

[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1942.

# A BILL

To make certain provisions for and in relation to the furnishing of evidence of non-revocation of powers of attorney given by persons engaged on war service; for this purpose to amend the Conveyancing Act, 1919-1942, and the Trustee and Wills (Emergency Provisions) Act, 1940; and for purposes connected therewith.

**B**E 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 (Further Amendment) Act, 1942." Short title and citation.

*Conveyancing (Further Amendment).*

(2) The Conveyancing Act, 1919, as amended by subsequent Acts and by this Act, may be cited as the Conveyancing Acts, 1919-1942.

2. The Conveyancing Act, 1919-1942, is amended—

Amendment of Act No. 6, 1919.

5 (a) by inserting next after subsection four of section one hundred and sixty the following new subsection:—

Sec. 160. (Powers of attorney to continue in force until notice of death or revocation.)

10 (4A) (a) In any case where the donor of the power is engaged on war service the following provisions shall have effect:—

15 (i) a statutory declaration by the donee of the power that the donor of the power is engaged on war service within the meaning of this Act, shall be accepted as sufficient evidence of the fact by any person dealing with the donee of the power;

20 (ii) the donor of the power shall be presumed to remain alive until definite news of his death has been received or such death has been presumed by a court of competent jurisdiction, or a certificate of death on war service has been issued pursuant to the National Security (Supplementary) Regulations or the National Security (War Deaths) Regulations made under the National Security Act 1939-1940 of the Parliament of the Commonwealth of Australia or any regulations made under that Act amending or replacing the National Security (War Deaths) Regulations; and the fact that he is reported "missing" or "missing and believed to be killed" or any similar report shall not be construed as giving to persons having knowledge of such report actual notice of his death although the same has in fact occurred.

(b)

*Conveyancing (Further Amendment).*

5 (b) For the purposes of this subsection  
 a person shall be deemed to be "engaged on war  
 service" if, being a member of His Majesty's  
 naval, military or air forces, he is bound to con-  
 tinuous service with such forces for the dura-  
 tion of the present war between His Majesty  
 and Germany and her allies, whether or not he  
 has agreed to serve or does serve beyond the  
 10 limits of the Commonwealth of Australia and  
 those of any territory under the authority of  
 the Commonwealth.

15 (c) This subsection shall extend to  
 powers of attorney created by instruments  
 executed before as well as after the commence-  
 ment of the Conveyancing (Further Amend-  
 ment) Act, 1942.

20 (d) This subsection shall extend to any  
 power of attorney the donor of which is  
 engaged on war service whether or not the  
 donor of the power was engaged on war service  
 at the date of execution of the instrument  
 creating the power, and whether the instrument  
 creating the power was executed in or outside  
 New South Wales.

25 (e) Where before the commencement of  
 the Conveyancing (Further Amendment) Act,  
 1942, a statutory declaration has been accepted  
 by a person dealing in good faith with the donee  
 of the power the provisions of paragraphs (a)  
 30 to (d) both inclusive of this subsection shall  
 extend to and in respect of such declaration in  
 like manner as they extend to similar declara-  
 tions made after such commencement.

35 (f) Nothing in this subsection shall be  
 construed as limiting any power, authority,  
 privilege or immunity conferred or given by  
 Part II of the Trustee and Wills (Emergency  
 Provisions) Act, 1940.

(b)

*Conveyancing (Further Amendment).*

(b) by omitting subsection four of section 168A.

Sec. 168A.  
(Instruments  
executed  
outside New  
South Wales  
by persons  
engaged  
on war  
service.)

Amend-  
ment of  
Act No. 32,  
1940.

3. The Trustee and Wills (Emergency Provisions) Act, 1940, is amended by inserting in section eight after the words "competent jurisdiction" the words "or a  
5 certificate of death on war service has been issued pursuant to the National Security (Supplementary) Regulations or the National Security (War Deaths) Regulations made under the National Security Act 1939-1940 of the Parliament of the Commonwealth of Australia, or any  
10 regulations made under that Act amending or replacing the National Security (War Deaths) Regulations."

