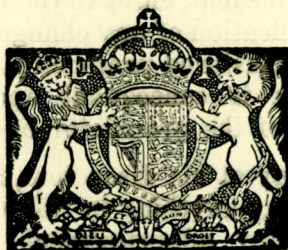


This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

ALLAN PICKERING,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 21 August, 1956.*

New South Wales



ANNO QUINTO

ELIZABETHÆ II REGINÆ

Act No. , 1956.

An Act to make further provision relating to the removal of caveats and the transmission of mortgages, encumbrances and leases; for these and other purposes to amend the Real Property Act, 1900, and certain other Acts in certain respects; and for purposes connected therewith.

BE it enacted by the Queen'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 "Real Property (Amendment) Act, 1956." Short title and citation.

Real Property (Amendment).

(2) The Real Property Act, 1900, as amended by subsequent Acts and by this Act, may be cited as the Real Property Act, 1900-1956.

2. The Real Property Act, 1900-1955, is amended— Amendment
of Act No.
25, 1900.

- 5 (a) by inserting at the end of section twelve the following new paragraphs:— Sec. 12.
(Powers
of
Registrar-
General.)
- 10 (g) He may, on such evidence as appears to him sufficient, enter in the register-book a notification of any change in the name of a registered proprietor, whether the change is consequent upon the marriage of the proprietor or otherwise.
- 15 (h) He may at his discretion, and notwithstanding anything in this Act, dispense with any advertisement (other than advertisements in the Government Gazette prescribed by sections eighteen and nineteen of this Act) or the supply to him of any information or the production to him of any instrument.
- 20 (b) (i) by inserting in subsection one of section 31A after the words "or any other Act" the words ", or Act of the Parliament of the Commonwealth,"; Sec. 31A.
(Registrar-
General to
issue certi-
ficates of
title in
respect of
resumed
land.)
- 25 (ii) by inserting in subsection two of the same section after the words "Gazette notification" the words "or in a Commonwealth of Australia Gazette notification or notice";
- 30 (iii) by inserting in the same subsection after the words "such notification" the words "or notice";
- (iv) by inserting in subsection four of the same section after the word "notification" the words "or notice";
- (v)

Real Property (Amendment).

- 5 (v) by omitting from subsection six of the same section the words "Conveyancing (Amendment) Act, 1932" and by inserting in lieu thereof the words "Real Property (Amendment) Act, 1956";
- 10 (c) by omitting from section thirty-seven the words "the day and hour of the production of such instrument for registration, the names of the parties thereto, and shall refer by number or symbol to such instrument" and by inserting in lieu thereof the words "and such other particulars as the Registrar-General directs";
- 15 (d) by inserting at the end of section thirty-nine the following new provisos:—
- 20 Provided that the Registrar-General may, at his discretion, register an instrument notwithstanding any error in or omission from its memorandum of prior encumbrances and, in such case, the error or omission shall not invalidate the registration of the instrument:
- 25 Provided further that, instead of rejecting any instrument containing a patent error, the Registrar-General may of his own motion correct the error by marginal notation on the instrument, and the instrument so corrected shall have the like validity and effect as if the error had not been made.
- 30 (e) (i) by omitting from section 46A the words "notification of acquisition under the Lands Acquisition Act, 1906-1916," and by inserting in lieu thereof the words "notice or notification of acquisition under the Lands Acquisition Act 1955 of the Parliament of the Commonwealth or under any Act repealed by the said Lands Acquisition Act 1955";
- 35 (ii)

Sec. 37.
(Form of memorial.)

Sec. 39.
(Instruments not to be registered unless in accordance with prescribed forms.)

Sec. 46A.
(Notices of resumption.)

Real Property (Amendment).

- (ii) by inserting in paragraph (b) of the same section before the word "notification" wherever occurring the words "notice or";
- 5 (iii) by inserting in paragraph (c) of the same section before the word "notification" where firstly and secondly occurring the words "notice or";
- 10 (iv) by inserting in the same paragraph after the word "notification" where lastly occurring the words "or notice";

(f) by inserting next after section seventy-three the ^{New} following new section :— _{sec. 73A.}

15 73A. Where it appears to the Registrar-General that the estate or interest claimed by any caveator has ceased to exist he may, on the application of any person interested in the land, estate or interest in respect to which the caveat is lodged, serve notice on the caveator requiring him within fourteen days from the date of service of the notice to show cause to the Registrar-General why the caveat should not be removed.

20

25 Unless within that time the caveator so shows cause to the satisfaction of the Registrar-General, the caveat shall be deemed to have lapsed.

30 The notice shall be forwarded by post in a registered letter addressed to the caveator at the address mentioned in the caveat, or at the office of the solicitor, known agent, or attorney, who may have signed the caveat, and shall be deemed to have been duly served when the registered letter would in the ordinary course be delivered.

(g)

Real Property (Amendment).

- (g) by inserting in section seventy-four after the words "the Registrar-General shall not" the words ", except with the written consent of the caveator or his agent,";
- 5 (h) by omitting from subsection one of section eighty-six the words "the date of the said order, the date and hour of its production to him, and";
- (i) by omitting section ninety-two;
- 10 (j) by omitting section ninety-three and by inserting in lieu thereof the following section:—
- 15 93. (1) Upon the death of the registered proprietor of any mortgage, encumbrance, or lease the executor, administrator or other person claiming to be entitled to be registered as proprietor of the mortgage, encumbrance or lease may apply in writing to the Registrar-General to be so registered.
- 20 (2) The application shall be supported by such evidence as the Registrar-General may require and, where the applicant claims otherwise than as executor, administrator, or trustee, shall be accompanied by the consent of the executor or administrator unless the Registrar-
- 25 General thinks fit to dispense with that consent.
- (3) The Registrar-General, on proof that the applicant is so entitled, shall register him as proprietor of the mortgage, encumbrance, or lease.

Sec. 74.
(No dealing to be registered while caveat in force.)

Sec. 86.
(Registrar-General to carry out order of Supreme Court vesting trust estate.)

Sec. 92.
(Marriage of female proprietor to be certified to the Registrar-General.)

Subst. sec. 93.

Transmission of mortgage, encumbrance, or lease on death of proprietor.

(k)

Real Property (Amendment).

- (k) (i) by inserting in subsection one of section one hundred and five after the words "shall enter" the words "particulars thereof"; Sec. 105. (Sales by Sheriff or under order of Supreme Court or District Court.)
- 5 (ii) by omitting from the same subsection the words ", the date of the said writ, direction, decree, or order, and the date and hour of the production thereof";
- (iii) by omitting from subsection five of the same section the words "a true copy" and by inserting in lieu thereof the words "an office copy";
- 10 (l) by omitting from section one hundred and six the words "with a certificate that such seal was affixed by the proper officer verified by his signature"; Sec. 106. (Seal of corporation substituted for signature.)
- 15 (m) by omitting from subsection (1A) of section one hundred and ten the words "the Registrar-General may compel him to receive a new certificate of title" and by inserting in lieu thereof the words "or where for any reason it appears to the Registrar-General desirable that a new certificate or new certificates of title should issue for the whole or any part of the land of which any person is registered as proprietor, the Registrar-General may of his own motion and at the expense of the registered proprietor issue a new certificate or certificates of title". Sec. 110. (Upon surrender of existing grants or certificates proprietor may obtain a single certificate or vice versa.)
- 20
- 25

Public Property (Amendment)

(b) (i) whenever in subsection (a) the word "shall" shall be construed to mean "may" and five after the word "shall" shall be construed to mean "must".

(ii) In subsection (a) the word "or" shall be construed to mean "and".

(iii) In subsection (a) the word "and" shall be construed to mean "or".

(iv) In subsection (a) the word "the" shall be construed to mean "a".

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No. , 1956.

A BILL

To make further provision relating to the removal of caveats and the transmission of mortgages, encumbrances and leases; for these and other purposes to amend the Real Property Act, 1900, and certain other Acts in certain respects; and for purposes connected therewith.

[MR. SHEAHAN;—26 *July*, 1956.]

BE it enacted by the Queen'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 "Real Property Short title and citation.
(Amendment) Act, 1956."

Real Property (Amendment).

(2) The Real Property Act, 1900, as amended by subsequent Acts and by this Act, may be cited as the Real Property Act, 1900-1956.

2. The Real Property Act, 1900-1955, is amended— Amendment
of Act No.
25, 1900.

- 5 (a) by inserting at the end of section twelve the following new paragraphs:— Sec. 12.
(Powers
of
Registrar-
General.)
- 10 (g) He may, on such evidence as appears to him sufficient, enter in the register-book a notification of any change in the name of a registered proprietor, whether the change is consequent upon the marriage of the proprietor or otherwise.
- 15 (h) He may at his discretion, and notwithstanding anything in this Act, dispense with any advertisement (other than advertisements in the Government Gazette prescribed by sections eighteen and nineteen of this Act) or the supply to him of any information or the production to him of any instrument.
- 20 (b) (i) by inserting in subsection one of section 31A after the words "or any other Act" the words ", or Act of the Parliament of the Commonwealth,"; Sec. 31A.
(Registrar-
General to
issue certi-
ficates of
title in
respect of
resumed
land.)
- 25 (ii) by inserting in subsection two of the same section after the words "Gazette notification" the words "or in a Commonwealth of Australia Gazette notification or notice";
- 30 (iii) by inserting in the same subsection after the words "such notification" the words "or notice";
- (iv) by inserting in subsection four of the same section after the word "notification" the words "or notice";

(v)

Real Property (Amendment).

- 5 (v) by omitting from subsection six of the same section the words "Conveyancing (Amendment) Act, 1932" and by inserting in lieu thereof the words "Real Property (Amendment) Act, 1956";
- 10 (c) by omitting from section thirty-seven the words "the day and hour of the production of such instrument for registration, the names of the parties thereto, and shall refer by number or symbol to such instrument" and by inserting in lieu thereof the words "and such other particulars as the Registrar-General directs";
- 15 (d) by inserting at the end of section thirty-nine the following new provisos:—
- 20 Provided that the Registrar-General may, at his discretion, register an instrument notwithstanding any error in or omission from its memorandum of prior encumbrances and, in such case, the error or omission shall not invalidate the registration of the instrument:
- 25 Provided further that, instead of rejecting any instrument containing a patent error, the Registrar-General may of his own motion correct the error by marginal notation on the instrument, and the instrument so corrected shall have the like validity and effect as if the error had not been made.
- 30 (e) (i) by omitting from section 46A the words "notification of acquisition under the Lands Acquisition Act, 1906-1916," and by inserting in lieu thereof the words "notice or notification of acquisition under the Lands Acquisition Act 1955 of the Parliament of the Commonwealth or under any Act repealed by the said Lands Acquisition Act 1955";
- 35 (ii)

Sec. 37.
(Form of memorial.)

Sec. 39.
(Instruments not to be registered unless in accordance with prescribed forms.)

Sec. 46A.
(Notices of resumption.)

Real Property (Amendment).

- (ii) by inserting in paragraph (b) of the same section before the word "notification" wherever occurring the words "notice or";
- 5 (iii) by inserting in paragraph (c) of the same section before the word "notification" where firstly and secondly occurring the words "notice or";
- 10 (iv) by inserting in the same paragraph after the word "notification" where lastly occurring the words "or notice";
- (f) by inserting next after section seventy-three the following new section:—

New
sec. 73A.

15 73A. Where it appears to the Registrar-General that the estate or interest claimed by any caveator has ceased to exist he may, on the application of any person interested in the land, estate or interest in respect to which the caveat is lodged, serve notice on the caveator requiring him within fourteen days from the date of service of the notice to show cause to the Registrar-General why the caveat should not be removed.

Removal of
caveat where
caveator's
interest has
terminated.

25 Unless within that time the caveator so shows cause to the satisfaction of the Registrar-General, the caveat shall be deemed to have lapsed.

30 The notice shall be forwarded by post in a registered letter addressed to the caveator at the address mentioned in the caveat, or at the office of the solicitor, known agent, or attorney, who may have signed the caveat, and shall be deemed to have been duly served when the registered letter would in the ordinary course be delivered.

(g)

Real Property (Amendment).

- (g) by inserting in section seventy-four after the words "the Registrar-General shall not" the words ", except with the written consent of the caveator or his agent,"; Sec. 74.
(No dealing to be registered while caveat in force.)
- 5 (h) by omitting from subsection one of section eighty-six the words "the date of the said order, the date and hour of its production to him, and"; Sec. 86.
(Registrar-General to carry out order of Supreme Court vesting trust estate.)
- (i) by omitting section ninety-two; Sec. 92.
(Marriage of female proprietor to be certified to the Registrar-General.)
- 10 (j) by omitting section ninety-three and by inserting in lieu thereof the following section:— Subst. sec. 93.
- 15 93. (1) Upon the death of the registered proprietor of any mortgage, encumbrance, or lease the executor, administrator or other person claiming to be entitled to be registered as proprietor of the mortgage, encumbrance or lease may apply in writing to the Registrar-General to be so registered. Transmission of mortgage, encumbrance, or lease on death of proprietor.
- 20 (2) The application shall be supported by such evidence as the Registrar-General may require and, where the applicant claims otherwise than as executor, administrator, or trustee, shall be accompanied by the consent of the executor or administrator unless the Registrar-
- 25 General thinks fit to dispense with that consent.
- (3) The Registrar-General, on proof that the applicant is so entitled, shall register him as proprietor of the mortgage, encumbrance, or lease.

(k)

Real Property (Amendment).

- (k) (i) by inserting in subsection one of section one hundred and five after the words "shall enter" the words "particulars thereof";

Sec. 105.
(Sales by Sheriff or under order of Supreme Court or District Court.)
- 5 (ii) by omitting from the same subsection the words ", the date of the said writ, direction, decree, or order, and the date and hour of the production thereof";
- 10 (iii) by omitting from subsection five of the same section the words "a true copy" and by inserting in lieu thereof the words "an office copy";
- 15 (l) by omitting from section one hundred and six the words "with a certificate that such seal was affixed by the proper officer verified by his signature";

Sec. 106.
(Seal of corporation substituted for signature.)
- 20 (m) by omitting from subsection (1A) of section one hundred and ten the words "the Registrar-General may compel him to receive a new certificate of title" and by inserting in lieu thereof the words "or where for any reason it appears to the Registrar-General desirable that a new certificate or new certificates of title should issue for the whole or any part of the land of which any person is registered as proprietor, the Registrar-General may of his own motion and at the expense of the registered proprietor issue a new certificate or certificates of title".

Sec. 110.
(Upon surrender of existing grants or certificates proprietor may obtain vice versa.)

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THE UNIVERSITY OF CHICAGO
LIBRARY

REAL PROPERTY (AMENDMENT) BILL, 1956.

EXPLANATORY NOTE.

THE objects of this Bill are to amend the Real Property Act, 1900-1955,

- (a) by empowering the Registrar-General—
 - (i) to enter in the register-book a notification of a change of name whether the change arises from marriage or otherwise;
 - (ii) to dispense with advertisements, the supply of information and the production of instruments;
- (b) by extending the provisions of section 31A to resumptions under the Lands Acquisition Act of the Commonwealth;
- (c) by simplifying forms of memorials;
- (d) by empowering the Registrar-General to register an instrument notwithstanding errors in or omissions from its memorandum of prior encumbrances and to correct patent errors in instruments;
- (e) by enabling caveats to be removed where the caveator's estate or interest has ceased to exist;
- (f) by enabling dealings to be registered while a caveat is in force if the caveator consents;
- (g) by omitting section 92;
- (h) by simplifying the provisions relating to the transmission of mortgages, encumbrances and leases;
- (i) to effect certain other amendments of a minor character.

PROOF

No. , 1956.

A BILL

To make further provision relating to the removal of caveats and the transmission of mortgages, encumbrances and leases; for these and other purposes to amend the Real Property Act, 1900, and certain other Acts in certain respects; and for purposes connected therewith.

[MR. SHEAHAN;—26 July, 1956.]

BE it enacted by the Queen'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. (1) This Act may be cited as the "Real Property (Amendment) Act, 1956." Short title and citation.

Real Property (Amendment).

(2) The Real Property Act, 1900, as amended by subsequent Acts and by this Act, may be cited as the Real Property Act, 1900-1956.

2. The Real Property Act, 1900-1955, is amended— Amendment
of Act No.
25, 1900.

- 5 (a) by inserting at the end of section twelve the following new paragraphs:— Sec. 12.
(Powers
of
Registrar-
General.)
- 10 (g) He may, on such evidence as appears to him sufficient, enter in the register-book a notification of any change in the name of a registered proprietor, whether the change is consequent upon the marriage of the proprietor or otherwise.
- 15 (h) He may at his discretion, and notwithstanding anything in this Act, dispense with any advertisement (other than advertisements in the Government Gazette prescribed by sections eighteen and nineteen of this Act) or the supply to him of any information or the production to him of any instrument.
- 20 (b) (i) by inserting in subsection one of section 31A after the words "or any other Act" the words ", or Act of the Parliament of the Commonwealth,"; Sec. 31A.
(Registrar-
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issue certi-
ficates of
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- 25 (ii) by inserting in subsection two of the same section after the words "Gazette notification" the words "or in a Commonwealth of Australia Gazette notification or notice";
- 30 (iii) by inserting in the same subsection after the words "such notification" the words "or notice";
- (iv) by inserting in subsection four of the same section after the word "notification" the words "or notice";
- (v)

Real Property (Amendment).

5 (v) by omitting from subsection six of the same section the words “Conveyancing (Amendment) Act, 1932” and by inserting in lieu thereof the words “Real Property (Amendment) Act, 1956”;

10 (c) by omitting from section thirty-seven the words
“, the day and hour of the production of such
instrument for registration, the names of the
parties thereto, and shall refer by number or
symbol to such instrument” and by inserting in
lieu thereof the words “and such other par-
ticulars as the Registrar-General directs”;

Sec. 37.
(Form of
memorial.)

15 (d) by inserting at the end of section thirty-nine the following new provisos:—

Sec. 39.
(Instruments
not to be
registered
unless in
accordance
with
prescribed
forms.)

20 Provided that the Registrar-General may, at his discretion, register an instrument notwithstanding any error in or omission from its memorandum of prior encumbrances and, in such case, the error or omission shall not invalidate the registration of the instrument:

25 Provided further that, instead of rejecting any instrument containing a patent error, the Registrar-General may of his own motion correct the error by marginal notation on the instrument, and the instrument so corrected shall have the like validity and effect as if the error had not been made.

30 (e) (i) by omitting from section 46A the words
“notification of acquisition under the Lands
Acquisition Act, 1906-1916,” and by insert-
ing in lieu thereof the words “notice or
notification of acquisition under the Lands
Acquisition Act 1955 of the Parliament of
the Commonwealth or under any Act
35 repealed by the said Lands Acquisition Act
1955”;

Sec. 46A.
(Notices of
resumption.)

(ii)

Real Property (Amendment).

- (ii) by inserting in paragraph (b) of the same section before the word "notification" wherever occurring the words "notice or";
- 5 (iii) by inserting in paragraph (c) of the same section before the word "notification" where firstly and secondly occurring the words "notice or";
- 10 (iv) by inserting in the same paragraph after the word "notification" where lastly occurring the words "or notice";

(f) by inserting next after section seventy-three the following new section:— New sec. 73A.

15 73A. Where it appears to the Registrar-General that the estate or interest claimed by any caveator has ceased to exist he may, on the application of any person interested in the land, estate or interest in respect to which the caveat is lodged, serve notice on the caveator requiring him within fourteen days from the date of service of the notice to show cause to the Registrar-General why the caveat should not be removed.

Removal of caveat where caveator's interest has terminated.

25 Unless within that time the caveator so shows cause to the satisfaction of the Registrar-General, the caveat shall be deemed to have lapsed.

30 The notice shall be forwarded by post in a registered letter addressed to the caveator at the address mentioned in the caveat, or at the office of the solicitor, known agent, or attorney, who may have signed the caveat, and shall be deemed to have been duly served when the registered letter would in the ordinary course be delivered.

(g)

Real Property (Amendment).

- (g) by inserting in section seventy-four after the words "the Registrar-General shall not" the words ", except with the written consent of the caveator or his agent,";
- 5 (h) by omitting from subsection one of section eighty-six the words "the date of the said order, the date and hour of its production to him, and";
- (i) by omitting section ninety-two;
- 10 (j) by omitting section ninety-three and by inserting in lieu thereof the following section:—
- 15 93. (1) Upon the death of the registered proprietor of any mortgage, encumbrance, or lease the executor, administrator or other person claiming to be entitled to be registered as proprietor of the mortgage, encumbrance or lease may apply in writing to the Registrar-General to be so registered.
- 20 (2) The application shall be supported by such evidence as the Registrar-General may require and, where the applicant claims otherwise than as executor, administrator, or trustee, shall be accompanied by the consent of the executor or administrator unless the Registrar-
- 25 General thinks fit to dispense with that consent.
- (3) The Registrar-General, on proof that the applicant is so entitled, shall register him as proprietor of the mortgage, encumbrance, or lease.

Sec. 74.
(No dealing to be registered while caveat in force.)

Sec. 86.
(Registrar-General to carry out order of Supreme Court vesting trust estate.)

Sec. 92.
(Marriage of female proprietor to be certified to the Registrar-General.)

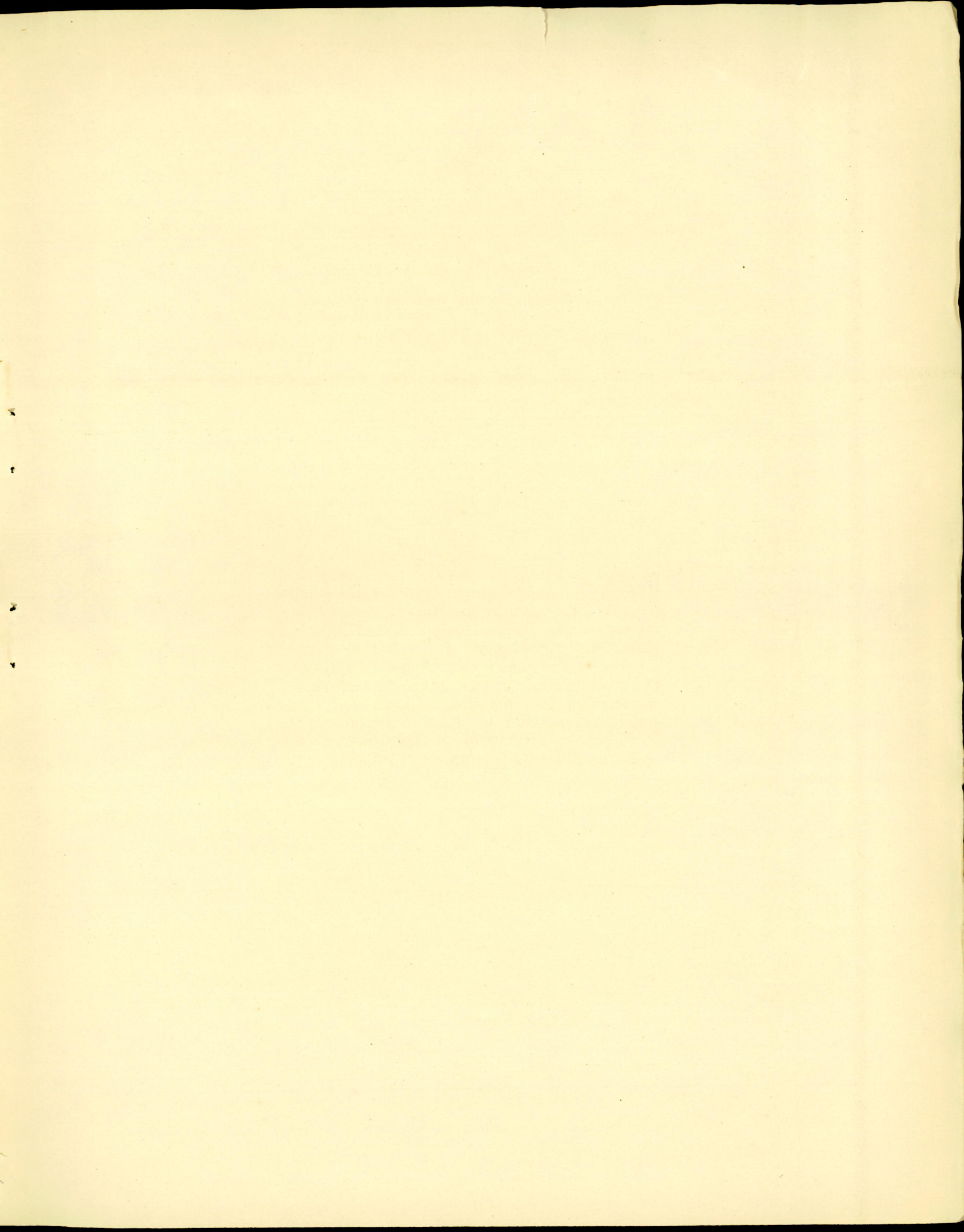
Subst. sec. 93.

Trans-
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or lease on
death of
proprietor.

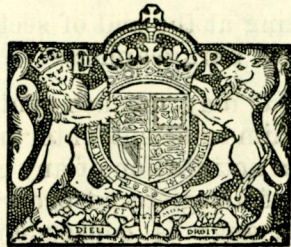
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Real Property (Amendment).

- (k) (i) by inserting in subsection one of section one hundred and five after the words "shall enter" the words "particulars thereof"; Sec. 105. (Sales by Sheriff or under order of Supreme Court or District Court.)
- 5 (ii) by omitting from the same subsection the words ", the date of the said writ, direction, decree, or order, and the date and hour of the production thereof";
- (iii) by omitting from subsection five of the same section the words "a true copy" and by inserting in lieu thereof the words "an office copy";
- 10 (l) by omitting from section one hundred and six the words "with a certificate that such seal was affixed by the proper officer verified by his signature"; Sec. 106. (Seal of corporation substituted for signature.)
- 15 (m) by omitting from subsection (1A) of section one hundred and ten the words "the Registrar-General may compel him to receive a new certificate of title" and by inserting in lieu thereof the words "or where for any reason it appears to the Registrar-General desirable that a new certificate or new certificates of title should issue for the whole or any part of the land of which any person is registered as proprietor, the Registrar-General may of his own motion and at the expense of the registered proprietor issue a new certificate or certificates of title". Sec. 110. (Upon surrender of existing grants or certificates proprietor may obtain a single certificate or vice versa.)
- 20
- 25



New South Wales



ANNO QUINTO

ELIZABETHÆ II REGINÆ

Act No. 12, 1956.

An Act to make further provision relating to the removal of caveats and the transmission of mortgages, encumbrances and leases; for these and other purposes to amend the Real Property Act, 1900, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 30th August, 1956.]

BE it enacted by the Queen'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 "Real Property (Amendment) Act, 1956." Short title and citation.

63731 [4d.]

(2)

Real Property (Amendment).

(2) The Real Property Act, 1900, as amended by subsequent Acts and by this Act, may be cited as the Real Property Act, 1900-1956.

Amendment
of Act No.
25, 1900.

2. The Real Property Act, 1900-1955, is amended—

Sec. 12.
(Powers
of
Registrar-
General.)

(a) by inserting at the end of section twelve the following new paragraphs:—

(g) He may, on such evidence as appears to him sufficient, enter in the register-book a notification of any change in the name of a registered proprietor, whether the change is consequent upon the marriage of the proprietor or otherwise.

(h) He may at his discretion, and notwithstanding anything in this Act, dispense with any advertisement (other than advertisements in the Government Gazette prescribed by sections eighteen and nineteen of this Act) or the supply to him of any information or the production to him of any instrument.

Sec. 31A.
(Registrar-
General to
issue certi-
ficates of
title in
respect of
resumed
land.)

(b) (i) by inserting in subsection one of section 31A after the words “or any other Act” the words “, or Act of the Parliament of the Commonwealth,”;

(ii) by inserting in subsection two of the same section after the words “Gazette notification” the words “or in a Commonwealth of Australia Gazette notification or notice”;

(iii) by inserting in the same subsection after the words “such notification” the words “or notice”;

(iv) by inserting in subsection four of the same section after the word “notification” the words “or notice”;

(v)

Real Property (Amendment).

- (v) by omitting from subsection six of the same section the words "Conveyancing (Amendment) Act, 1932" and by inserting in lieu thereof the words "Real Property (Amendment) Act, 1956";
- (c) by omitting from section thirty-seven the words " , the day and hour of the production of such instrument for registration, the names of the parties thereto, and shall refer by number or symbol to such instrument" and by inserting in lieu thereof the words "and such other particulars as the Registrar-General directs";
- (d) by inserting at the end of section thirty-nine the following new provisos:—
- Sec. 37.
(Form of memorial.)
- Sec. 39.
(Instruments not to be registered unless in accordance with prescribed forms.)
- Provided that the Registrar-General may, at his discretion, register an instrument notwithstanding any error in or omission from its memorandum of prior encumbrances and, in such case, the error or omission shall not invalidate the registration of the instrument:
- Provided further that, instead of rejecting any instrument containing a patent error, the Registrar-General may of his own motion correct the error by marginal notation on the instrument, and the instrument so corrected shall have the like validity and effect as if the error had not been made.
- (e) (i) by omitting from section 46A the words "notification of acquisition under the Lands Acquisition Act, 1906-1916," and by inserting in lieu thereof the words "notice or notification of acquisition under the Lands Acquisition Act 1955 of the Parliament of the Commonwealth or under any Act repealed by the said Lands Acquisition Act 1955";
- Sec. 46A.
(Notices of resumption.)

(ii)

Real Property (Amendment).

- (ii) by inserting in paragraph (b) of the same section before the word "notification" wherever occurring the words "notice or";
 - (iii) by inserting in paragraph (c) of the same section before the word "notification" where firstly and secondly occurring the words "notice or";
 - (iv) by inserting in the same paragraph after the word "notification" where lastly occurring the words "or notice";
- (f) by inserting next after section seventy-three the following new section:—

New
sec. 73A.

Removal of
caveat where
caveator's
interest has
terminated.

73A. Where it appears to the Registrar-General that the estate or interest claimed by any caveator has ceased to exist he may, on the application of any person interested in the land, estate or interest in respect to which the caveat is lodged, serve notice on the caveator requiring him within fourteen days from the date of service of the notice to show cause to the Registrar-General why the caveat should not be removed.

Unless within that time the caveator so shows cause to the satisfaction of the Registrar-General, the caveat shall be deemed to have lapsed.

The notice shall be forwarded by post in a registered letter addressed to the caveator at the address mentioned in the caveat, or at the office of the solicitor, known agent, or attorney, who may have signed the caveat, and shall be deemed to have been duly served when the registered letter would in the ordinary course be delivered.

(g)

Real Property (Amendment).

- (g) by inserting in section seventy-four after the words "the Registrar-General shall not" the words " , except with the written consent of the caveator or his agent,"; Sec. 74.
(No dealing to be registered while caveat in force.)
- (h) by omitting from subsection one of section eighty-six the words "the date of the said order, the date and hour of its production to him, and"; Sec. 86.
(Registrar-General to carry out order of Supreme Court vesting trust estate.)
- (i) by omitting section ninety-two; Sec. 92.
(Marriage of female proprietor to be certified to the Registrar-General.)
- (j) by omitting section ninety-three and by inserting in lieu thereof the following section:— Subst. sec. 93.

93. (1) Upon the death of the registered proprietor of any mortgage, encumbrance, or lease the executor, administrator or other person claiming to be entitled to be registered as proprietor of the mortgage, encumbrance or lease may apply in writing to the Registrar-General to be so registered. Transmission of mortgage, encumbrance, or lease on death of proprietor.

(2) The application shall be supported by such evidence as the Registrar-General may require and, where the applicant claims otherwise than as executor, administrator, or trustee, shall be accompanied by the consent of the executor or administrator unless the Registrar-General thinks fit to dispense with that consent.

(3) The Registrar-General, on proof that the applicant is so entitled, shall register him as proprietor of the mortgage, encumbrance, or lease.

(k)

Real Property (Amendment).

Sec. 105.

(Sales by Sheriff or under order of Supreme Court or District Court.)

- (k) (i) by inserting in subsection one of section one hundred and five after the words "shall enter" the words "particulars thereof";
- (ii) by omitting from the same subsection the words " , the date of the said writ, direction, decree, or order, and the date and hour of the production thereof";
- (iii) by omitting from subsection five of the same section the words "a true copy" and by inserting in lieu thereof the words "an office copy";

Sec. 106.

(Seal of corporation substituted for signature.)

- (l) by omitting from section one hundred and six the words "with a certificate that such seal was affixed by the proper officer verified by his signature";

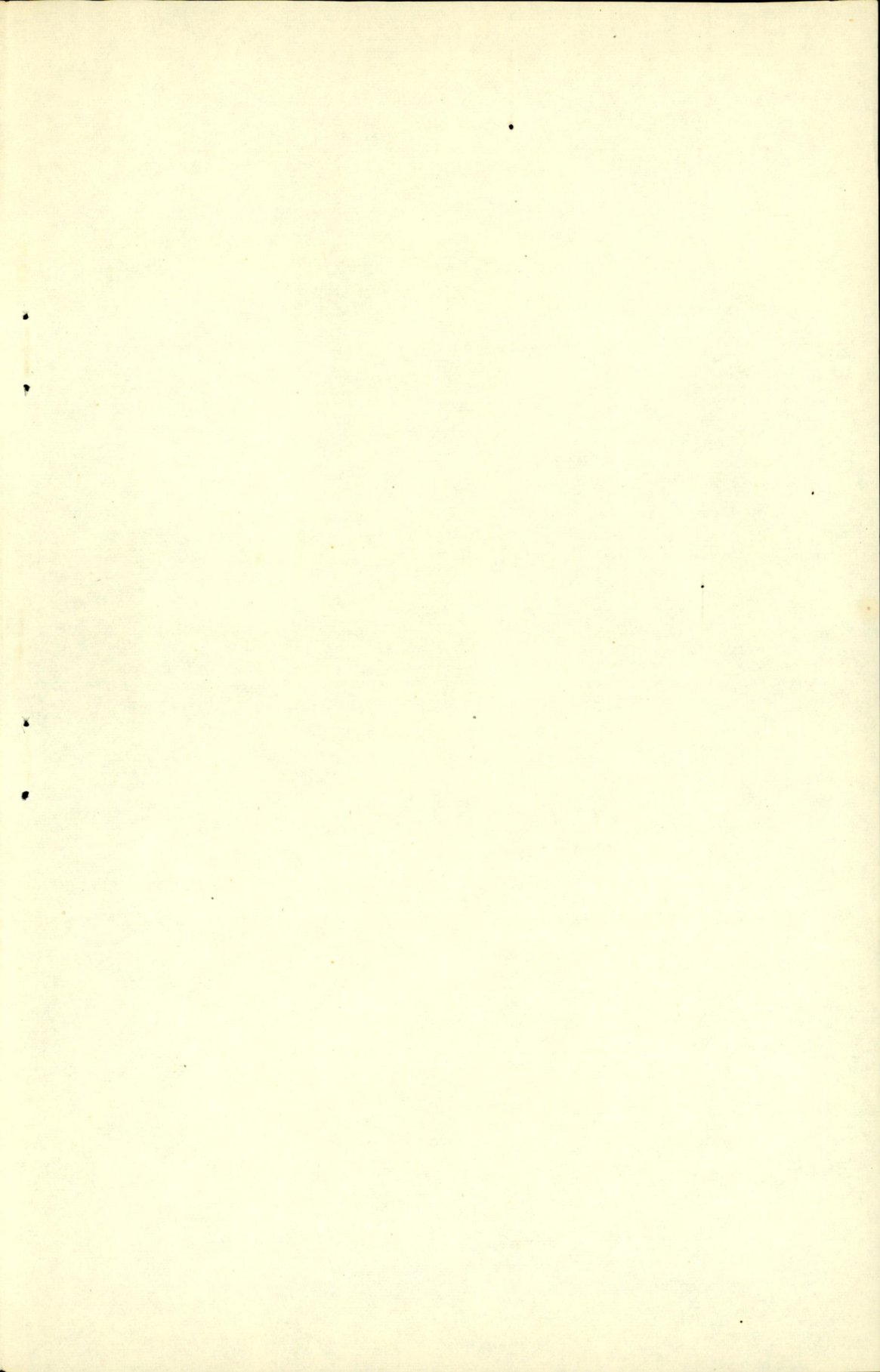
Sec. 110.

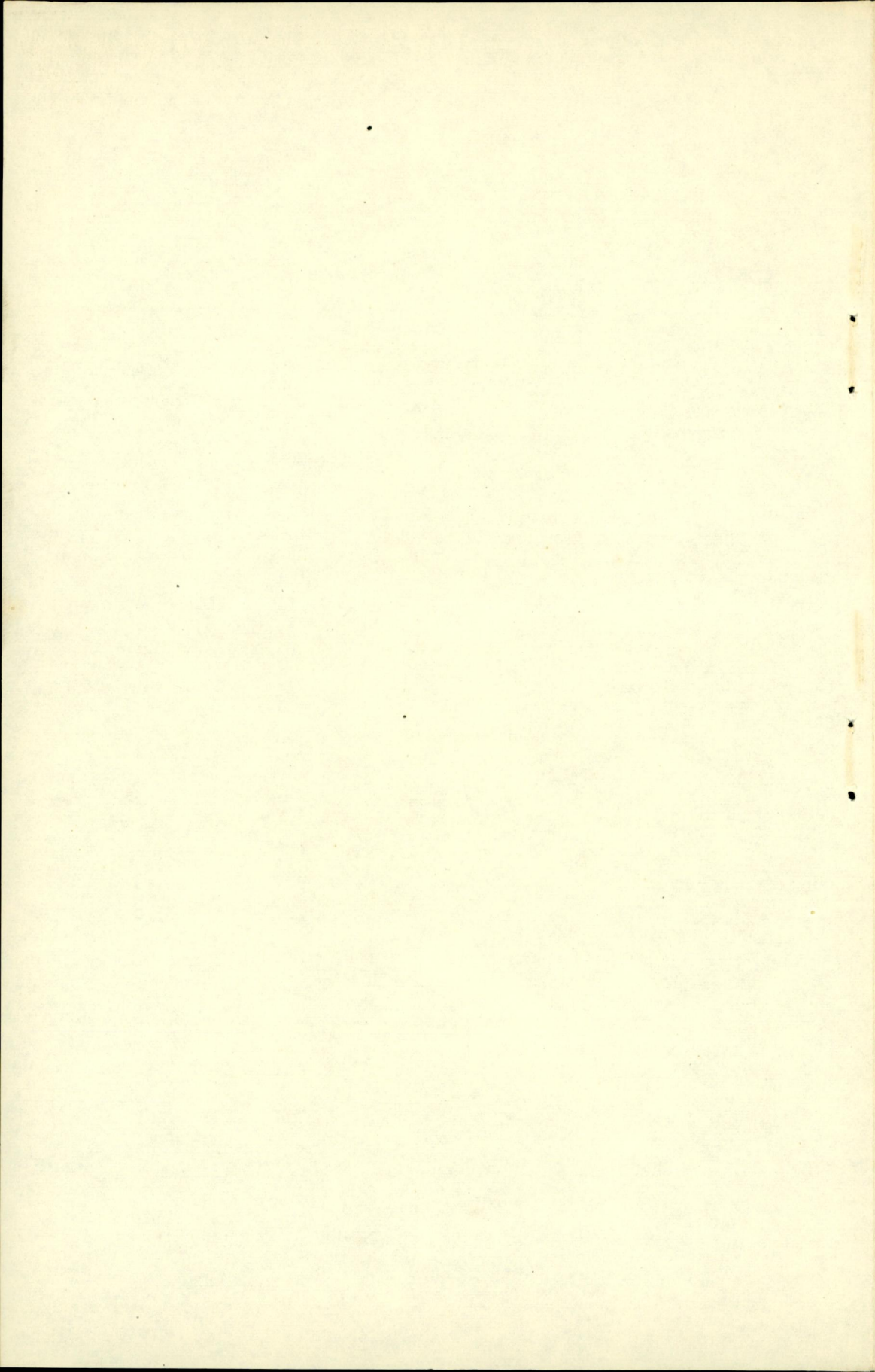
(Upon surrender of existing grants or certificates proprietor may obtain a single certificate or vice versa.)

- (m) by omitting from subsection (1A) of section one hundred and ten the words "the Registrar-General may compel him to receive a new certificate of title" and by inserting in lieu thereof the words "or where for any reason it appears to the Registrar-General desirable that a new certificate or new certificates of title should issue for the whole or any part of the land of which any person is registered as proprietor, the Registrar-General may of his own motion and at the expense of the registered proprietor issue a new certificate or certificates of title".

By Authority:

A. H. PETIFER, Government Printer, Sydney, 1956.





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.

ALLAN PICKERING,
Clerk of the Legislative Assembly.

Legislative Assembly Chamber,
Sydney, 28 August, 1956.

New South Wales



ANNO QUINTO

ELIZABETHÆ II REGINÆ

Act No. 12, 1956.

An Act to make further provision relating to the removal of caveats and the transmission of mortgages, encumbrances and leases; for these and other purposes to amend the Real Property Act, 1900, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 30th August, 1956.]

BE it enacted by the Queen'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 "Real Property Short title and citation. (Amendment) Act, 1956."

(2)

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

G. BOOTH,
Chairman of Committees of the Legislative Assembly.

Real Property (Amendment).

(2) The Real Property Act, 1900, as amended by subsequent Acts and by this Act, may be cited as the Real Property Act, 1900-1956.

Amendment
of Act No.
25, 1900.

2. The Real Property Act, 1900-1955, is amended—

Sec. 12.
(Powers
of
Registrar-
General.)

(a) by inserting at the end of section twelve the following new paragraphs:—

(g) He may, on such evidence as appears to him sufficient, enter in the register-book a notification of any change in the name of a registered proprietor, whether the change is consequent upon the marriage of the proprietor or otherwise.

(h) He may at his discretion, and notwithstanding anything in this Act, dispense with any advertisement (other than advertisements in the Government Gazette prescribed by sections eighteen and nineteen of this Act) or the supply to him of any information or the production to him of any instrument.

Sec. 31A.
(Registrar-
General to
issue certi-
ficates of
title in
respect of
resumed
land.)

(b) (i) by inserting in subsection one of section 31A after the words "or any other Act" the words ", or Act of the Parliament of the Commonwealth,";

(ii) by inserting in subsection two of the same section after the words "Gazette notification" the words "or in a Commonwealth of Australia Gazette notification or notice";

(iii) by inserting in the same subsection after the words "such notification" the words "or notice";

(iv) by inserting in subsection four of the same section after the word "notification" the words "or notice";

(v)

Real Property (Amendment).

- (v) by omitting from subsection six of the same section the words "Conveyancing (Amendment) Act, 1932" and by inserting in lieu thereof the words "Real Property (Amendment) Act, 1956";
- (e) by omitting from section thirty-seven the words " , the day and hour of the production of such instrument for registration, the names of the parties thereto, and shall refer by number or symbol to such instrument" and by inserting in lieu thereof the words "and such other particulars as the Registrar-General directs";
- (d) by inserting at the end of section thirty-nine the following new provisos:—
- Sec. 37.
(Form of memorial.)
- Sec. 39.
(Instruments not to be registered unless in accordance with prescribed forms.)
- Provided that the Registrar-General may, at his discretion, register an instrument notwithstanding any error in or omission from its memorandum of prior encumbrances and, in such case, the error or omission shall not invalidate the registration of the instrument:
- Provided further that, instead of rejecting any instrument containing a patent error, the Registrar-General may of his own motion correct the error by marginal notation on the instrument, and the instrument so corrected shall have the like validity and effect as if the error had not been made.
- (e) (i) by omitting from section 46A the words "notification of acquisition under the Lands Acquisition Act, 1906-1916," and by inserting in lieu thereof the words "notice or notification of acquisition under the Lands Acquisition Act 1955 of the Parliament of the Commonwealth or under any Act repealed by the said Lands Acquisition Act 1955";
- Sec. 46A.
(Notices of resumption.)

(ii)

Real Property (Amendment).

- (ii) by inserting in paragraph (b) of the same section before the word "notification" wherever occurring the words "notice or";
- (iii) by inserting in paragraph (c) of the same section before the word "notification" where firstly and secondly occurring the words "notice or";
- (iv) by inserting in the same paragraph after the word "notification" where lastly occurring the words "or notice";
- (f) by inserting next after section seventy-three the following new section:—

New
sec. 73A.

Removal of
caveat where
caveator's
interest has
terminated.

73A. Where it appears to the Registrar-General that the estate or interest claimed by any caveator has ceased to exist he may, on the application of any person interested in the land, estate or interest in respect to which the caveat is lodged, serve notice on the caveator requiring him within fourteen days from the date of service of the notice to show cause to the Registrar-General why the caveat should not be removed.

Unless within that time the caveator so shows cause to the satisfaction of the Registrar-General, the caveat shall be deemed to have lapsed.

The notice shall be forwarded by post in a registered letter addressed to the caveator at the address mentioned in the caveat, or at the office of the solicitor, known agent, or attorney, who may have signed the caveat, and shall be deemed to have been duly served when the registered letter would in the ordinary course be delivered.

(g)

Real Property (Amendment).

- (g) by inserting in section seventy-four after the words "the Registrar-General shall not" the words ", except with the written consent of the caveator or his agent,"; Sec. 74.
(No dealing to be registered while caveat in force.)
- (h) by omitting from subsection one of section eighty-six the words "the date of the said order, the date and hour of its production to him, and"; Sec. 86.
(Registrar-General to carry out order of Supreme Court vesting trust estate.)
- (i) by omitting section ninety-two; Sec. 92.
(Marriage of female proprietor to be certified to the Registrar-General.)
- (j) by omitting section ninety-three and by inserting in lieu thereof the following section:— Subst. sec. 93.
93. (1) Upon the death of the registered proprietor of any mortgage, encumbrance, or lease the executor, administrator or other person claiming to be entitled to be registered as proprietor of the mortgage, encumbrance or lease may apply in writing to the Registrar-General to be so registered. Transmission of mortgage, encumbrance, or lease on death of proprietor
- (2) The application shall be supported by such evidence as the Registrar-General may require and, where the applicant claims otherwise than as executor, administrator, or trustee, shall be accompanied by the consent of the executor or administrator unless the Registrar-General thinks fit to dispense with that consent.
- (3) The Registrar-General, on proof that the applicant is so entitled, shall register him as proprietor of the mortgage, encumbrance, or lease.

(k)

Real Property (Amendment).

Sec. 105.
(Sales by
Sheriff
or under
order of
Supreme
Court or
District
Court.)

- (k) (i) by inserting in subsection one of section one hundred and five after the words "shall enter" the words "particulars thereof";
- (ii) by omitting from the same subsection the words ", the date of the said writ, direction, decree, or order, and the date and hour of the production thereof";
- (iii) by omitting from subsection five of the same section the words "a true copy" and by inserting in lieu thereof the words "an office copy";

Sec. 106.
(Seal of corpora-
tion sub-
stituted for
signature.)

- (l) by omitting from section one hundred and six the words "with a certificate that such seal was affixed by the proper officer verified by his signature";

Sec. 110.
(Upon
surrender
of existing
grants or
certificates
proprietor
may obtain
a single
certificate or
vice versa.)

- (m) by omitting from subsection (1A) of section one hundred and ten the words "the Registrar-General may compel him to receive a new certificate of title" and by inserting in lieu thereof the words "or where for any reason it appears to the Registrar-General desirable that a new certificate or new certificates of title should issue for the whole or any part of the land of which any person is registered as proprietor, the Registrar-General may of his own motion and at the expense of the registered proprietor issue a new certificate or certificates of title".

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

K. W. STREET,
Lieutenant-Governor.

*Government House,
Sydney, 30th August, 1956.*

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