

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, 28 November, 1940.

New South Wales.



ANNO QUARTO

GEORGII VI REGIS.

Act No. , 1940.

An Act to amend the Real Property Act, 1900, the Closer Settlement Fund Act, 1928, 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
5 the same, as follows:—

1. This Act may be cited as the "Real Property (Amendment) Act, 1940." Short title.

2. (1) The Real Property Act, 1900, as amended by subsequent Acts, is amended— Amendment of Act No. 25, 1900.

10 (a) by omitting from section nineteen the words "but in such case he may, notwithstanding section one hundred and nineteen, require
52889 428— Sec. 19. (When evidence of title is imperfect.)
payment

Real Property (Amendment).

payment to him of such special fee as he considers adequate in addition to that provided in the Nineteenth Schedule”;

- (b) by omitting section one hundred and nineteen; Sec. 119.
(Percentage to be levied for assurance of title.)
- 5 (c) by omitting from subsection three of section one hundred and twenty the words “except moneys received under section one hundred and nineteen of this Act”;
- 10 (d) by inserting in section 123A after the words “Closer Settlement Fund” the words “or out of the Consolidated Revenue Fund”;
- (e) by omitting subsection two of section one hundred and twenty-nine; Sec. 123A.
(Order as to costs and expenses.)
- 15 (f) by omitting from section one hundred and thirty-one the words “out of” wherever occurring and by inserting in lieu thereof the words “in respect of a claim on”;
- (g) (i) by omitting from subsection one of section one hundred and thirty-two the words “out of” where firstly occurring and by inserting in lieu thereof the words “in respect of a claim on”;
- 20 (ii) by omitting from the same subsection the words “out of” where secondly occurring and by inserting in lieu thereof the words “in respect of the claim on.”
- 25

(2) The repeal of section one hundred and nineteen of the Real Property Act, 1900, by subsection one of this section shall not affect the obligation to pay assurance Sec. 129.
(Deficiency of assurance fund.)
30 fee or contribution in respect of the land comprised in any Crown grant registered under that Act before the commencement of this Act.

(3) No refund shall be made of any moneys paid to the Registrar-General before the commencement of this Sec. 131.
(Moneys paid out of assurance fund may be recovered against estate of deceased or bankrupt person.)
35 Act in respect of any special fee under section nineteen of Sec. 132.
(Where person liable is out of New South Wales.)

Real Property (Amendment).

of the Real Property Act, 1900, or in respect of any assurance fee or contribution notwithstanding that the land upon which any such fee or contribution was paid, was not brought under the provisions of that Act before
 5 such commencement or, as the case may be, the title to such land was not registered before such commencement:

Provided that where an application on which moneys have been paid in respect of any such special fee or assurance fee or contribution is withdrawn, the Regis-
 10 trar-General may make a refund of such moneys if, having regard to the circumstances of the case, he thinks it just and reasonable so to do.

3. The Real Property Act, 1900, is further amended by inserting next after subsection two of section sixty-
 15 one the following new subsection:—

Further
 amendment
 of Act No.
 25, 1900.

(2A) (a) The notice of intention to make the application may be given personally or by post to the Public Trustee where, at the time such notice is so given—

Sec. 61.
 (Fore-
 closure.)

- 20 (i) the mortgagee has knowledge of the fact that the mortgagor is dead; and
 (ii) there is no personal representative of the mortgagor in New South Wales.

Every notice given to the Public Trustee under
 25 this subsection shall be accompanied by a statement containing such particulars as may be prescribed.

(b) Any notice given in accordance with the provisions of paragraph (a) of this subsection shall be as valid and effectual as if given to the personal
 30 representative of the mortgagor unless probate of the will or letters of administration of the estate of the mortgagor is granted to some person other than the Public Trustee within one month after such notice has been so given.

(c) The provision made by this subsection for the giving of notice of intention to make appli-
 35 cation for an order for foreclosure shall be in addition to and not in derogation from the provision made by section 46B of the Moratorium Act, 1932-
 40 1939, for the giving of notices.

4.

Real Property (Amendment).

4. The Closer Settlement Fund Act, 1928, as amended by subsequent Acts, is amended by omitting paragraph (b) of section five.

Amendment of
Act No. 33,
1928, s. 5.
(Payments
into Closer
Settlement
Fund.)

[4d.]

Real Property (Amendment) Bill, 1940.

EXPLANATORY NOTE.

THE purpose of this Bill is to terminate collections of assurance in respect of transactions under the Real Property Act, 1900, and to make provision for the service of notices of intention to apply for an order for foreclosure in cases where the mortgagor is dead and representation of his estate has not been granted.

52889

1891

...

No. , 1940.

A BILL

To amend the Real Property Act, 1900, the Closer Settlement Fund Act, 1928, and certain other Acts in certain respects; and for purposes connected therewith.

[MR. TREATT;—22 October, 1940.]

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. This Act may be cited as the "Real Property (Amendment) Act, 1940." Short title.

2. (1) The Real Property Act, 1900, as amended by subsequent Acts, is amended—

10 (a) by omitting from section nineteen the words "but in such case he may, notwithstanding section one hundred and nineteen, require payment Amendment of Act No. 25, 1900. Sec. 19. (When evidence of title is imperfect.)

Real Property (Amendment).

payment to him of such special fee as he considers adequate in addition to that provided in the Nineteenth Schedule”;

- (b) by omitting section one hundred and nineteen;
- 5 (c) by omitting from subsection three of section one hundred and twenty the words “except moneys received under section one hundred and nineteen of this Act”;
- 10 (d) by inserting in section 123A after the words “Closer Settlement Fund” the words “or out of the Consolidated Revenue Fund”;
- (e) by omitting subsection two of section one hundred and twenty-nine;
- 15 (f) by omitting from section one hundred and thirty-one the words “out of” wherever occurring and by inserting in lieu thereof the words “in respect of a claim on”;
- 20 (g) (i) by omitting from subsection one of section one hundred and thirty-two the words “out of” where firstly occurring and by inserting in lieu thereof the words “in respect of a claim on”;
- 25 (ii) by omitting from the same subsection the words “out of” where secondly occurring and by inserting in lieu thereof the words “in respect of the claim on.”
- 30 (2) The repeal of section one hundred and nineteen of the Real Property Act, 1900, by subsection one of this section shall not affect the obligation to pay assurance fee or contribution in respect of the land comprised in any Crown grant registered under that Act before the commencement of this Act.
- 35 (3) No refund shall be made of any moneys paid to the Registrar-General before the commencement of this Act in respect of any special fee under section nineteen of

Sec. 119.
(Percentage to be levied for assurance of title.)

Sec. 120.
(Registrar-General to pay moneys into treasury.)

Sec. 123A.
(Order as to costs and expenses.)

Sec. 129.
(Deficiency of assurance fund.)

Sec. 131.
(Moneys paid out of assurance fund may be recovered against estate of deceased or bankrupt person.)

Sec. 132.
(Where person liable is out of New South Wales.)

Real Property (Amendment).

of the Real Property Act, 1900, or in respect of any assurance fee or contribution notwithstanding that the land upon which any such fee or contribution was paid, was not brought under the provisions of that Act before
 5 such commencement or, as the case may be, the title to such land was not registered before such commencement:

Provided that where an application on which moneys have been paid in respect of any such special fee or assurance fee or contribution is withdrawn, the Regis-
 10 trar-General may make a refund of such moneys if, having regard to the circumstances of the case, he thinks it just and reasonable so to do.

3. The Real Property Act, 1900, is further amended by inserting next after subsection two of section sixty-
 15 one the following new subsection:—

Further amendment of Act No. 25, 1900.

(2A) (a) The notice of intention to make the application may be given personally or by post to the Public Trustee where, at the time such notice is so given—

Sec. 61. (Foreclosure.)

- 20 (i) the mortgagee has knowledge of the fact that the mortgagor is dead; and
 (ii) there is no personal representative of the mortgagor in New South Wales.

Every notice given to the Public Trustee under
 25 this subsection shall be accompanied by a statement containing such particulars as may be prescribed.

(b) Any notice given in accordance with the provisions of paragraph (a) of this subsection shall be as valid and effectual as if given to the personal
 30 representative of the mortgagor unless probate of the will or letters of administration of the estate of the mortgagor is granted to some person other than the Public Trustee within one month after such notice has been so given.

(c) The provision made by this subsection for the giving of notice of intention to make appli-
 35 cation for an order for foreclosure shall be in addition to and not in derogation from the provision made by section 46B of the Moratorium Act, 1932-
 40 1939, for the giving of notices.

Act No. , 1940.

4

Real Property (Amendment).

4. The Closer Settlement Fund Act, 1928, as amended by subsequent Acts, is amended by omitting paragraph (b) of section five.

Amendment of
Act No. 88,
1928, s. 5.
(Payments
into Closer
Settlement
Fund.)

Sydney: Thomas Henry Tennant, Government Printer—1940.

[4d.]

New South Wales.



ANNO QUARTO

GEORGII VI REGIS.

Act No. 45, 1940.

An Act to amend the Real Property Act, 1900, the Closer Settlement Fund Act, 1928, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 9th December, 1940.]

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. This Act may be cited as the “Real Property (Amendment) Act, 1940.” Short title.

2. (1) The Real Property Act, 1900, as amended by subsequent Acts, is amended— Amendment of Act No. 25, 1900.

(a) by omitting from section nineteen the words “but in such case he may, notwithstanding section one hundred and nineteen, require payment Sec. 19. (When evidence of title is imperfect.)”;

Real Property (Amendment).

- payment to him of such special fee as he considers adequate in addition to that provided in the Nineteenth Schedule”;
- (b) by omitting section one hundred and nineteen;
- (c) by omitting from subsection three of section one hundred and twenty the words “except moneys received under section one hundred and nineteen of this Act”;
- (d) by inserting in section 123A after the words “Closer Settlement Fund” the words “or out of the Consolidated Revenue Fund”;
- (e) by omitting subsection two of section one hundred and twenty-nine;
- (f) by omitting from section one hundred and thirty-one the words “out of” wherever occurring and by inserting in lieu thereof the words “in respect of a claim on”;
- (g) (i) by omitting from subsection one of section one hundred and thirty-two the words “out of” where firstly occurring and by inserting in lieu thereof the words “in respect of a claim on”;
- (ii) by omitting from the same subsection the words “out of” where secondly occurring and by inserting in lieu thereof the words “in respect of the claim on.”
- (2) The repeal of section one hundred and nineteen of the Real Property Act, 1900, by subsection one of this section shall not affect the obligation to pay assurance fee or contribution in respect of the land comprised in any Crown grant registered under that Act before the commencement of this Act.
- (3) No refund shall be made of any moneys paid to the Registrar-General before the commencement of this Act in respect of any special fee under section nineteen
- of

Sec. 119.
(Percentage to
be levied for
assurance of
title.)

Sec. 120.
(Registrar-
General to pay
moneys into
treasury.)

Sec. 123A.
(Order as to
costs and
expenses.)

Sec. 129.
(Deficiency of
assurance
fund.)

Sec. 131.
(Moneys paid
out of
assurance fund
may be
recovered
against estate
of deceased or
bankrupt
person.)

Sec. 132.
(Where
person
liable is
out of
New South
Wales.)

Real Property (Amendment).

of the Real Property Act, 1900, or in respect of any assurance fee or contribution notwithstanding that the land upon which any such fee or contribution was paid, was not brought under the provisions of that Act before such commencement or, as the case may be, the title to such land was not registered before such commencement:

Provided that where an application on which moneys have been paid in respect of any such special fee or assurance fee or contribution is withdrawn, the Registrar-General may make a refund of such moneys if, having regard to the circumstances of the case, he thinks it just and reasonable so to do.

3. The Real Property Act, 1900, is further amended by inserting next after subsection two of section sixty-one the following new subsection:—

Further amendment of Act No. 25, 1900.

(2A) (a) The notice of intention to make the application may be given personally or by post to the Public Trustee where, at the time such notice is so given—

Sec. 61.
(Foreclosure.)

- (i) the mortgagee has knowledge of the fact that the mortgagor is dead; and
- (ii) there is no personal representative of the mortgagor in New South Wales.

Every notice given to the Public Trustee under this subsection shall be accompanied by a statement containing such particulars as may be prescribed.

(b) Any notice given in accordance with the provisions of paragraph (a) of this subsection shall be as valid and effectual as if given to the personal representative of the mortgagor unless probate of the will or letters of administration of the estate of the mortgagor is granted to some person other than the Public Trustee within one month after such notice has been so given.

(c) The provision made by this subsection for the giving of notice of intention to make application for an order for foreclosure shall be in addition to and not in derogation from the provision made by section 46B of the Moratorium Act, 1932-1939, for the giving of notices.

Real Property (Amendment).

Amendment of
Act No. 38,
1928, s. 5.
(Payments
into Closer
Settlement
Fund.)

4. The Closer Settlement Fund Act, 1928, as amended by subsequent Acts, is amended by omitting paragraph (b) of section five.

By Authority:

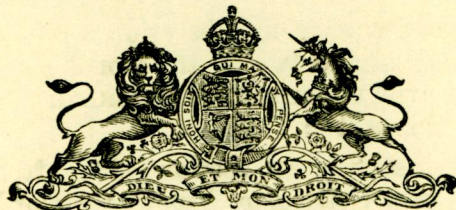
THOMAS HENRY TENNANT, Government Printer, Sydney, 1940.

[3d.]

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, 4 December, 1940.

New South Wales.



ANNO QUARTO

GEORGII VI REGIS.

Act No. 45, 1940.

An Act to amend the Real Property Act, 1900, the Closer Settlement Fund Act, 1928, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 9th December, 1940.]

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. This Act may be cited as the "Real Property (Amendment) Act, 1940." Short title.

2. (1) The Real Property Act, 1900, as amended by subsequent Acts, is amended— Amendment of Act No. 25, 1900.

(a) by omitting from section nineteen the words "but in such case he may, notwithstanding section one hundred and nineteen, require payment Sec. 19. (When evidence of title is imperfect.)

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

W. W. HEDGES,
Chairman of Committees of the Legislative Assembly.

Real Property (Amendment).

payment to him of such special fee as he considers adequate in addition to that provided in the Nineteenth Schedule”;

Sec. 119.
(Percentage to be levied for assurance of title.)

(b) by omitting section one hundred and nineteen;

Sec. 120.
(Registrar-General to pay moneys into treasury.)

(c) by omitting from subsection three of section one hundred and twenty the words “except moneys received under section one hundred and nineteen of this Act”;

Sec. 123A.
(Order as to costs and expenses.)

(d) by inserting in section 123A after the words “Closer Settlement Fund” the words “or out of the Consolidated Revenue Fund”;

Sec. 129.
(Deficiency of assurance fund.)

(e) by omitting subsection two of section one hundred and twenty-nine;

Sec. 131.
(Moneys paid out of assurance fund may be recovered against estate of deceased or bankrupt person.)

(f) by omitting from section one hundred and thirty-one the words “out of” wherever occurring and by inserting in lieu thereof the words “in respect of a claim on”;

Sec. 132.
(Where person liable is out of New South Wales.)

(g) (i) by omitting from subsection one of section one hundred and thirty-two the words “out of” where firstly occurring and by inserting in lieu thereof the words “in respect of a claim on”;

(ii) by omitting from the same subsection the words “out of” where secondly occurring and by inserting in lieu thereof the words “in respect of the claim on.”

(2) The repeal of section one hundred and nineteen of the Real Property Act, 1900, by subsection one of this section shall not affect the obligation to pay assurance fee or contribution in respect of the land comprised in any Crown grant registered under that Act before the commencement of this Act.

(3) No refund shall be made of any moneys paid to the Registrar-General before the commencement of this Act in respect of any special fee under section nineteen
of

Real Property (Amendment).

of the Real Property Act, 1900, or in respect of any assurance fee or contribution notwithstanding that the land upon which any such fee or contribution was paid, was not brought under the provisions of that Act before such commencement or, as the case may be, the title to such land was not registered before such commencement:

Provided that where an application on which moneys have been paid in respect of any such special fee or assurance fee or contribution is withdrawn, the Registrar-General may make a refund of such moneys if, having regard to the circumstances of the case, he thinks it just and reasonable so to do.

3. The Real Property Act, 1900, is further amended by inserting next after subsection two of section sixty-one the following new subsection:—

Further amendment of Act No. 25, 1900.

(2A) (a) The notice of intention to make the application may be given personally or by post to the Public Trustee where, at the time such notice is so given—

Sec. 61. (Foreclosure.)

- (i) the mortgagee has knowledge of the fact that the mortgagor is dead; and
- (ii) there is no personal representative of the mortgagor in New South Wales.

Every notice given to the Public Trustee under this subsection shall be accompanied by a statement containing such particulars as may be prescribed.

(b) Any notice given in accordance with the provisions of paragraph (a) of this subsection shall be as valid and effectual as if given to the personal representative of the mortgagor unless probate of the will or letters of administration of the estate of the mortgagor is granted to some person other than the Public Trustee within one month after such notice has been so given.

(c) The provision made by this subsection for the giving of notice of intention to make application for an order for foreclosure shall be in addition to and not in derogation from the provision made by section 46B of the Moratorium Act, 1932-1939, for the giving of notices.

4.

Real Property (Amendment).

Amendment of
Act No. 38,
1928, s. 5.
(Payments
into Closer
Settlement
Fund.)

4. The Closer Settlement Fund Act, 1928, as amended by subsequent Acts, is amended by omitting paragraph (b) of section five.

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

WAKEHURST,
Governor.

*Government House,
Sydney, 9th December, 1940.*