancing Act, 1919-1930, is further amended—

(a) by omitting from section sixty-nine the word and figure "Division 1." and by inserting in lieu thereof the words and figures "Divisions 1 and 4";

(b)

Conveyancing (Amendment).

- (b) by inserting at the end of section 88A the following new subsection :—
Sec. 88A.
(Easements in gross and easements and restrictions appurtenant to easements.)
 (?) This section applies and shall be deemed to have applied from the commencement of the Conveyancing (Amendment) Act, 1930, to land under the provisions of the Real Property Act, 1900.
- (c) by inserting at the end of section 96A the following new subsection :—
Sec. 96A.
(Notice of trusts affecting mortgage debts.)
 (4) This section applies and shall be deemed to have applied from the commencement of the Conveyancing (Amendment) Act, 1930, to mortgages under the Real Property Act, 1900.
- (d) by adding at the end of subsection sixteen of section one hundred and six the words “and the mortgagee may, by deed, delegate such power to the receiver” ;
Sec. 106.
(Leasing powers of mortgagor and of mortgagee in possession.)
cf. Act No. 15, Geo. V, c. 20, s. 99 (19).
- (e) by adding at the end of subsection eleven of section one hundred and seven the words “and the mortgagee may, by deed, delegate such power to the receiver” ;
Sec. 107.
(Powers (with a view to the grant of an authorised lease) for mortgagor and mortgagee in possession to accept surrenders of lease.)
cf. *Ibid.* s. 100 (13).
- (f) by inserting at the end of subsection three of section one hundred and fifteen the words “and to exercise any powers which may have been delegated to him by the mortgagee pursuant to this Act” ;
Sec. 115, subsec. (3).
(Powers of receiver.)
cf. *Ibid.* s. 109 (3).
- (g) by inserting after subsection six of section one hundred and fifteen the following new subsection :—
 (6A) Where a trust corporation being a mortgagee is entitled to appoint a receiver under the power in that behalf conferred by this Act or by the mortgage deed, or is in possession of the mortgaged property, such trust corporation may appoint itself receiver, and in that event shall be entitled to retain out of any money received by it as such receiver for its remuneration, and in satisfaction

Conveyancing (Amendment).

satisfaction of all costs, charges and expenses incurred by it as such receiver, such commission as would under the provisions of this Act or of the mortgage deed, as the case may be, be retainable by another person if appointed receiver:

Provided that when a trust corporation so appoints itself receiver it shall not be deemed to be the agent of the mortgagor.

Sec. 129.
(Restrictions on and relief against forfeiture of lease.)

- (h) by omitting from subsection eight of section one hundred and twenty-nine the words "save as otherwise mentioned";

Sec. 160.
subsec. (4)(a).
(Statement as to non-revocation of power of attorney)

- (i) by omitting from paragraph (a) of subsection four of section one hundred and sixty the words "the last preceding subsection" and by inserting in lieu thereof the words "subsection three";

Sec. 181A.
subsection (2).
(Construction of expressions "right of carriage way" and "right of footway.")

- (j) by omitting from subsection two of section 181A the word "subsection" and by inserting in lieu thereof the word "section";

Sec. 202.
(General rules under this Part of this Act as to registration and fees.)

- (k) by inserting next after subsection one of section two hundred and two the following new subsection:—

(1A) In this section the expression "the office of the Registrar-General" shall include and shall be deemed always to have included the office of the Registrar of Joint Stock Companies.

Sch. VI
note.

- (l) by omitting from Schedule VI the note at the end thereof and by inserting in lieu thereof the following new note:—

NOTE.—The lessor will be entitled to re-enter or forfeit the lease in the event of the lessee failing to comply with this notice within a reasonable time—see section one hundred and twenty-nine of the Conveyancing Act, 1919–1932.

Amendment of Act No. 44, 1930, s. 22.
(Revision.)

- (2) The Conveyancing (Amendment) Act, 1930, is amended by omitting subparagraph (iii) of paragraph (b) of section twenty-two. **4.**

Conveyancing (Amendment).

4. (1) The Real Property Act, 1900, is amended— Amendment of
Real Property
Act, 1900.
- (a) by inserting next after section thirty-one the New Part VA.
following new Part:—

PART VA.

ISSUE OF CERTIFICATES OF TITLE FOR
RESUMED LAND.

31A. (1) In this section "resumption" means the compulsory acquisition of land for an estate in fee simple under the provisions of the Public Works Act, 1912, or any other Act authorising the compulsory acquisition of land, and "resumed" has a meaning corresponding with that of "resumption."

Registrar-General to issue certificates of title in respect of resumed land.
cf. Act No. 39, 1905, s. 20A.

(2) Where any land described in a Gazette notification declaring such land to be so resumed is not under the provisions of this Act the Registrar-General shall, upon the application of the person, body, or corporation in whom the land so described is by virtue of such notification vested, and upon payment of the fees prescribed, issue to such person, body, or corporation a certificate of title under this Act in respect of such land without causing any examination or report to be made as to the title to the land and without considering such title except so far as may be necessary to give effect to the provisions of subsection three of this section.

(3) In dealing with the application it shall not be necessary to locate the boundaries of the Crown grant (if any) of the land, but it shall be sufficient if the Registrar-General is satisfied with respect to any certificate of title proposed to be issued by him in pursuance of this section that the land to be comprised in the certificate is included in the resumed land.

(4)

Conveyancing (Amendment).

(4) In any certificate of title issued in pursuance of this section the land may be described in the terms of or by reference to the notification of resumption.

(5) No contribution to the assurance fund shall be payable upon the issue of any such certificate of title.

(6) This section shall apply to land resumed before or after the commencement of the Conveyancing (Amendment) Act, 1932.

New s. 46A.

h) by inserting next after section forty-six the following new section:—

Notices of
resumption.

46A. Where a notice of resumption of land subject to the provisions of this Act, is sent to the Registrar-General in pursuance of section 196A of the Conveyancing Act, 1919-1932, or a copy of a notification of acquisition under the Lands Acquisition Act, 1906-1916, of land subject to the provisions of this Act, is lodged with him, the following provisions shall have effect:—

- (a) The Registrar-General shall, notwithstanding anything in this Act contained, make such entries, notifications, and cancellations in the register book as may be necessary to give effect to the resumption or acquisition.
- (b) Where the duplicate Crown grant or certificate of title is presented with the notice of resumption or the copy of the notification of acquisition, the provisions of this Act relating to the registration of transfer and action consequent thereon shall, mutatis mutandis, apply to and in respect of such notice or copy of notification.
- (c) Where the duplicate Crown grant or certificate of title is not presented with the notice of resumption or the copy of the notification of acquisition the
Registrar-General

Conveyancing (Amendment).

Registrar-General shall at the request of the person lodging such notice or copy of notification, where the land has been resumed or acquired for an estate in fee-simple, cancel wholly or in part as the case may require the folium of the register book constituted by the Crown grant or certificate of title, and shall make out to the constructing authority or the Commonwealth of Australia, or the person in whom by the notification in the Gazette or in the Government Gazette of the Commonwealth of Australia as the case may be, the land is vested, a certificate of title for the land resumed or acquired.

- (d) If the grant or certificate of title is in the possession of some person other than the person, body, or corporation in whom the land is vested by virtue of the resumption or acquisition, and such first-named person declines to deliver it up for cancellation when required in writing by the Registrar-General so to do, the grant or certificate of title shall be deemed to be wrongfully retained within the meaning of section one hundred and thirty-six of this Act.

- (c) by inserting next after section 56A the following new section :—

56B. (1) Where by an instrument executed prior to the first day of January, one thousand nine hundred and thirty-one, the proprietor of a registered mortgage (in this section referred to as the "prior mortgage") has agreed to postpone such mortgage in its entirety to a mortgage (in this section referred to as the "subsequent mortgage") affecting the whole of the same land, and no other land which was registered or to be registered after the prior mortgage

Special provision as to certain postponements.

Conveyancing (Amendment).

mortgage, the Registrar-General may register any dealing by the proprietor of the subsequent mortgage as if the subsequent mortgage had been registered immediately before the prior mortgage.

(2) The power conferred by subsection one of this section shall not be exercised where a registered mortgage intervenes between the prior mortgage and the subsequent mortgage unless the proprietor of the intervening mortgage was joined as a party to the instrument postponing the prior mortgage, or by instrument in the prescribed form, consents to the exercise of such power.

(3) Upon registration of any such dealing the Registrar-General shall make all such entries, notifications, and cancellations in the register-book and upon the duplicate Crown grant, certificate of title, or other instrument evidencing title to the estate or interest affected as may be necessary to give effect to such dealing.

Sec. 107.
(Instruments,
how
attested.)

(d) by inserting at the end of subsection one of section one hundred and seven the words "not being a party to the instrument."

Sec. 1.
(Division
into Parts.)

(e) by inserting in section one next after the matter relating to Part V the following:—

PART VA.—ISSUES OF CERTIFICATES OF
TITLE FOR RESUMED LAND—s. 31A.

Further
amendment
of Act No. 6,
1919, s. 196A.
(Register of
resumptions.)

(2) The Conveyancing Act, 1919–1930, is further amended by omitting from subsection four of section 196A the words "as if the same were a memorandum of transfer duly executed under that Act" and by inserting in lieu thereof the words "in the manner provided in that Act."

Repeals.

(3) The following Acts are to the extent in this subsection mentioned hereby repealed:—

Act No. 10,
1907.

(a) Darling Harbour Land Titles Act, 1907, the whole.

(b)

Conveyancing (Amendment).

(b) Sydney Harbour Trust Land Titles Act, 1909, section three, subsection two. Act No. 7, 1909, s. 3 (2).

(c) Sydney Corporation Act, 1932, section two hundred and fifty-one. Sydney Corporation Act, 1932, s. 251.

5. The Wills, Probate and Administration Act, 1898, is amended:— Amendment of Act No. 13, 1898.

(a) (i) by inserting at the end of subsection one of section 46D the words "or of any legacies bequeathed by such will"; Sec. 46D. (Application of income of settled, residuary, real or personal estate.)

(ii) by omitting from subsection two of the same section the words "and liabilities" and by inserting in lieu thereof the words "liabilities and legacies";

(iii) by omitting from subsection three of the same section the words "and liabilities" and by inserting in lieu thereof the words "liabilities and legacies";

(b) by inserting at the end of paragraph two of Part I of the Third Schedule the words:— Third Schedule.

In the application of such rules the date of the death of the deceased person shall be substituted for the date of the sequestration order.

6. (1) Any alteration of the law by this Act shall Saving. not affect any action, suit or proceeding commenced on or after the first day of January, one thousand nine hundred and thirty-one, and concluded before or pending at the commencement of this Act.

(2) Any action, suit or proceeding so pending may be carried on and completed as if this Act had not been enacted.

In the name and on behalf of His Majesty I assent to this Act.

P. W. STREET,
Lieutenant-Governor.

*Government House,
Sydney, 30th December, 1932.*

