

[CONFIDENTIAL.]  
(Rough Draft for Consideration Only.)

No. , 1931.

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A BILL

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

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

1. (1) This Act may be cited as the "Conveyancing Short title: (Amendment) Act, 1931."

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(2) The Conveyancing Act, 1919-1930, as amended by this Act, may be cited as the Conveyancing Act, 1919-1931.

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

Amendment of Part IV of Conveyancing Act, 1919-1930.

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

Substituted s. 52.

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

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

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

Sec. 54A.

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

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

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

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

Further amendment of the Conveyancing Act, 1919-1930.

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

Sec. 61.

(2) This section applies to land under the provisions of the Real Property Act, 1900.

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

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

Sec. 69.

(Application of Part VI.)

(c) by inserting at the end of section 88A the following new subsection :—

Sec. 88A.

(2) This section applies and shall be deemed to have applied from the commencement of

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

the

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the Conveyancing (Amendment) Act, 1930, to land under the provisions of the Real Property Act, 1900.

- (d) by inserting at the end of section 96A the following new subsection :—
  - (4) This section applies and shall be deemed to have applied from the commencement of the Conveyancing (Amendment) Act, 1930, to mortgages under the Real Property Act, 1900.
- (e) by adding at the end of subsection sixteen of section one hundred and six the words “ and the mortgagee may, by writing, delegate any of such powers to the receiver ” ;
- (f) by adding at the end of subsection eleven of section one hundred and seven the words “ and the mortgagee may, by writing, delegate any of such powers to the receiver ” ;
- (g) by inserting at the end of subsection three of section one hundred and fifteen the words “ and to exercise any powers which may have been delegated to him by the mortgagee pursuant to this Act ” ;
- (h) by omitting from subsection eight of section one hundred and twenty-nine the words “ save as otherwise mentioned ” ;
- (i) by omitting from paragraph (a) of subsection four of section one hundred and sixty the words “ the last preceding subsection ” and by inserting in lieu thereof the words “ subsection three ” ;
- (j) by omitting from subsection two of section 181A the word “ subsection ” and by inserting in lieu thereof the word “ section ” ;

Sec. 96A.  
(Notice of trusts affecting mortgage debts.)

Sec. 106.  
(Leasing powers of mortgagor or mortgagee in possession.)

Sec. 107.  
(Powers (with a view to the grant of an authorised lease) for mortgagor and mortgagee in possession to accept surrenders of lease.)

Sec. 115, subsec. (3).  
cf. Act 15 Geo. V, c. 20, s. 109 (3).

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

Sec. 160, subsec. (4)(a).

Sec. 181A, subsec. (2).

(k)

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

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

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

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

Sch. VI  
note.

NOTE.—The lessor will be entitled to re-enter or forfeit the lease in the event of the lessee failing to comply with this notice within a reasonable time—see section one hundred and twenty-nine of the Conveyancing Act, 1919-1931.

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

Further amendment of Conveyancing Act, 1919-1930.  
New s. 31.

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

PART VA.

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

Registrar-General to issue certificates of title in respect of resumed land.  
Act No. 35, 1902, s. 20A.

(2) Where any land described in a Gazette notification declaring such land to be so resumed is not under the provisions of the Real Property Act, 1900, the Registrar-General shall, upon the application of the person, body, or corporation in whom the land so described is by virtue of such notification vested, and upon payment of the fees prescribed, issue to such person, body, or corporation a certificate of title under the Real Property Act, 1900, in respect of such land without

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without causing any examination or report to be made as to the title to the land and without considering such title except so far as may be necessary to give effect to the provisions of subsection three of this section.

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

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

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

(6) This section shall apply to land resumed before or after the commencement of the Conveyancing (Amendment) Act, 1931.

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

46A. Where a notice of resumption is sent Notices of resumption: to the Registrar-General in pursuance of section 196A of the Conveyancing Act, 1919-1931, or a copy of a notification of acquisition under the Land Acquisition Act, 1906-1916, is lodged with him, the following provisions shall have effect:—

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

(b) Where the duplicate Crown grant or certificate of title is presented with the notice of resumption or the copy of the notification

notification of acquisition, the provisions of this Act relating to the registration of transfer and action consequent thereon shall, mutatis mutandis, apply to and in respect of such notice or copy of notification.

- (c) Where the duplicate Crown grant or certificate of title is not presented with the notice of resumption or notification of acquisition the Registrar-General shall at the request of the person lodging the same, where the land has been resumed, or acquired for the estate in fee-simple, cancel wholly, or in part as the case may require the folium of the register book constituted by the Crown grant or certificate of title, and shall make out to the constructing authority, or the Commonwealth of Australia, or the person in whom by the notification in the Gazette or in the Government Gazette of the Commonwealth of Australia as the case may be, a certificate of title for the land resumed.
- (d) If the land so resumed is wholly or in part comprised in a grant or certificate of title under the provisions of the Real Property Act, 1900, and the grant or certificate of title is in the possession of some person other than the person, body, or corporation in whom the land is vested by virtue of the resumption, and such first-named person declines to deliver it up for cancellation when required in writing by the Registrar-General so to do, the grant or certificate of title shall be deemed to be wrongfully retained within the meaning of section one hundred and thirty-six of the Real Property Act, 1900.

(e)

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(c) by inserting at the end of section one hundred and seven the words "not being a party to the instrument." Sec. 107. (Instruments, how attested.)

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

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

- (a) Darling Harbour Land Titles Act, 1907, the whole. Act No. 10, 1907.
- (b) Sydney Harbour Trust Land Titles Act, 1907, section three, subsection two. Act No. 7, 1909, s. 3 (2).
- (c) Sydney Corporation Act, 1902, section 20A. Act No. 7, 1924, s. 20A.
- (d) Sydney Corporation (Amendment) Act, 1924, section thirteen, paragraph (d). (Revision.)

