

*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.*

**R. E. WARD,**  
*Clerk of the Legislative Assembly.*

*Legislative Assembly Chamber,  
Sydney, 13 October, 1977.*

## New South Wales



ANNO VICESIMO SEXTO

**ELIZABETHÆ II REGINÆ**

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Act No.           , 1977.

An Act to amend the Real Property Act, 1900, and the Real Property (Amendment) Act, 1976, in relation to recording the issue of certain certificates of title and in relation to the power of a mortgagee or encumbrancee to sell mortgaged or encumbered land.

**BE**

*Real Property (Amendment).*

**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 :—

5 **1.** This Act may be cited as the "Real Property Short title. (Amendment) Act, 1977".

**2.** (1) Except as provided in subsections (2) and (3), Commence-  
this Act shall commence on the date of assent to this Act. ment.

(2) Section 4, in its application to Schedule 1 (1),  
10 (2) and (4), and Schedule 1 (1), (2) and (4) shall be deemed to have commenced on 1st April, 1977.

(3) Section 4, in its application to Schedule 1 (5),  
and Schedule 1 (5) and section 5, in its application to  
Schedule 2 (4) and (5), and Schedule 2 (4) and (5) shall  
15 commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

**3.** This Act contains the following Schedules :— Schedules.

20 **SCHEDULE 1.—AMENDMENTS TO THE REAL PROPERTY ACT, 1900.**

**SCHEDULE 2.—AMENDMENTS TO THE REAL PROPERTY (AMENDMENT) ACT, 1976.**

**4.** The Real Property Act, 1900, is amended in the Amendment  
manner set forth in Schedule 1. of Act No.  
25, 1900.



*Real Property (Amendment).*

5. The Real Property (Amendment) Act, 1976, is amended in the manner set forth in Schedule 2. Amendment of Act No. 96, 1976.

SCHEDULE 1. Sec. 4.

AMENDMENTS TO THE REAL PROPERTY ACT, 1900.

5 (1) Section 28GA—

After section 28G, insert :—

10 28GA. Immediately after bringing land under the provisions of this Act by issuing a qualified certificate of title or by issuing an ordinary certificate of title under section 28EA, the Registrar-General shall cause a notification of the issue of the certificate of title to be entered, in such manner as appears to him to be appropriate, in the index to the General Register of Deeds kept pursuant to the Registration of Deeds Act, 1897. Issue of qualified or ordinary certificate of title to be indexed.

15

(2) Section 28H (1)—

Omit the subsection.

(3) Section 28P (2) (a)—

20 Omit “(5)”, “(6)” and “(7)”, insert instead “(8)”, “(9)” and “(10)”, respectively.

(4) Section 28T (6)—

Omit “28H (1)” wherever occurring, insert instead “28GA”.

SCHEDULE

---

*Real Property (Amendment).*

---

SCHEDULE 1—*continued.*

AMENDMENTS TO THE REAL PROPERTY ACT,  
1900—*continued.*

(5) Section 58 (2)—

- 5 Omit “given as aforesaid”, insert instead “served as referred to in section 57 (2)”.

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SCHEDULE 2.

Sec. 5.

AMENDMENTS TO THE REAL PROPERTY (AMENDMENT)  
ACT, 1976.

10 (1) (a) Section 2 (2)—

Omit “6,”.

(b) Section 2 (2)—

Omit “15”, insert instead “12 or of Schedule 14 or 15”.

15 (c) Section 2 (4)—

Omit “and Schedule 13”.

(2) Section 3, matter relating to Schedule 13—

Omit the matter.

(3) Section 6—

20 Omit the section.

SCHEDULE



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*Real Property (Amendment).*

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SCHEDULE 2—*continued.*

AMENDMENTS TO THE REAL PROPERTY (AMENDMENT)  
ACT, 1976—*continued.*

- 5 (4) Section 57 of the Real Property Act, 1900, as to be inserted by section 5 of, and Schedule 8 (3) to, the Real Property (Amendment) Act, 1976—
- (a) In subsection (2) (a), after “covenant”, insert  
“, agreement or condition”.
- 10 (b) From subsection (2) (a), omit “on the due date”, insert instead “, in accordance with the terms of the mortgage or encumbrance,”.
- 15 (c) From subsection (2) (b), omit “the mortgagee or encumbrancee serves on the mortgagor or encumbrancer, in the manner authorised by section 170 of the Conveyancing Act, 1919, a written notice that complies with subsection (3)”, insert instead “a written notice that complies with subsection (3) has been served on the mortgagor or encumbrancer in the manner authorised by section 170 of the Conveyancing Act, 1919”.
- 20 (d) In subsection (3) (b) (i), after “covenant” wherever occurring, insert “, agreement or condition”.
- 25 (e) From subsection (3) (c), omit “the mortgagee or encumbrancee in”.
- 30 (f) From subsection (3) (d), omit “the mortgagee or encumbrancee proposes to exercise his power of sale”, insert instead “it is proposed to exercise a power of sale in respect of the land mortgaged or encumbered”.

SCHEDULE

**Real Property (Amendment).**

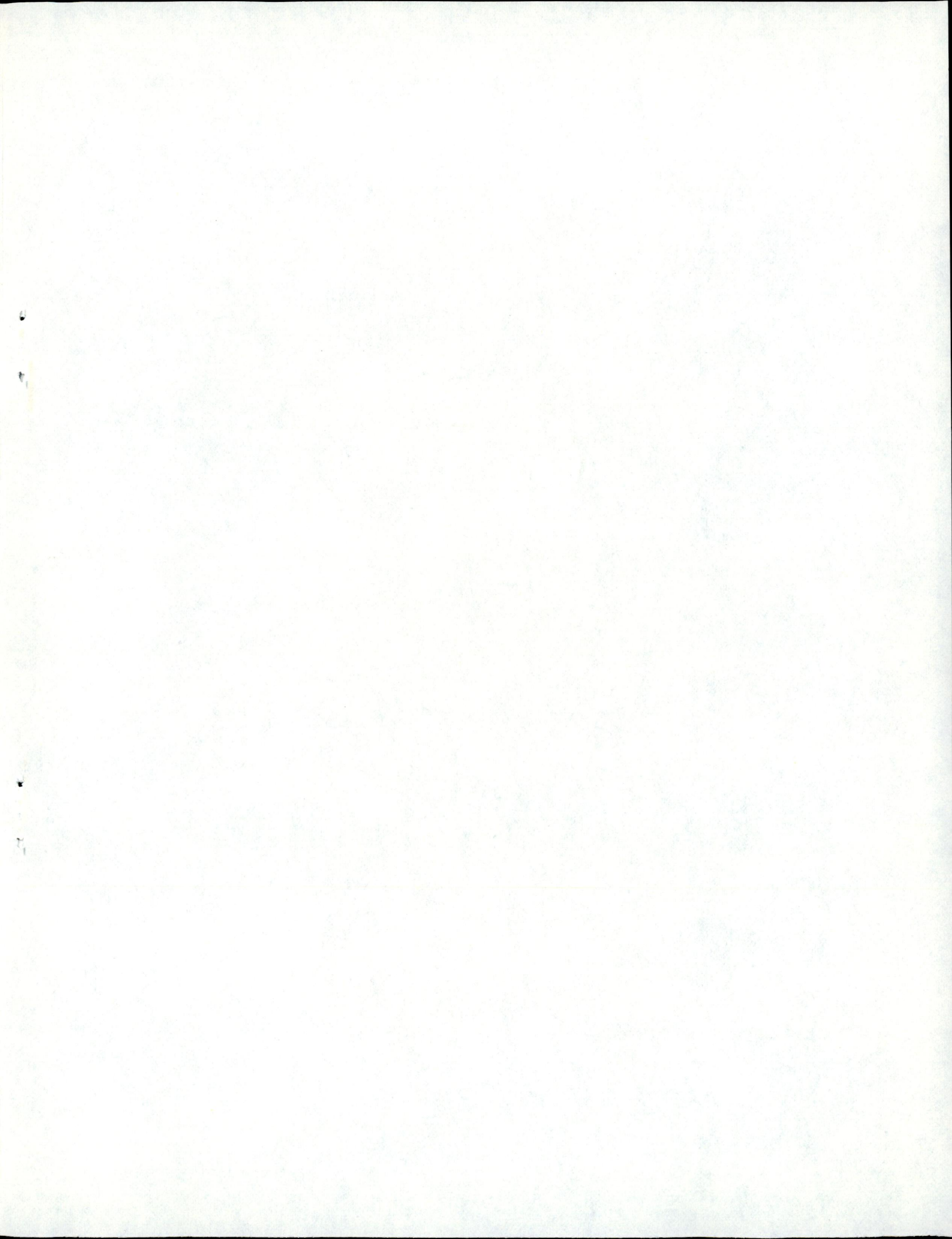
**SCHEDULE 2—continued.**

**AMENDMENTS TO THE REAL PROPERTY (AMENDMENT)  
ACT, 1976—continued.**

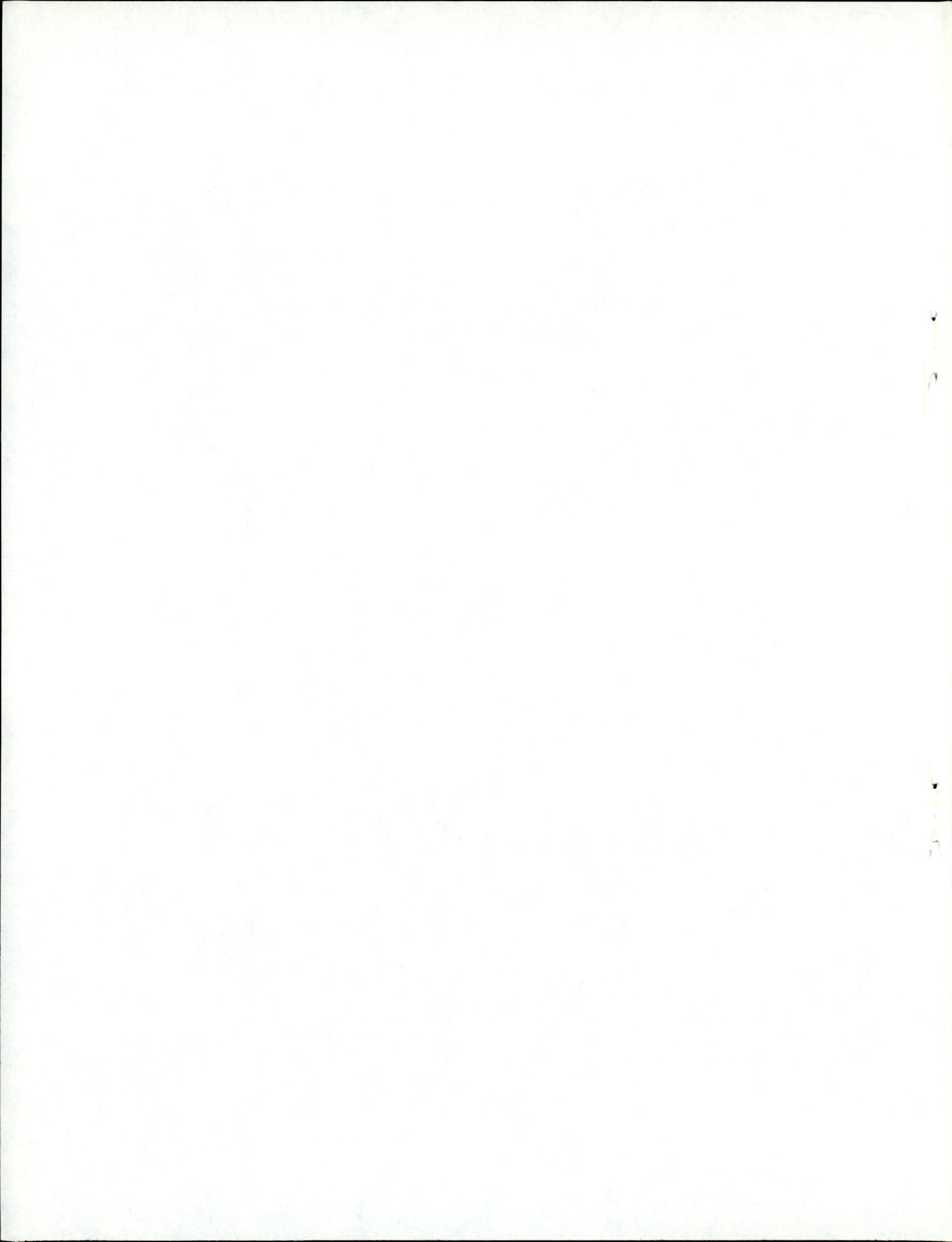
5 (5) Section 58A (1) of the Real Property Act, 1900, as to  
be amended by section 5 of, and Schedule 8 (5) to, the  
Real Property (Amendment) Act, 1976—  
Omit “on the due date”, insert instead “, in accordance  
with the terms of the mortgage or encumbrance,”.

10 (6) Schedule 13—  
Omit the Schedule.

**BY AUTHORITY**  
**D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1977**  
[8c]









**REAL PROPERTY (AMENDMENT) BILL, 1977**

No. , 1977.

---

**A BILL FOR**

An Act to amend the Real Property Act, 1900, and the Real Property (Amendment) Act, 1976, in relation to recording the issue of certain certificates of title and in relation to the power of a mortgagee or encumbrancee to sell mortgaged or encumbered land.

[MR CRABTREE—14 *September*, 1977.]

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**BE**

*Real Property (Amendment).*

**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 :—

5 **1.** This Act may be cited as the "Real Property Short title. (Amendment) Act, 1977".

**2.** (1) Except as provided in subsections (2) and (3), Commence- this Act shall commence on the date of assent to this Act. ment.

(2) Section 4, in its application to Schedule 1 (1),  
10 (2) and (4), and Schedule 1 (1), (2) and (4) shall be deemed to have commenced on 1st April, 1977.

(3) Section 4, in its application to Schedule 1 (5), and Schedule 1 (5) and section 5, in its application to Schedule 2 (4) and (5), and Schedule 2 (4) and (5) shall  
15 commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

**3.** This Act contains the following Schedules :— Schedules.

20 **SCHEDULE 1.—AMENDMENTS TO THE REAL PROPERTY ACT, 1900.**

**SCHEDULE 2.—AMENDMENTS TO THE REAL PROPERTY (AMENDMENT) ACT, 1976.**

**4.** The Real Property Act, 1900, is amended in the Amendment manner set forth in Schedule 1. of Act No. 25, 1900.



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*Real Property (Amendment).*

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5. The Real Property (Amendment) Act, 1976, is amended in the manner set forth in Schedule 2. Amendment of Act No. 96, 1976.

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SCHEDULE 1.

Sec. 4.

AMENDMENTS TO THE REAL PROPERTY ACT, 1900.

5 (1) Section 28GA—

After section 28G, insert :—

10 28GA. Immediately after bringing land under the provisions of this Act by issuing a qualified certificate of title or by issuing an ordinary certificate of title under section 28EA, the Registrar-General shall cause a notification of the issue of the certificate of title to be entered, in such manner as appears to him to be appropriate, in the index to the General Register of Deeds kept pursuant to the Registration of Deeds Act, 1897.

15

(2) Section 28H (1)—

Omit the subsection.

(3) Section 28P (2) (a)—

20 Omit “(5)”, “(6)” and “(7)”, insert instead “(8)”, “(9)” and “(10)”, respectively.

(4) Section 28T (6)—

Omit “28H (1)” wherever occurring, insert instead “28GA”.

SCHEDULE F



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*Real Property (Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE REAL PROPERTY ACT,  
1900—*continued.*

- (5) Section 58 (2)—
- 5 Omit “given as aforesaid”, insert instead “served as referred to in section 57 (2)”.

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SCHEDULE 2.

Sec. 5.

AMENDMENTS TO THE REAL PROPERTY (AMENDMENT)  
ACT, 1976.

- 10 (1) (a) Section 2 (2)—  
Omit “6,”.
- (b) Section 2 (2)—  
Omit “15”, insert instead “12 or of Schedule 14  
or 15”.
- 15 (c) Section 2 (4)—  
Omit “and Schedule 13”.
- (2) Section 3, matter relating to Schedule 13—  
Omit the matter.
- (3) Section 6—
- 20 Omit the section.

SCHEDULE

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*Real Property (Amendment).*

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SCHEDULE 2—*continued.*

AMENDMENTS TO THE REAL PROPERTY (AMENDMENT)  
ACT, 1976—*continued.*

- 5 (4) Section 57 of the Real Property Act, 1900, as to be  
inserted by section 5 of, and Schedule 8 (3) to, the Real  
Property (Amendment) Act, 1976—
- (a) In subsection (2) (a), after “covenant”, insert  
“; agreement or condition”.
- 10 (b) From subsection (2) (a), omit “on the due  
date”, insert instead “; in accordance with the  
terms of the mortgage or encumbrance,”.
- 15 (c) From subsection (2) (b), omit “the mortgagee  
or encumbrancee serves on the mortgagor or  
encumbrancer, in the manner authorised by  
section 170 of the Conveyancing Act, 1919, a  
written notice that complies with subsection  
20 (3)”, insert instead “a written notice that  
complies with subsection (3) has been served on  
the mortgagor or encumbrancer in the manner  
authorised by section 170 of the Conveyancing  
Act, 1919”.
- (d) In subsection (3) (b) (i), after “covenant”  
wherever occurring, insert “; agreement or  
condition”.
- 25 (e) From subsection (3) (c), omit “the mortgagee  
or encumbrancee in”.
- 30 (f) From subsection (3) (d), omit “the mortgagee  
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*Real Property (Amendment).*

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SCHEDULE 2—*continued.*

AMENDMENTS TO THE REAL PROPERTY (AMENDMENT)  
ACT, 1976—*continued.*

- 5 (5) Section 58A (1) of the Real Property Act, 1900, as to  
be amended by section 5 of, and Schedule 8 (5) to, the  
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Omit “on the due date”, insert instead “, in accordance  
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- (6) Schedule 13—

10 Omit the Schedule.

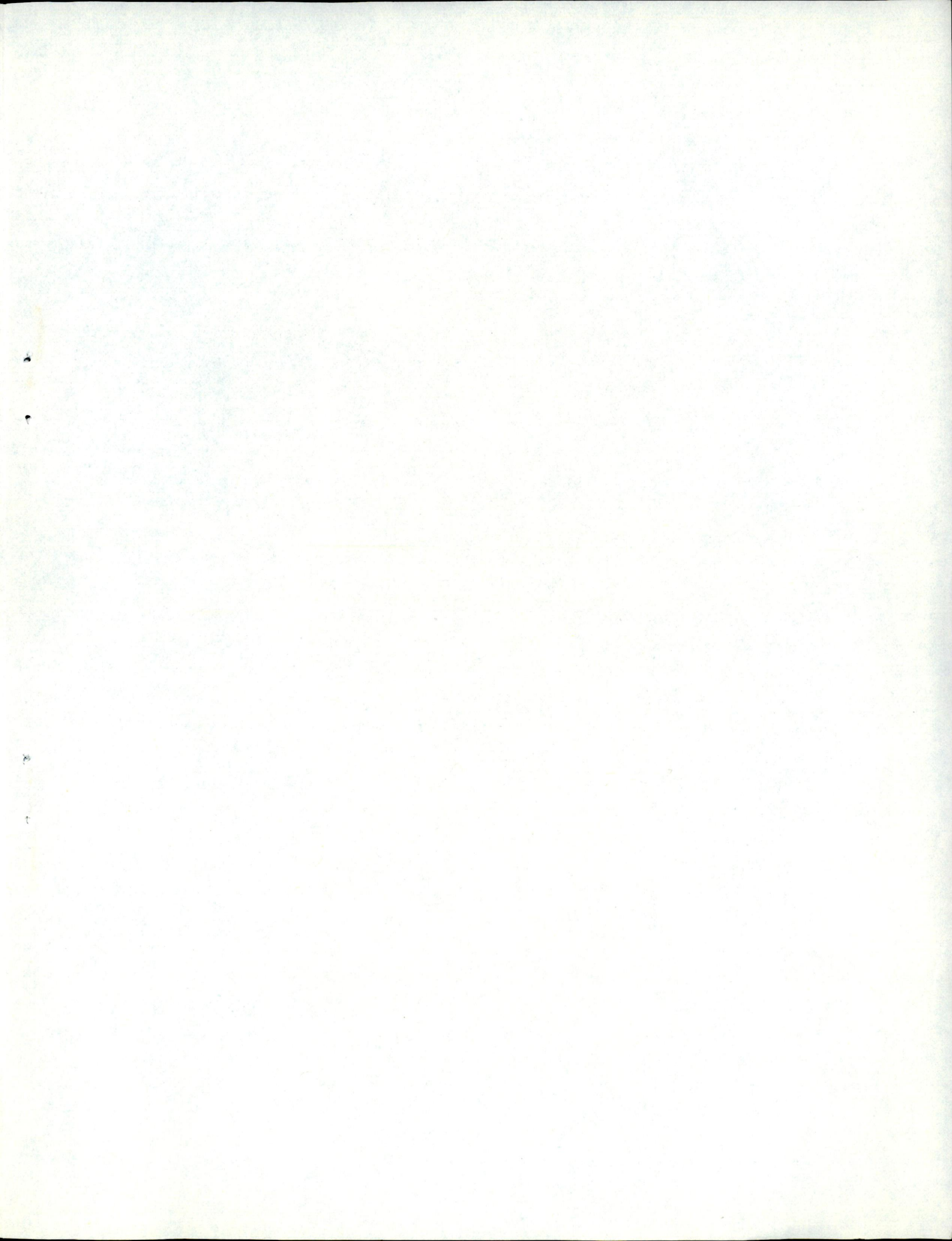
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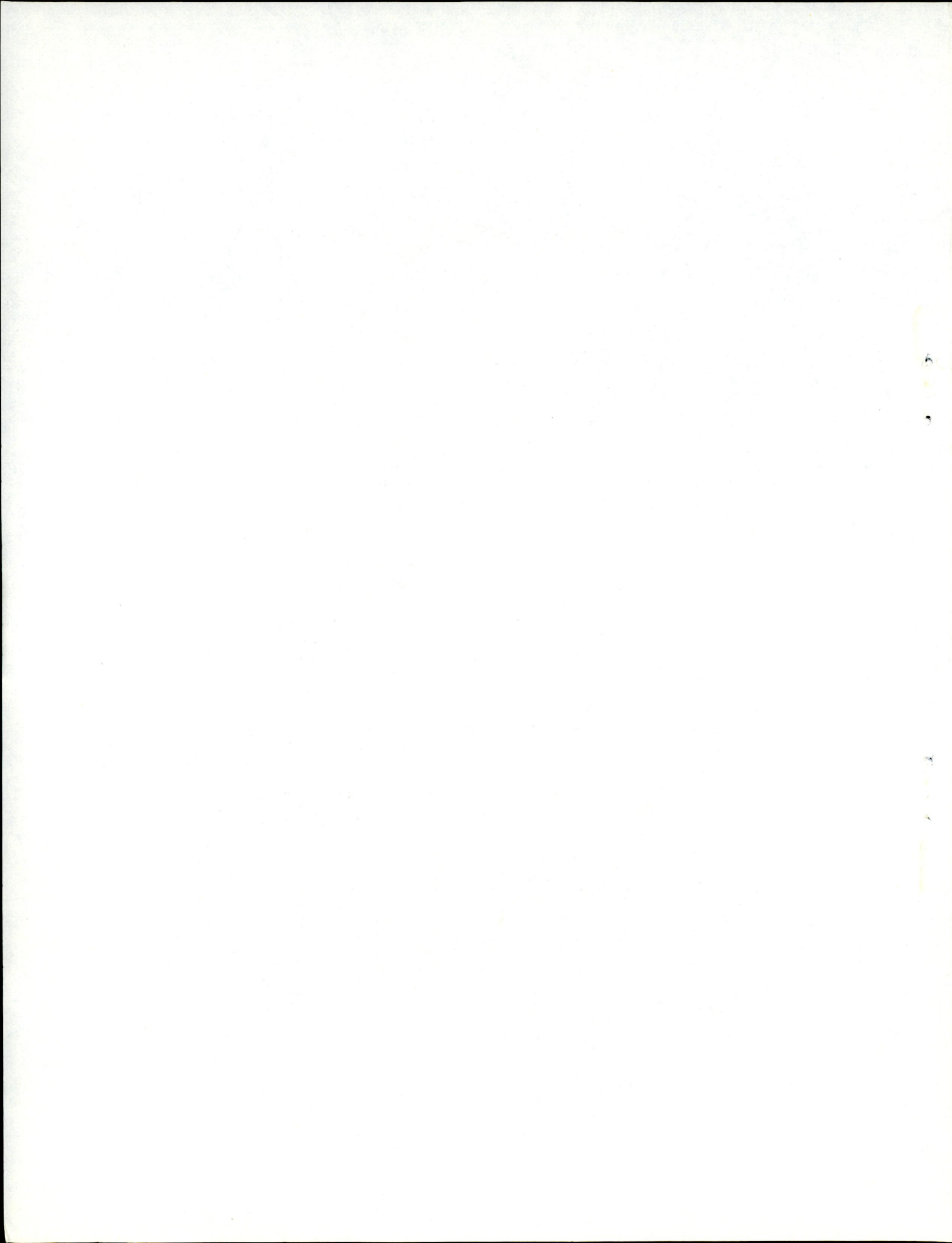
BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1977

[8c]







**REAL PROPERTY (AMENDMENT) BILL, 1977**

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**EXPLANATORY NOTE**

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

THE objects of this Bill are—

- (a) to provide for the indexing in the General Register of Deeds of the issue of qualified and ordinary certificates of title under Part IVA of the Real Property Act, 1900, instead of the registration of memorandums relating to their issue (Schedule 1 (1) and (2));
  - (b) to repeal certain provisions of the Real Property (Amendment) Act, 1976, rendered unnecessary by amendments effected by the Conveyancing (Amendment) Act, 1976 (Schedule 2 (1), (2), (3) and (6));
  - (c) to extend the provisions of section 57 (2), to be inserted in the Real Property Act, 1900, with respect to the notice to be served on a mortgagor or encumbrancer (where a default in the observance of a covenant in the mortgage or encumbrance has occurred and it is proposed to exercise a power of sale in respect of the mortgaged or encumbered land) so that those provisions also apply where the default occurred in the observance of an agreement or a condition in the mortgage or encumbrance (Schedule 2 (4)); and
  - (d) to make other provisions of a minor or ancillary nature.
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PROOF

**REAL PROPERTY (AMENDMENT) BILL, 1977**

No. , 1977.

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and the Real Property (Amendment) Act, 1976, in  
relation to recording the issue of certain certificates of  
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*Real Property (Amendment).*

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AMENDMENTS TO THE REAL PROPERTY ACT,  
1900—*continued.*

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AMENDMENTS TO THE REAL PROPERTY (AMENDMENT)  
ACT, 1976.

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Omit “and Schedule 13”.
- (2) Section 3, matter relating to Schedule 13—  
Omit the matter.
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SCHEDULE

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*Real Property (Amendment).*

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**SCHEDULE 2—continued.**

**AMENDMENTS TO THE REAL PROPERTY (AMENDMENT)  
ACT, 1976—continued.**

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- (a) In subsection (2) (a), after “covenant”, insert  
“, agreement or condition”.
- 10 (b) From subsection (2) (a), omit “on the due  
date”, insert instead “, in accordance with the  
terms of the mortgage or encumbrance,”.
- (c) From subsection (2) (b), omit “the mortgagee  
or encumbrancee serves on the mortgagor or  
15 encumbrancer, in the manner authorised by  
section 170 of the Conveyancing Act, 1919, a  
written notice that complies with subsection  
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the mortgagor or encumbrancer in the manner  
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**SCHEDULE**



**Real Property (Amendment).**

**SCHEDULE 2—continued.**

**AMENDMENTS TO THE REAL PROPERTY (AMENDMENT)  
ACT, 1976—continued.**

- 5 (5) Section 58A (1) of the Real Property Act, 1900, as to be amended by section 5 of, and Schedule 8 (5) to, the Real Property (Amendment) Act, 1976—

Omit “on the due date”, insert instead “, in accordance with the terms of the mortgage or encumbrance,”.

- 10 (6) Schedule 13—

Omit the Schedule.

**BY AUTHORITY**

**D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1977**