

CONVEYANCING (AMENDMENT) BILL 1992

BILLS OF SALE (AMENDMENT) BILL 1992

**LIENS ON CROPS AND WOOL AND STOCK MORTGAGES
(AMENDMENT) BILL 1992**

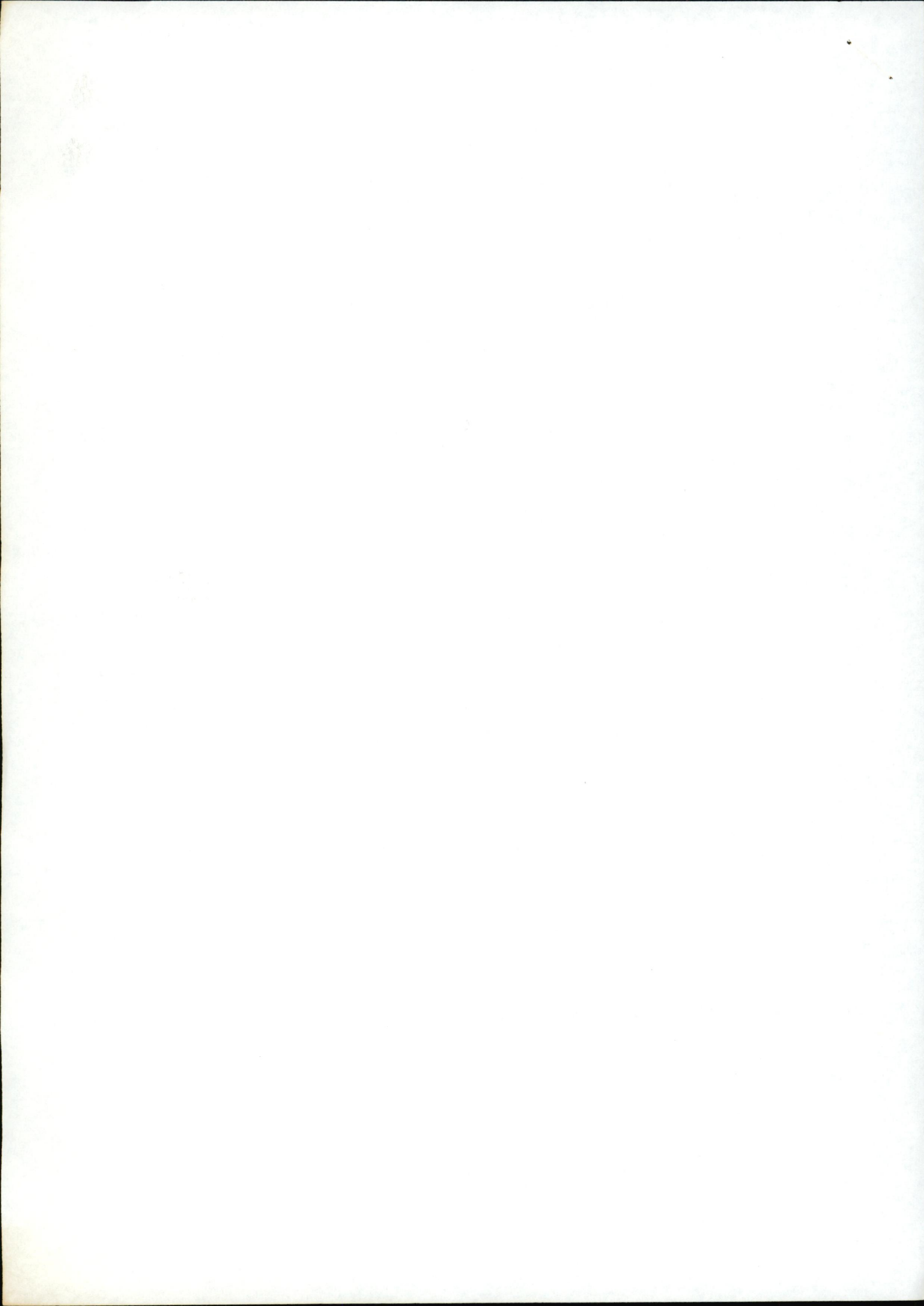
LEGISLATIVE COUNCIL

SECOND READING

**THE HON. R.J. WEBSTER, M.L.C.
MINISTER FOR PLANNING AND MINISTER FOR ENERGY**

I MOVE:

THAT THESE BILLS BE NOW READ A SECOND TIME.

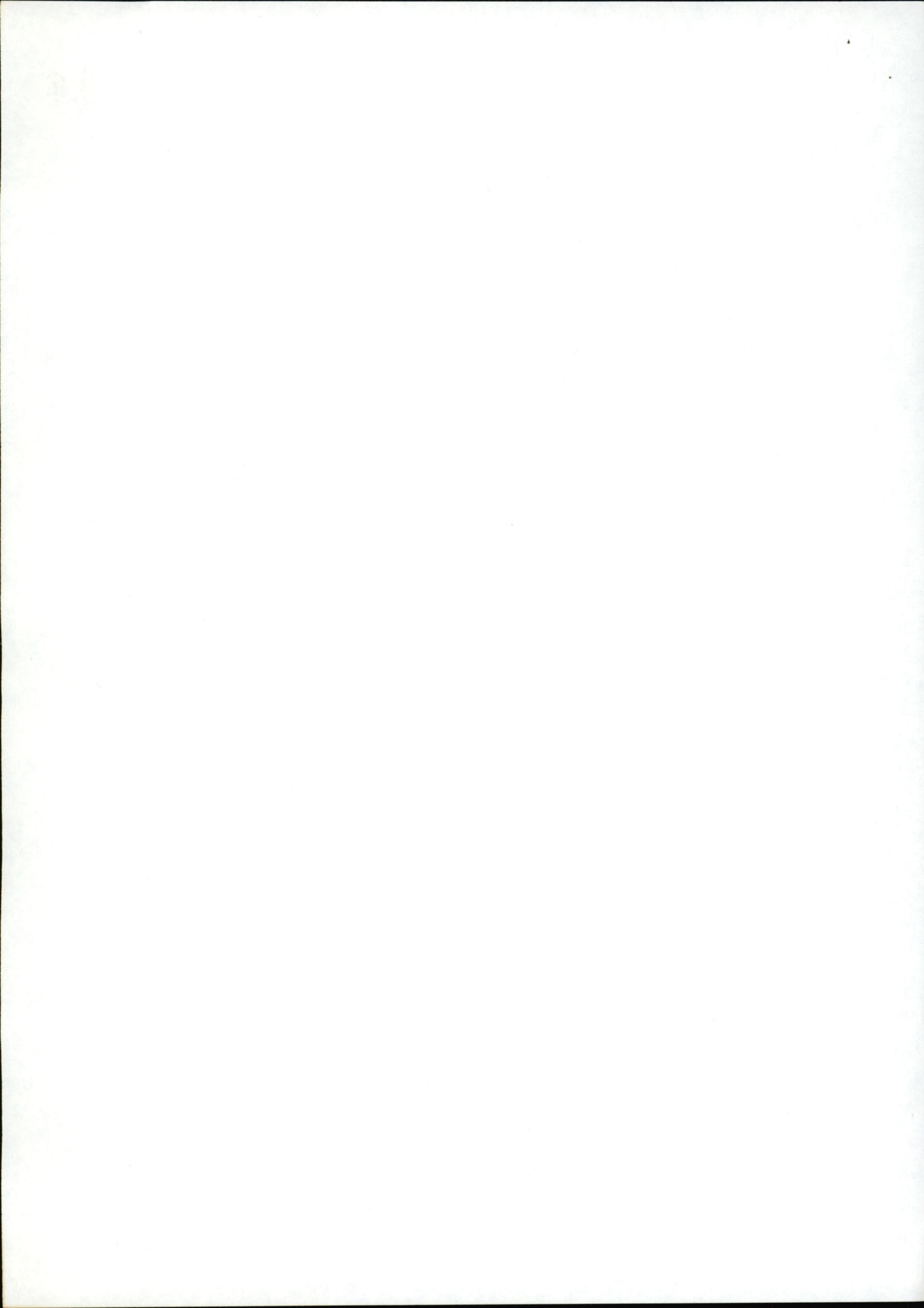


These Bills relate to the way in which Old System Deeds and certain other documents are registered and indexed by the Registrar General at the Land Titles Office. The main purpose is to simplify registration and searching procedures by combining into one register seven existing separate registers, namely: The General Register of Deeds and the Registers of Resumptions; Causes, Writs and Orders; Bills of Sale; Liens on Crops; Liens on Wool; and Stock Mortgages. It is also proposed to combine the indexes to these various registers into one computerised index.

Title to land in New South Wales is held under either the Torrens System, created pursuant to the Real Property Act 1900, or the general law or "old" system. Under Torrens title, ownership of land is evidenced by a single certificate of title. However, old system title is based on the efficacy of each document in an unbroken chain of title comprising all dealings with the land. Registration of old system deeds under the Conveyancing Act 1919 in the General Register of Deeds provides priority between deeds according to the order of registration. It is necessary for a person buying old system land to make a search in the General Register of Deeds of all the documents in the chain of title in order to establish a good title.

Apart from instruments dealing with land, other documents which may be registered in the General Register include Powers of Attorney, instruments evidencing change of name, some court orders and declarations of trust.

...2/. The Register of Resumptions



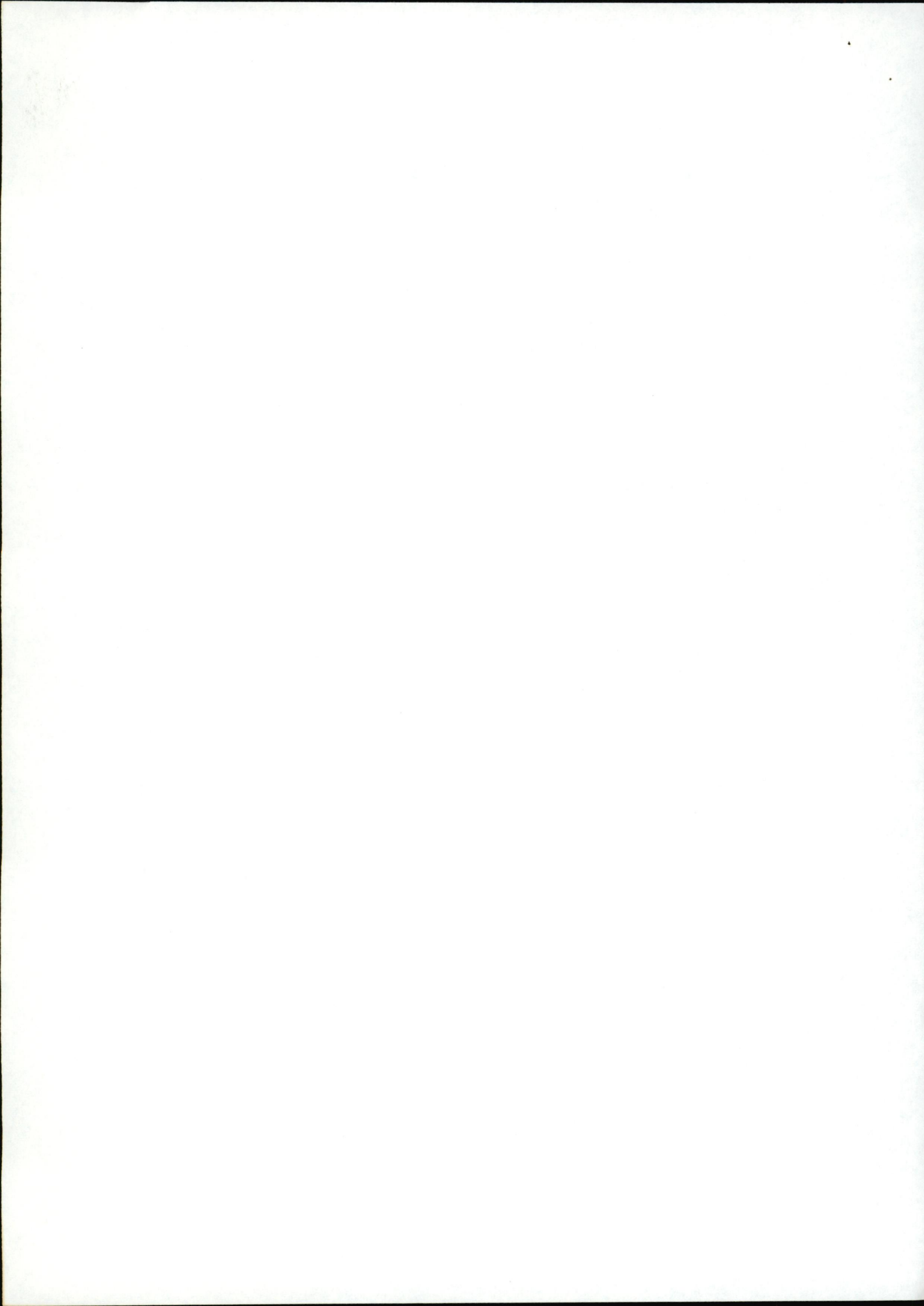
The Register of Resumptions and the Register of Causes, Writs and orders also contain documents relevant to land.

The existence of separate registers means that a person involved in a property transaction often has to search in several registers at the Land Titles Office. Such searches are manual and time consuming. These factors increase both the cost of conveyancing and the chance of error.

In addition to documents relating to land, registers of various documents relating to other property have been established, namely the Liens on Crops Register, the Liens on Wool Register and the Stock Mortgages Register which date back to 1898.

These bills will have benefits for both the conveyancing public and the Land Titles Office. The new combined General Register of Deeds, with a single, computerised index, will rationalise and simplify the system. It will make searching easier, by reducing the number of registers and indexes to be searched. At present different lodgment requirements and procedures exist for the different registers. Adopting a standardised lodgment procedure for all documents to be lodged in the General Register of Deeds will benefit both lodging parties and the Land Titles office. The savings for the Land Titles Office will be some half a million dollars per year.

...3/. I will now briefly deal



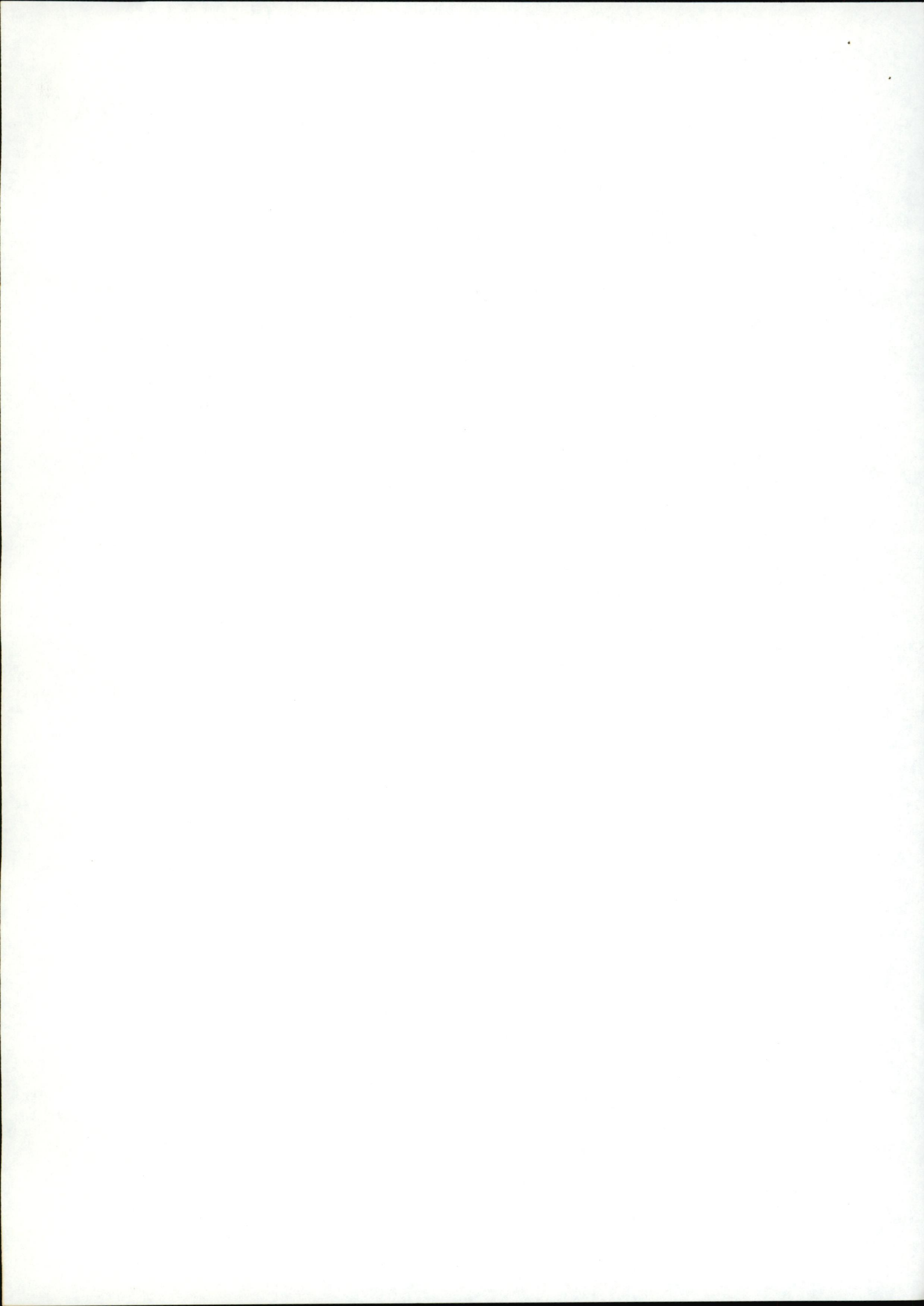
I will now briefly deal with each of the three Bills.

The Conveyancing (Amendment) Bill 1992 abolishes the Register of Resumptions and the Register of Causes, Writs and Orders and provides that all documents that were formerly recorded in those registers, as well as in the other registers to which I previously referred, will now be registered in the General Register of Deeds.

The index to the General Register is important because it is the starting point for searching and it allows those documents comprising a chain of title to be readily identified.

The Bill introduces a requirement for documents being lodged in the new expanded General Register of Deeds to be accompanied by an approved form setting out particulars for entry into the computerised index.

...4/. The proposal to require



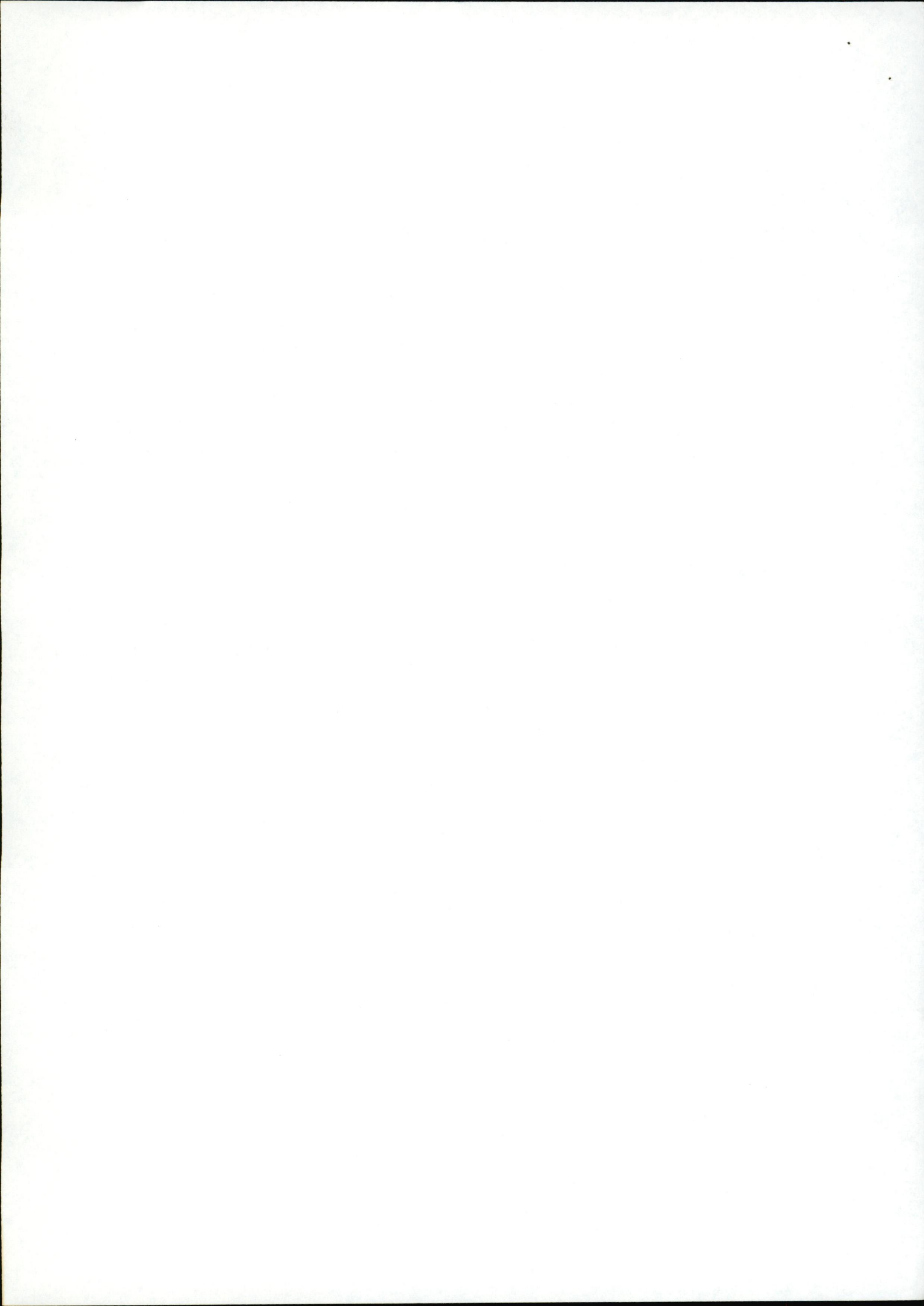
The proposal to require these particulars to be provided at the time of lodgment is designed to speed up the process of data entry into the computer index. At present, officers of the Land Titles Office identify the information to be indexed from documents lodged for registration. Extracting this information from lengthy documents is often time consuming and sometimes difficult. Requiring a party to the document or the lodging party or their solicitors to supply the particulars and the supporting certificate will lead to costs savings for the Land Titles Office. The supply of this information by such persons will not be an onerous imposition as the necessary information should be readily available to them. A similar requirement already exists in the Real Property Act 1900 in relation to land to be converted to Torrens title.

The approved form will incorporate a certificate whereby the person signing certifies that the particulars supplied are correct. There will be an offence for deliberately certifying incorrect particulars, with a maximum penalty of \$1,000.

The method of registering documents in the General Register of Deeds will be as prescribed in the Regulations. This will allow for faster implementation of new procedures when new technology, such as optical disk, becomes available.

The use of standard memoranda will be allowed. These are documents which set out the standard terms and conditions of, say, a bank's mortgage.

...5/. At present, when a document



At present, when a document such as a mortgage is to be registered in the General Register of Deeds a copy of the full document, with all its terms and conditions, must be lodged. The proposal will allow regular lodging parties, such as banks, to lodge a once-only copy of a memorandum containing all the standard terms and conditions for its mortgage. Mortgages lodged subsequently need only refer to this memorandum by its registered number and those terms and conditions will be incorporated by reference in the mortgage.

This will save printing and copying costs for lodging parties and save storage costs for the Land Titles Office. A similar system operates under the Real Property Act 1900 for Torrens title documents.

The cognate Bills of Sale (Amendment) Bill 1992 abolishes the existing Bills of Sale Register and provides that bills of sale will in future be registered in the General Register of Deeds. The bill also removes the requirement for the Registrar General to record the registration of a Trader's Bill of Sale 14 days after lodgment.

Instead it will be deemed registered 14 days after lodgment, provided no caveat has been lodged. This will prevent the necessity for a second computer entry in the computer index 14 days after lodgment.

...6/. The Liens on Crops and Wool

The Liens on Crops and Wool and Stock Mortgages (Amendment) Bill 1992 abolishes the existing registers of Liens on Crops, Liens on Wool and Stock Mortgages and provides that these documents will in future be registered in the General Register of Deeds.

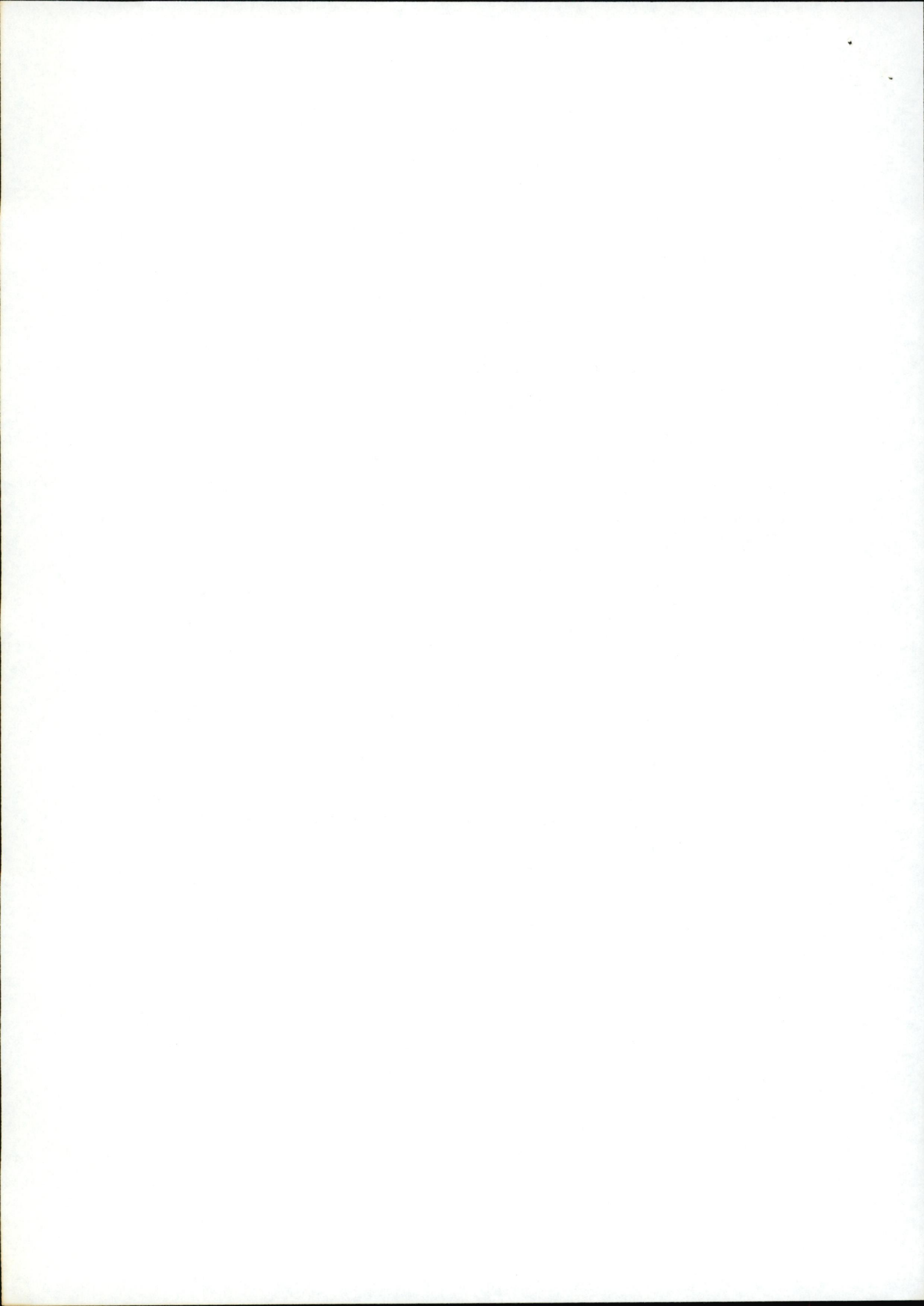
Each Bill contains minor consequential amendments flowing from the matters I have mentioned.

These Bills are intended to make only procedural changes to the registration process and to the way the Registers are kept. They are not intended to change the substantive law regarding the effect of registration for any document.

The Land Titles Office has consulted widely regarding these proposals with those persons and organisations most directly affected.

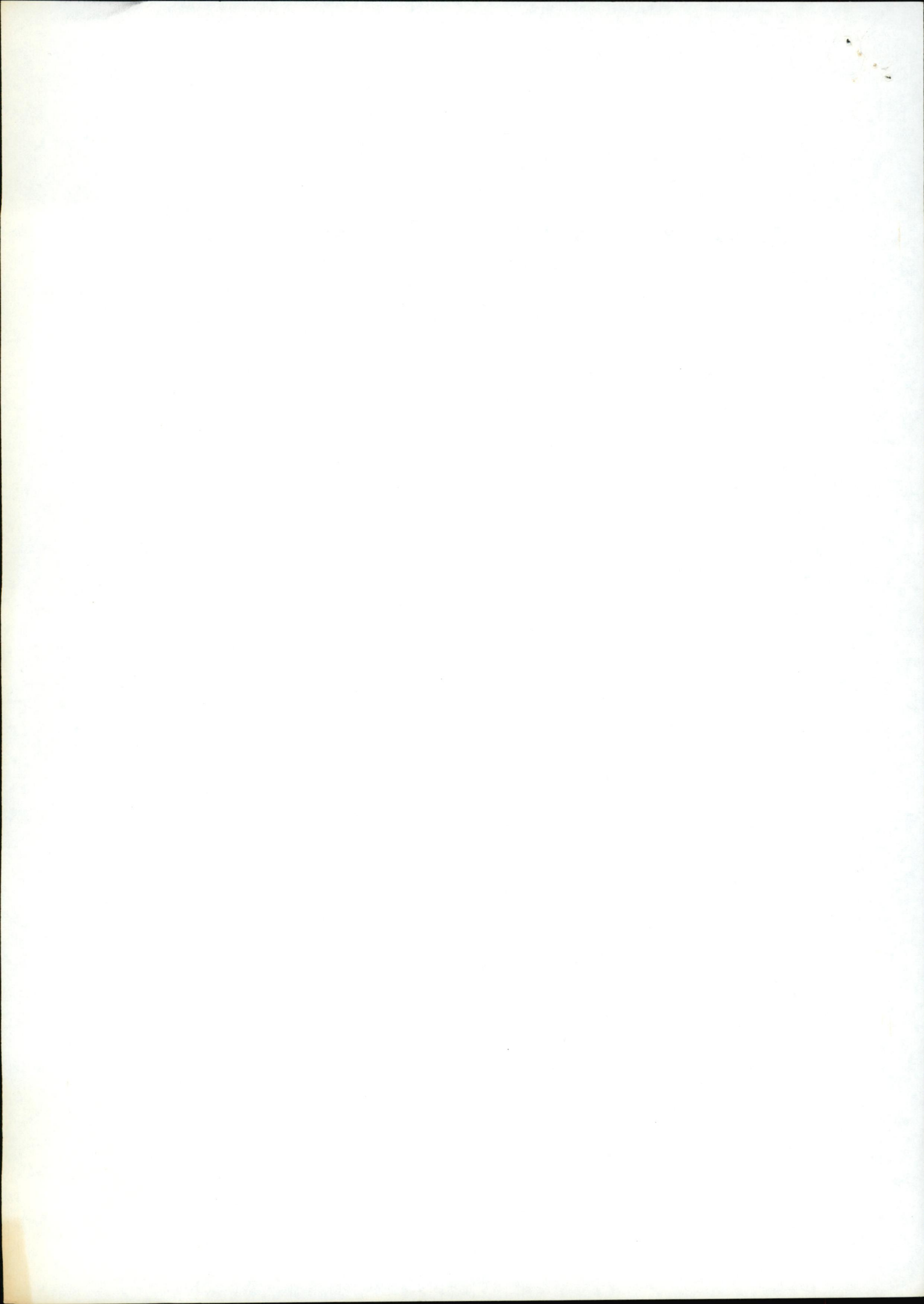
Those consulted included the Law Society of NSW, old system searchers, the major banks, the Australian Bankers Association as well as Associations representing the finance industry and surveyors. In addition a discussion paper was circulated. All responses to the discussion paper and to direct consultation have supported the proposals.

...7/. These Bills are part of an



These Bills are part of an on-going process of modernising records storage and retrieval in the Land Titles Office - a commitment to reform on the part of the government that has made the Land Titles Office a world leader in its field.

I commend the Bills.



FIRST PRINT

CONVEYANCING (AMENDMENT) BILL 1992

NEW SOUTH WALES



EXPLANATORY NOTE

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

The Liens on Crops and Wool and Stock Mortgages (Amendment) Bill 1992 and the Bills of Sale (Amendment) Bill 1992 are cognate with this Bill.

The object of this Bill is to amend the Conveyancing Act 1919 so that entries of the kind at present made, and instruments of the kind at present kept, in certain registers other than the General Register of Deeds ("the General Register") will in future be made or kept in the General Register. Those other registers are:

- (a) the register of causes, writs and orders kept under Division 2 of Part 23 of the Principal Act; and
- (b) the Register of Resumptions kept under section 196A of the Principal Act; and
- (c) the registers kept under the Liens on Crops and Wool and Stock Mortgages Act 1898; and
- (d) the register kept under the Bills of Sale Act 1898.

Each of those registers in its existing form will also become part of the General Register on the commencement of the amendments proposed for the Act under which the register is kept at present.

The Bill also provides for the inclusion in the General Register of distinctively numbered forms of covenants any of which, by reference to its number, may be adopted with or without amendment for inclusion in an instrument.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the proposed Act to commence on a day or days to be appointed by proclamation.

Clause 3 provides for amendment of the Principal Act as set out in Schedules 1-3.

Conveyancing (Amendment) 1992

SCHEDULE 1—AMENDMENTS TO PART 23, DIVISION 1

Schedule 1 (1) explains references in Division 1 of Part 23 to registration copies. These are copies of original instruments and they are made for inclusion in the General Register.

Schedule 1 (2) makes an amendment under which an instrument that relates only to land under the Real Property Act 1900 will no longer be registrable in the General Register.

Schedule 1 (3) makes provision for the inclusion in the General Register of:

- (a) current and future entries of matters that may at present be entered in the register of causes, writs and orders; and
- (b) current and future entries of matters that may at present be entered in the Register of Resumptions; and
- (c) copies of current and future liens on crops and wool, and current and future stock mortgages; and
- (d) copies of current and future bills of sale; and
- (e) standard forms of covenants referred to in Division 5 of Part 6.

Schedule 1 (4) enables the Registrar-General to refuse to accept an instrument for registration in the General Register unless it is accompanied by a certificate in a form approved by the Registrar-General.

Schedule 1 (5) provides for registration of an instrument (other than a trader's bill of sale) in the General Register after the commencement of the proposed Act to be effected when the Registrar-General allocates to it a distinctive reference signifying its registration. The registration of a trader's bill of sale is dealt with in the cognate Bills of Sale (Amendment) Bill 1992.

Schedule 1 (6) sets out the circumstances in which the Registrar-General may destroy a document forming part of the General Register.

SCHEDULE 2—AMENDMENTS TO PART 23, DIVISION 2

Schedule 2 (1) makes a consequential amendment.

Schedule 2 (2) omits section 185 which establishes the register of causes, writs and orders affecting land. This register is to be discontinued and its place taken by the General Register. Entries already made in the register before it is discontinued will be transferred to the General Register.

The other items in Schedule 2, except Schedule 2 (7) and (9), make consequential amendments and substitute "current legal proceedings" for the Latin expression "lis pendens".

Schedule 2 (7) inserts new section 190A which provides for the vacation of registration of causes, writs and orders affecting land.

Schedule 2 (9) provides for references in other Acts to the register of causes, writs and orders affecting land to be read as references to the General Register of Deeds.

Conveyancing (Amendment) 1992

SCHEDULE 3—OTHER AMENDMENTS

Schedule 3 (1) inserts definitions of “Approved form” and “General Register of Deeds”.

Schedule 3 (2) and (3) make consequential amendments.

Schedule 3 (4) inserts new Division 5 of Part 6 (sections 89A–89C) dealing with standard forms of covenants that may be registered in the General Register and included in instruments, with or without amendments, by reference to the registered form.

Schedule 3 (5) and (6) make consequential amendments.

Schedule 3 (7) excludes from the errors in official searches for which the Registrar-General may be liable those occurring in a certificate given to the Registrar-General as referred to above in relation to Schedule 1 (4).

Schedule 3 (8) removes the present restriction limiting register indexes to alphabetical indexes in a prescribed form and enables the Registrar-General to provide a copy of the whole or part of an index. It also absolves the Registrar-General from any liability for errors in the index or a copy that occur in a certificate given to the Registrar-General as referred to in relation to Schedule 1 (4).

Schedule 3 (9) substitutes “current legal proceedings” for the Latin expression “lis pendens”.

Schedule 3 (10) authorises the making of regulations of a savings or transitional nature as a consequence of the enactment of the proposed Act.

FIRST PRINT

CONVEYANCING (AMENDMENT) BILL 1992

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Conveyancing Act 1919 No. 6

SCHEDULE 1—AMENDMENTS TO PART 23, DIVISION 1
SCHEDULE 2—AMENDMENTS TO PART 23, DIVISION 2
SCHEDULE 3—OTHER AMENDMENTS

CONVEYANCING (AMENDMENT) BILL 1992

NEW SOUTH WALES



No. , 1992

A BILL FOR

An Act to amend the Conveyancing Act 1919 with respect to the registration of instruments in the General Register of Deeds including liens on crops and wool, stock mortgages and bills of sale; to discontinue the register of causes, writs and orders affecting land and provide for its effect to be continued by means of the General Register of Deeds; and for other purposes.

See also Liens on Crops and Wool and Stock Mortgages (Amendment) Bill 1992; Bills of Sale (Amendment) Bill 1992.

Conveyancing (Amendment) 1992

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Conveyancing (Amendment) Act 1992.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Amendment of Conveyancing Act 1919 No. 6

3. The Conveyancing Act 1919 is amended as set out in Schedules 1-3.

SCHEDULE 1—AMENDMENTS TO PART 23, DIVISION 1

(Sec. 3)

(1) Section 184A:

Omit the section, insert instead:

Registration copies

184A. A reference in this Division to a registration copy of an instrument is a reference to a copy of the original instrument that is made or provided as prescribed by the regulations.

(2) Section 184B (**Application of Division to certain instruments**):

- (a) From section 184B (1), omit "instruments which are", insert instead "an instrument which is".
- (b) After "Division" in section 184B (1), insert ", unless it is an instrument that is registrable under the Real Property Act 1900 and relates only to land under that Act".
- (c) Omit section 184B (2), insert instead:

(2) Section 184G does not apply to an instrument registered, or required to be registered, under the Real Property Act 1900.

Conveyancing (Amendment) 1992

SCHEDULE 1—AMENDMENTS TO PART 23, DIVISION 1—
continued

(3) Section 184C (**General Register of Deeds**):

- (a) From section 184C (2) (c), omit “and”.
- (b) After section 184C (2) (d), insert:
 - (e) a record of registrations made under Division 2 after the amendment of that Division by the Conveyancing (Amendment) Act 1992;
 - (f) a record of registrations of resumptions and rescissions of resumptions made under section 196A after the amendment of that section by the Conveyancing (Amendment) Act 1992;
 - (g) instruments registered under the Liens on Crops and Wool and Stock Mortgages Act 1898 after the commencement of the Liens on Crops and Wool and Stock Mortgages (Amendment) Act 1992;
 - (h) instruments registered under the Bills of Sale Act 1898 after the commencement of the Bills of Sale (Amendment) Act 1992; and
 - (i) memoranda of covenants registered under Division 5 of Part 6.
- (c) After section 184C (2), insert:
 - (2A) The General Register of Deeds is also comprised of:
 - (a) entries under Division 2 that constituted the register of causes, writs and orders affecting land immediately before the amendment of that Division by the Conveyancing (Amendment) Act 1992;
 - (b) recordings of resumptions, and of rescissions of resumptions, that constituted the Register of Resumptions under section 196A immediately before the amendment of that section by the Conveyancing (Amendment) Act 1992;
 - (c) each register kept for the purposes of a provision of the Liens on Crops and Wool and Stock Mortgages Act 1898 immediately before the amendment of the provision by the Liens on Crops and Wool and Stock Mortgages (Amendment) Act 1992; and

Conveyancing (Amendment) 1992

SCHEDULE 1—AMENDMENTS TO PART 23, DIVISION 1—
continued

(d) each filing, recording or registration that, immediately before the repeal or amendment of a provision of the Bills of Sale Act 1898 by the Bills of Sale (Amendment) Act 1992, was a filing, recording or registration for the purposes of the provision.

(4) Section 184D (**Registration of instruments**):

(a) After “not” in section 184D (1), insert “, unless the instrument is registrable under the Real Property Act 1900 and relates only to land under that Act”.

(b) After section 184D (2), insert:

(3) The Registrar-General may:

(a) refuse to accept an instrument for registration in the General Register of Deeds; or

(b) refuse to register an instrument in the General Register of Deeds; or

(c) reject an instrument lodged for registration in the General Register of Deeds,

if the instrument is not accompanied by a certificate that is in an approved form setting out particulars of or relating to the instrument and that is signed as prescribed.

(4) A person who signs such a certificate knowing that it is false or misleading in a material particular is guilty of an offence.

Maximum penalty: 10 penalty units.

(5) Liability for, or recovery of, a penalty under this section does not preclude the recovery of damages in an action based on a false or misleading certificate signed for the purposes of this section.

(6) The Registrar-General is not required to be satisfied as to the accuracy of a certificate provided under this section, except to the extent of ensuring that it appears on its face to comply with the requirements of this section.

(7) Proceedings for an offence under this section are to be taken before a Magistrate sitting as a Local Court.

Conveyancing (Amendment) 1992

SCHEDULE 1—AMENDMENTS TO PART 23, DIVISION 1—
continued

(5) Section 184E (**Method of registration**):

(a) Omit section 184E (1), insert instead:

(1) Registration of an instrument in the General Register of Deeds after the commencement of the Conveyancing (Amendment) Act 1992 is effected by the Registrar-General allocating a distinctive reference to the instrument in accordance with the regulations in order to signify registration of the instrument. This subsection does not apply to a trader's bill of sale.

(1A) Registration of a trader's bill of sale in the General Register of Deeds is effected as provided by section 5F of the Bills of Sale Act 1898.

(b) Omit section 184E (2) and (3).

(c) After "Instruments" in section 184E (5), insert "(other than traders' bills of sale)".

(d) Omit section 184E (7).

(6) Section 184F:

Omit the section, insert instead:

Destruction of documents

184F. (1) The Registrar-General may destroy a document forming part of the General Register of Deeds unless this section prohibits its destruction.

(2) The Registrar-General is not to destroy such a document if under a duty to deliver or issue it to any person.

(3) Instead of destroying such a document, the Registrar-General may deliver it to a person who, in the opinion of the Registrar-General, intends to preserve it for historical reasons.

(4) The Registrar-General is not to destroy or dispose of a document under this section unless a copy of the document is captured and retained by the Registrar-General in a manner that enables the document to be reproduced.

(5) The Registrar-General is to retain each document that forms part of the General Register of Deeds and is not destroyed or disposed of under this section.

Conveyancing (Amendment) 1992

SCHEDULE 1—AMENDMENTS TO PART 23, DIVISION 1—
continued

(6) This section does not authorise a failure to comply with, or a contravention of, any Act or other law and does not prevent the destruction of a document under the authority of an Act other than this Act.

(7) In this section, a reference to a document includes a reference to any certificate referred to in section 184D that is on, or accompanies, the document.

SCHEDULE 2—AMENDMENTS TO PART 23, DIVISION 2

(Sec. 3)

(1) Part 23, Division 2, heading:

Omit “Register”, insert instead “Registration”.

(2) Section 185:

Omit the section.

(3) Section 186 (**Writs and orders under judgments or relating to legal proceedings**):

(a) From section 186 (1), omit “such register”, insert instead “the General Register of Deeds”.

(b) From section 186 (1) (b) and (2), omit “lis pendens” wherever occurring, insert instead “current legal proceedings”.

(4) Section 187 (**Orders affecting land**):

Omit “such register”, insert instead “the General Register of Deeds”.

(5) Section 188 (**Protection of purchasers against non-registered writs etc.**):

(a) From section 188 (1), omit “a lis pendens”, insert instead “current legal proceedings”.

(b) From section 188 (1), omit “lis pendens” where secondly occurring, insert instead “current legal proceedings”.

(c) From section 188 (1), omit “register of causes, writs, and orders affecting land”, insert instead “General Register of Deeds”.

Conveyancing (Amendment) 1992

SCHEDULE 2—AMENDMENTS TO PART 23, DIVISION 2—
continued

- (d) From section 188 (2), omit “lis pendens”, insert instead “current legal proceedings”.
- (e) From section 188 (2), omit “register of causes, writs, and orders affecting land or the general registry of deeds”, insert instead “General Register of Deeds”.
- (6) Section 189 (**Judgments etc. not to be a charge on land until writ or order registered**):
From section 189 (1), omit “register of causes, writs, and orders affecting land”, insert instead “General Register of Deeds”.
- (7) Section 190A:
After section 190, insert:
Vacation of registration of causes, writs and orders
190A. (1) The Registrar-General may vacate any registration made under this Division if the registration has expired or has otherwise ceased to have effect.
(2) The Registrar-General may vacate such a registration whether it was made before, or is made after, the commencement of this section.
(3) Application for vacation of a registration under this Division is to be made as prescribed and is to be accompanied by such evidence, if any, as the Registrar-General may require.
- (8) Section 191 (**Application of Division to land under Real Property Act 1900**):
(a) From section 191 (2), omit “lis pendens” where firstly occurring, insert instead “current legal proceedings”.
(b) From section 191 (2), omit “a lis pendens”, insert instead “current legal proceedings”.
- (9) Section 192 (**Writs, orders etc. to which Division applies**):
At the end of the section, insert:
(2) A reference in any other Act or other instrument to entry in, or to registration in, the register of causes, writs and orders affecting land, however expressed, is taken to be a reference to registration in the General Register of Deeds.

Conveyancing (Amendment) 1992

SCHEDULE 2—AMENDMENTS TO PART 23, DIVISION 2—
continued

- (10) Section 193 (**Legal proceedings to which Division applies**):
Omit “every lis pendens”, insert instead “all legal proceedings”.

SCHEDULE 3—OTHER AMENDMENTS

(Sec. 3)

- (1) Section 7 (**Definitions**):
- (a) After the definition of “Administrator” in section 7 (1), insert:
- “**Approved form**” means a form approved by the Registrar-General for the purposes of the provision of this Act in which the expression is used.
- (b) After the definition of “Executor” in section 7 (1), insert:
- “**General Register of Deeds**” means the General Register of Deeds maintained under section 184C.
- (2) Section 23 (**Dealings with land of undischarged bankrupt**):
- (a) From section 23 (3), omit “the register of causes, writs, and orders affecting land established under this Act”, insert instead “the General Register of Deeds”.
- (b) From section 23 (4), omit “the register of causes, writs, and orders affecting land”, insert instead “the General Register of Deeds”.
- (3) Section 69 (**Application of Part 6 to land under the Real Property Act 1900**):
- Omit “Divisions 2 and 3”, insert instead “Divisions 2, 3 and 5”.
- (4) Part 6, Division 5:
- After Division 4, insert:
- Division 5—Other covenants**
- Application of Division**
- 89A. In this Division:
- “**registered memorandum**” means a memorandum registered under section 89B of this Act or filed under section 80A of the Real Property Act 1900;

Conveyancing (Amendment) 1992

SCHEDULE 3—OTHER AMENDMENTS—*continued*

“**registrable instrument**” means an instrument registrable in the General Register of Deeds.

Memorandum of covenants

89B. The Registrar-General may register in the General Register of Deeds a memorandum setting out provisions which are capable of being covenants in a registrable instrument of a class specified in the memorandum.

Inclusion in registrable instrument of covenants in registered memorandum

89C. A registrable instrument is taken to include the following covenants as if they were set out at length in the instrument:

- (a) the covenants in a registered memorandum, if the instrument states that the covenants are included and does not state that they are amended;
- (b) the covenants in a registered memorandum amended as set out in the instrument, if the instrument states that the covenants are included as so amended.

(5) Part 23, Division 3A:

From the heading, omit “Register” insert instead “Registration”.

(6) Section 196A (**Registration of Resumptions**):

- (a) Omit section 196A (2).
- (b) From section 196A (4), omit “record particulars of the resumption or rescission in the Register of Resumptions”, insert instead “register the notice in the General Register of Deeds”.
- (c) After section 196A (4A), insert:
 - (4B) A reference in any Act or other instrument to entry in, or to registration in, the Register of Resumptions, however expressed, is taken to be a reference to registration in the General Register of Deeds.

(7) Section 197 (**Official searches**):

- (a) After “copy” in section 197 (3) (b), insert “(other than an error or omission which occurred in a certificate provided to the Registrar-General under section 184D)”.

Conveyancing (Amendment) 1992

SCHEDULE 3—OTHER AMENDMENTS—*continued*

(b) After “office copy” where secondly occurring in section 197 (4), insert “if it is not an error or omission which occurred in a certificate provided by the solicitor to the Registrar-General under section 184D”.

(8) Section 198:

Omit the section, insert instead:

Index to registers

198. (1) The Registrar-General is to keep an index of the registers kept under this Act.

(2) The Registrar-General may, on payment of the prescribed fee, provide a copy, or permit the inspection, of the whole or a part of the index.

(3) The Registrar-General does not incur any liability for an error in, or omission from, a copy provided, or matter inspected, under this section if the error or omission occurred in a certificate provided to the Registrar-General under section 184D.

(4) The Registrar-General may correct errors in the index.

(9) Section 201 (**Vacation of entry of legal proceedings**):

(a) Omit “a lis pendens”, insert instead “current legal proceedings”.

(b) Omit “the lis pendens”, insert instead “the legal proceedings”.

(10) Section 202A:

After section 202, insert:

Savings and transitional provisions

202A. (1) The regulations may include provisions of a savings or transitional nature consequent on the enactment of the Conveyancing (Amendment) Act 1992.

(2) A provision referred to in subsection (1) may, if the regulations so provide, take effect from the date of amendment or repeal of the related provision amended or repealed by the Conveyancing (Amendment) Act 1992 or from a later date.

Conveyancing (Amendment) 1992

SCHEDULE 3—OTHER AMENDMENTS—*continued*

(3) To the extent that a provision referred to in subsection (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate:

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of the person existing before the date of publication; or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of publication.
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CONVEYANCING (AMENDMENT) ACT 1992 No. 5

NEW SOUTH WALES



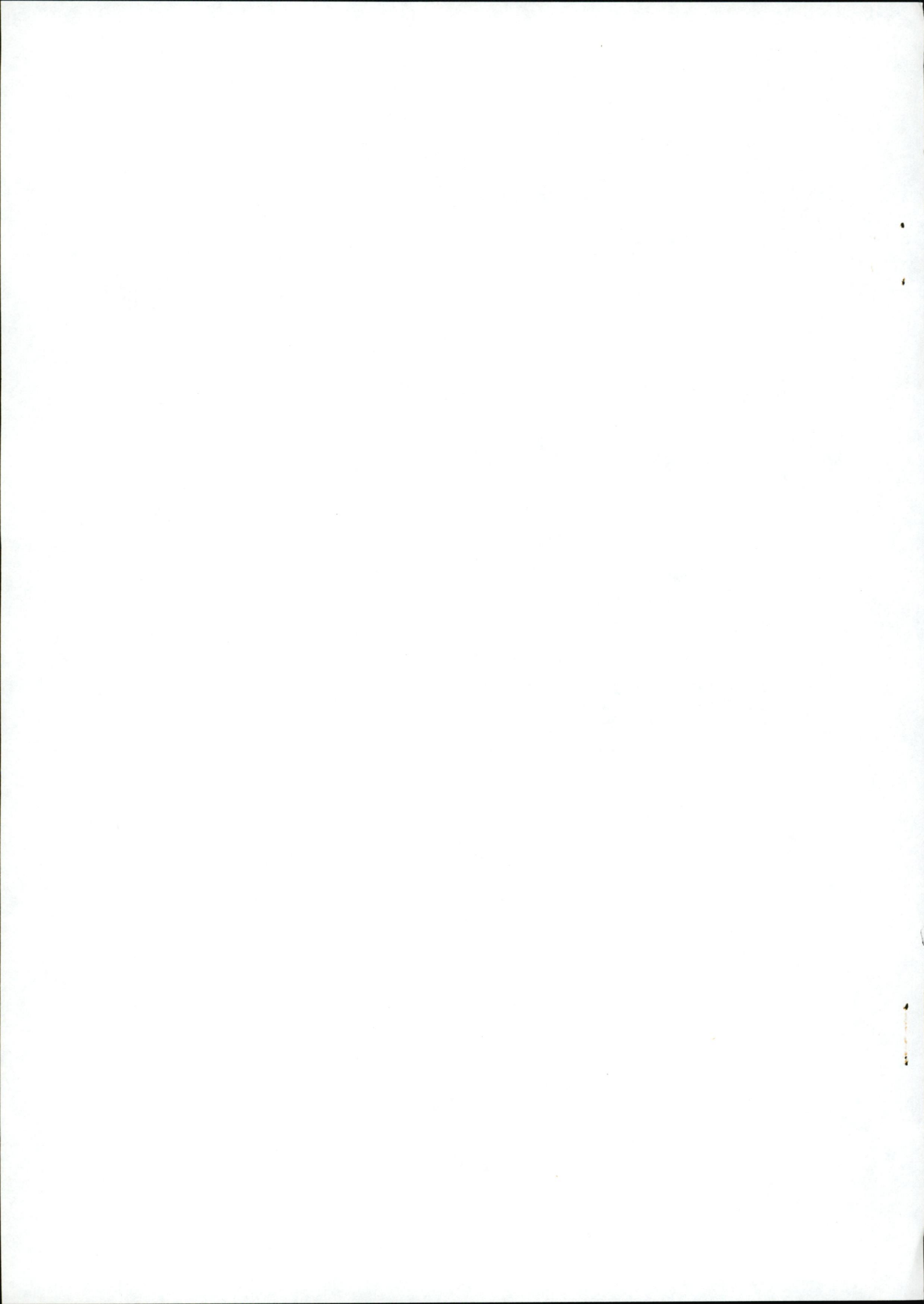
TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Conveyancing Act 1919 No. 6

SCHEDULE 1—AMENDMENTS TO PART 23, DIVISION 1

SCHEDULE 2—AMENDMENTS TO PART 23, DIVISION 2

SCHEDULE 3—OTHER AMENDMENTS



CONVEYANCING (AMENDMENT) ACT 1992 No. 5

NEW SOUTH WALES



Act No. 5, 1992

An Act to amend the Conveyancing Act 1919 with respect to the registration of instruments in the General Register of Deeds including liens on crops and wool, stock mortgages and bills of sale; to discontinue the register of causes, writs and orders affecting land and provide for its effect to be continued by means of the General Register of Deeds; and for other purposes. [Assented to 17 March 1992]

See also Liens on Crops and Wool and Stock Mortgages (Amendment) Act 1992; Bills of Sale (Amendment) Act 1992.

Conveyancing (Amendment) Act 1992 No. 5

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Conveyancing (Amendment) Act 1992.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Amendment of Conveyancing Act 1919 No. 6

3. The Conveyancing Act 1919 is amended as set out in Schedules 1-3.

SCHEDULE 1—AMENDMENTS TO PART 23, DIVISION 1

(Sec. 3)

(1) Section 184A:

Omit the section, insert instead:

Registration copies

184A. A reference in this Division to a registration copy of an instrument is a reference to a copy of the original instrument that is made or provided as prescribed by the regulations.

(2) Section 184B (**Application of Division to certain instruments**):

- (a) From section 184B (1), omit "instruments which are", insert instead "an instrument which is".
- (b) After "Division" in section 184B (1), insert ", unless it is an instrument that is registrable under the Real Property Act 1900 and relates only to land under that Act".
- (c) Omit section 184B (2), insert instead:
 - (2) Section 184G does not apply to an instrument registered, or required to be registered, under the Real Property Act 1900.

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SCHEDULE 1—AMENDMENTS TO PART 23, DIVISION 1—
continued

(3) Section 184C (**General Register of Deeds**):

- (a) From section 184C (2) (c), omit “and”.
- (b) After section 184C (2) (d), insert:
 - (e) a record of registrations made under Division 2 after the amendment of that Division by the Conveyancing (Amendment) Act 1992;
 - (f) a record of registrations of resumptions and rescissions of resumptions made under section 196A after the amendment of that section by the Conveyancing (Amendment) Act 1992;
 - (g) instruments registered under the Liens on Crops and Wool and Stock Mortgages Act 1898 after the commencement of the Liens on Crops and Wool and Stock Mortgages (Amendment) Act 1992;
 - (h) instruments registered under the Bills of Sale Act 1898 after the commencement of the Bills of Sale (Amendment) Act 1992; and
 - (i) memoranda of covenants registered under Division 5 of Part 6.
- (c) After section 184C (2), insert:
 - (2A) The General Register of Deeds is also comprised of:
 - (a) entries under Division 2 that constituted the register of causes, writs and orders affecting land immediately before the amendment of that Division by the Conveyancing (Amendment) Act 1992;
 - (b) recordings of resumptions, and of rescissions of resumptions, that constituted the Register of Resumptions under section 196A immediately before the amendment of that section by the Conveyancing (Amendment) Act 1992;
 - (c) each register kept for the purposes of a provision of the Liens on Crops and Wool and Stock Mortgages Act 1898 immediately before the amendment of the provision by the Liens on Crops and Wool and Stock Mortgages (Amendment) Act 1992; and

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SCHEDULE 1—AMENDMENTS TO PART 23, DIVISION 1—
continued

- (d) each filing, recording or registration that, immediately before the repeal or amendment of a provision of the Bills of Sale Act 1898 by the Bills of Sale (Amendment) Act 1992, was a filing, recording or registration for the purposes of the provision.

(4) Section 184D (**Registration of instruments**):

- (a) After “not” in section 184D (1), insert “, unless the instrument is registrable under the Real Property Act 1900 and relates only to land under that Act”.
- (b) After section 184D (2), insert:
- (3) The Registrar-General may:
- (a) refuse to accept an instrument for registration in the General Register of Deeds; or
- (b) refuse to register an instrument in the General Register of Deeds; or
- (c) reject an instrument lodged for registration in the General Register of Deeds,

if the instrument is not accompanied by a certificate that is in an approved form setting out particulars of or relating to the instrument and that is signed as prescribed.

(4) A person who signs such a certificate knowing that it is false or misleading in a material particular is guilty of an offence.

Maximum penalty: 10 penalty units.

(5) Liability for, or recovery of, a penalty under this section does not preclude the recovery of damages in an action based on a false or misleading certificate signed for the purposes of this section.

(6) The Registrar-General is not required to be satisfied as to the accuracy of a certificate provided under this section, except to the extent of ensuring that it appears on its face to comply with the requirements of this section.

(7) Proceedings for an offence under this section are to be taken before a Magistrate sitting as a Local Court.

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SCHEDULE 1—AMENDMENTS TO PART 23, DIVISION 1—
continued

(5) Section 184E (**Method of registration**):

(a) Omit section 184E (1), insert instead:

(1) Registration of an instrument in the General Register of Deeds after the commencement of the Conveyancing (Amendment) Act 1992 is effected by the Registrar-General allocating a distinctive reference to the instrument in accordance with the regulations in order to signify registration of the instrument. This subsection does not apply to a trader's bill of sale.

(1A) Registration of a trader's bill of sale in the General Register of Deeds is effected as provided by section 5F of the Bills of Sale Act 1898.

(b) Omit section 184E (2) and (3).

(c) After "Instruments" in section 184E (5), insert "(other than traders' bills of sale)".

(d) Omit section 184E (7).

(6) Section 184F:

Omit the section, insert instead:

Destruction of documents

184F. (1) The Registrar-General may destroy a document forming part of the General Register of Deeds unless this section prohibits its destruction.

(2) The Registrar-General is not to destroy such a document if under a duty to deliver or issue it to any person.

(3) Instead of destroying such a document, the Registrar-General may deliver it to a person who, in the opinion of the Registrar-General, intends to preserve it for historical reasons.

(4) The Registrar-General is not to destroy or dispose of a document under this section unless a copy of the document is captured and retained by the Registrar-General in a manner that enables the document to be reproduced.

(5) The Registrar-General is to retain each document that forms part of the General Register of Deeds and is not destroyed or disposed of under this section.

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SCHEDULE 1—AMENDMENTS TO PART 23, DIVISION 1—
continued

(6) This section does not authorise a failure to comply with, or a contravention of, any Act or other law and does not prevent the destruction of a document under the authority of an Act other than this Act.

(7) In this section, a reference to a document includes a reference to any certificate referred to in section 184D that is on, or accompanies, the document.

SCHEDULE 2—AMENDMENTS TO PART 23, DIVISION 2

(Sec. 3)

- (1) Part 23, Division 2, heading:
Omit “Register”, insert instead “Registration”.
- (2) Section 185:
Omit the section.
- (3) Section 186 (**Writs and orders under judgments or relating to legal proceedings**):
 - (a) From section 186 (1), omit “such register”, insert instead “the General Register of Deeds”.
 - (b) From section 186 (1) (b) and (2), omit “lis pendens” wherever occurring, insert instead “current legal proceedings”.
- (4) Section 187 (**Orders affecting land**):
Omit “such register”, insert instead “the General Register of Deeds”.
- (5) Section 188 (**Protection of purchasers against non-registered writs etc.**):
 - (a) From section 188 (1), omit “a lis pendens”, insert instead “current legal proceedings”.
 - (b) From section 188 (1), omit “lis pendens” where secondly occurring, insert instead “current legal proceedings”.
 - (c) From section 188 (1), omit “register of causes, writs, and orders affecting land”, insert instead “General Register of Deeds”.

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SCHEDULE 2—AMENDMENTS TO PART 23, DIVISION 2—
continued

- (d) From section 188 (2), omit “lis pendens”, insert instead “current legal proceedings”.
 - (e) From section 188 (2), omit “register of causes, writs, and orders affecting land or the general registry of deeds”, insert instead “General Register of Deeds”.
- (6) Section 189 (**Judgments etc. not to be a charge on land until writ or order registered**):
- From section 189 (1), omit “register of causes, writs, and orders affecting land”, insert instead “General Register of Deeds”.
- (7) Section 190A:
- After section 190, insert:
- Vacation of registration of causes, writs and orders**
- 190A. (1) The Registrar-General may vacate any registration made under this Division if the registration has expired or has otherwise ceased to have effect.
- (2) The Registrar-General may vacate such a registration whether it was made before, or is made after, the commencement of this section.
- (3) Application for vacation of a registration under this Division is to be made as prescribed and is to be accompanied by such evidence, if any, as the Registrar-General may require.
- (8) Section 191 (**Application of Division to land under Real Property Act 1900**):
- (a) From section 191 (2), omit “lis pendens” where firstly occurring, insert instead “current legal proceedings”.
 - (b) From section 191 (2), omit “a lis pendens”, insert instead “current legal proceedings”.
- (9) Section 192 (**Writs, orders etc. to which Division applies**):
- At the end of the section, insert:
- (2) A reference in any other Act or other instrument to entry in, or to registration in, the register of causes, writs and orders affecting land, however expressed, is taken to be a reference to registration in the General Register of Deeds.

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SCHEDULE 2—AMENDMENTS TO PART 23, DIVISION 2—
continued

- (10) Section 193 (**Legal proceedings to which Division applies**):
Omit “every *lis pendens*”, insert instead “all legal proceedings”.

SCHEDULE 3—OTHER AMENDMENTS

(Sec. 3)

- (1) Section 7 (**Definitions**):
- (a) After the definition of “Administrator” in section 7 (1), insert:
 “**Approved form**” means a form approved by the Registrar-General for the purposes of the provision of this Act in which the expression is used.
- (b) After the definition of “Executor” in section 7 (1), insert:
 “**General Register of Deeds**” means the General Register of Deeds maintained under section 184C.
- (2) Section 23 (**Dealings with land of undischarged bankrupt**):
- (a) From section 23 (3), omit “the register of causes, writs, and orders affecting land established under this Act”, insert instead “the General Register of Deeds”.
- (b) From section 23 (4), omit “the register of causes, writs, and orders affecting land”, insert instead “the General Register of Deeds”.
- (3) Section 69 (**Application of Part 6 to land under the Real Property Act 1900**):
Omit “Divisions 2 and 3”, insert instead “Divisions 2, 3 and 5”.
- (4) Part 6, Division 5:
After Division 4, insert:

Division 5—Other covenants

Application of Division
 89A. In this Division:
 “**registered memorandum**” means a memorandum registered under section 89B of this Act or filed under section 80A of the Real Property Act 1900;

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“registrable instrument” means an instrument registrable in the General Register of Deeds.

Memorandum of covenants

89B. The Registrar-General may register in the General Register of Deeds a memorandum setting out provisions which are capable of being covenants in a registrable instrument of a class specified in the memorandum.

Inclusion in registrable instrument of covenants in registered memorandum

89C. A registrable instrument is taken to include the following covenants as if they were set out at length in the instrument:

- (a) the covenants in a registered memorandum, if the instrument states that the covenants are included and does not state that they are amended;
- (b) the covenants in a registered memorandum amended as set out in the instrument, if the instrument states that the covenants are included as so amended.

(5) Part 23, Division 3A:

From the heading, omit “Register” insert instead “Registration”.

(6) Section 196A (**Registration of Resumptions**):

- (a) Omit section 196A (2).
- (b) From section 196A (4), omit “record particulars of the resumption or rescission in the Register of Resumptions”, insert instead “register the notice in the General Register of Deeds”.
- (c) After section 196A (4A), insert:
 - (4B) A reference in any Act or other instrument to entry in, or to registration in, the Register of Resumptions, however expressed, is taken to be a reference to registration in the General Register of Deeds.

(7) Section 197 (**Official searches**):

- (a) After “copy” in section 197 (3) (b), insert “(other than an error or omission which occurred in a certificate provided to the Registrar-General under section 184D)”.

SCHEDULE 3—OTHER AMENDMENTS—*continued*

- (b) After “office copy” where secondly occurring in section 197 (4), insert “if it is not an error or omission which occurred in a certificate provided by the solicitor to the Registrar-General under section 184D”.
- (8) Section 198:
Omit the section, insert instead:
Index to registers
198. (1) The Registrar-General is to keep an index of the registers kept under this Act.
(2) The Registrar-General may, on payment of the prescribed fee, provide a copy, or permit the inspection, of the whole or a part of the index.
(3) The Registrar-General does not incur any liability for an error in, or omission from, a copy provided, or matter inspected, under this section if the error or omission occurred in a certificate provided to the Registrar-General under section 184D.
(4) The Registrar-General may correct errors in the index.
- (9) Section 201 (**Vacation of entry of legal proceedings**):
(a) Omit “a lis pendens”, insert instead “current legal proceedings”.
(b) Omit “the lis pendens”, insert instead “the legal proceedings”.
- (10) Section 202A:
After section 202, insert:
Savings and transitional provisions
202A. (1) The regulations may include provisions of a savings or transitional nature consequent on the enactment of the Conveyancing (Amendment) Act 1992.
(2) A provision referred to in subsection (1) may, if the regulations so provide, take effect from the date of amendment or repeal of the related provision amended or repealed by the Conveyancing (Amendment) Act 1992 or from a later date.

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SCHEDULE 3—OTHER AMENDMENTS—*continued*

- (3) To the extent that a provision referred to in subsection (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate:
- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of the person existing before the date of publication; or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of publication.

[*Minister's second reading speech made in—
Legislative Assembly on 26 February 1992
Legislative Council on 4 March 1992*]

