

GLEBE AND OTHER PROPERTIES (SPECIAL
PROVISIONS) ACT.

New South Wales



ANNO VICESIMO TERTIO

ELIZABETHÆ II REGINÆ

Act No. 53, 1974.

An Act to restrict the rights of vendors under contracts for the sale on terms, and mortgagees under mortgages, of certain land; to amend the Real Property Act, 1900, the Conveyancing Act, 1919, in certain respects; and for purposes connected therewith. [Assented to, 27th September, 1974.]

BE

No. 53, 1974

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:—

Short title.

1. This Act may be cited as the "Glebe and Other Properties (Special Provisions) Act, 1974".

Interpreta-
tion.

2. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

"prescribed period", in relation to scheduled land, means—

(a) where the land is comprised in a folio or instrument referred to in the definition of "scheduled land" in this subsection, a reference to which folio or instrument is, at the commencement of this Act, included in Part 1 or 2 of the Schedule—the period of two months from that commencement; or

(b) where the land is comprised in a folio or instrument so referred to, a reference to which folio or instrument is inserted in the Schedule pursuant to subsection (2)—the period of two months from the date on which the reference is so inserted,

or such extended period as may be notified in respect of that land pursuant to subsection (3);

"prescribed right", in relation to scheduled land, means a right to take or enter into possession of that land, to sell or join in the sale of or to offer to sell or join in the sale of that land, to lease or otherwise dispose of or to offer to lease or otherwise dispose of that land, to apply to or request a court for an

order

Glebe and Other Properties (Special Provisions).

order or direction to sell, lease or otherwise dispose No. 53, 1974 of that land, to exercise the power of foreclosure in respect of that land or to apply for an order for foreclosure in respect of that land, to demand rent payable under a lease of that land, to exercise any other power conferred by section 109 (1) (paragraph (b) excepted) of the Conveyancing Act, 1919, in relation to that land or to do any act which might result directly or indirectly in any person who is a purchaser on terms under a contract for the sale of that land being deprived of the right to possession of that land;

“scheduled land” means—

- (a) any land comprised in a folio of the Register under the Real Property Act, 1900, a reference to which folio is for the time being included in Part 1 of the Schedule; and
- (b) any land comprised in an instrument registered in the Register kept under the Registration of Deeds Act, 1897, a reference to which instrument is for the time being included in Part 2 of the Schedule.

(2) The Governor may by notification published in the Gazette amend the Schedule—

- (a) by inserting therein the reference to the folio of the Register under the Real Property Act, 1900, or the instrument registered in the Register kept under the Registration of Deeds Act, 1897, in which folio or instrument is comprised any land which is the subject of a contract for the sale of the land on terms and of a mortgage under which the vendor or one of the vendors under that contract is the mortgagor or one of two or more joint mortgagors; or
- (b) by omitting therefrom any reference included therein.

(3)

No. 53, 1974

(3) The Governor may, in relation to any scheduled land, by notification published in the Gazette before the expiration of the period referred to in paragraph (a) or (b), as the case may be, of the definition of "prescribed period" in subsection (1) relating to that land or before the expiration of that period as extended under this subsection, extend that period or that period as so extended.

(4) A reference in this Act to a contract for the sale of land on terms is a reference to—

- (a) a contract for the sale of land; or
- (b) any other contract relating to the payment of the consideration, or any part of the consideration, payable under a contract for the sale of land or of any interest payable in respect of that consideration or part,

where the consideration, or part of the consideration, payable under the contract referred to in paragraph (a) or the other contract referred to in paragraph (b) or under both of those contracts (whether that consideration or part is by way of purchase moneys, interest, adjustment of outgoings or otherwise) is payable by more than two separate payments.

Restriction on rights of certain vendors and mortgagees.

3. (1) Notwithstanding the provisions—

- (a) of any contract for the sale on terms of any scheduled land, of any other instrument conferring rights on the vendor under such a contract or of any law, a prescribed right of the person who is the vendor under such a contract or of any person taking under or acting on behalf of such a person; or
- (b) of any mortgage of any scheduled land, of any other instrument conferring rights on the mortgagee under such a mortgage or of any law, a prescribed right of the person who is the mortgagee under such a mortgage or of any person taking under or acting on behalf of such a mortgagee,

may not be exercised during the prescribed period relating to that land and no court shall have jurisdiction during that period to effectuate any such right. (2)

Glebe and Other Properties (Special Provisions).

(2) Nothing in subsection (1) prevents a vendor No. 53, 1974 referred to in subsection (1) (a) or a mortgagee referred to in subsection (1) (b) or a person taking under or acting on behalf of such a vendor or mortgagee from exercising a prescribed right in relation to scheduled land or a court from exercising jurisdiction in respect of any such right if the person who was the purchaser of the land at the time it became scheduled land or who is an assignee under an assignment executed by that purchaser of that purchaser's interest in the land agrees in writing to the exercise of that right and the instrument by which that agreement is evidenced is witnessed by a solicitor instructed and employed independently of the vendor under the contract for the sale of the land and of any mortgagee under a mortgage of the land and bears a certificate by that solicitor that he explained the effect of this Act and of the agreement to that purchaser.

4. (1) The Registrar-General shall cause—

(a) to be entered in the Register under the Real Property Act, 1900, his caveat forbidding dealings with any scheduled land under that Act except with the consent of the Minister; and

(b) to be registered in the Register kept under the Registration of Deeds Act, 1897, and indexed in such manner as the Registrar-General considers appropriate, a copy of this Act.

Duties of
Registrar-
General.

(2) The caveat referred to in subsection (1) (a) ceases to have effect in relation to any land upon that land ceasing to be scheduled land.

5. (1) Where, before land became scheduled land, the vendor under a contract for the sale on terms of that land or a mortgagee of that land exercised any prescribed right in relation to that land and the purchaser under that contract has ceased to have possession of that land, the Governor may by notification published in the Gazette direct that that purchaser be restored to possession of that land.

(2)

No. 53, 1974

(2) The purchaser referred to in subsection (1) of scheduled land in respect of which an order has been made under subsection (1) is, notwithstanding the provisions of the contract or mortgage referred to in subsection (1), any other instrument conferring rights on the vendor under that contract or on the mortgagee under that mortgage or any other law, entitled to possession of the scheduled land.

Repeal.

6. This Act is repealed on and from a day to be appointed by the Governor in respect thereof and notified by proclamation published in the Gazette.

SCHEDULE.**PART 1**

VOLUME	FOLIO	VOLUME	FOLIO
746 ..	133	4193 ..	143
814 ..	46	4277 ..	1
940 ..	182	4302 ..	126
940 ..	183	4725 ..	80
1197 ..	132	4890 ..	189
1242 ..	119	5599 ..	111
1474 ..	146	6117 ..	202
1522 ..	8	6182 ..	118
1661 ..	47	6247 ..	146
1892 ..	79	6394 ..	231
1944 ..	92	6824 ..	146
2530 ..	139	6962 ..	237
2714 ..	158	7153 ..	88
3353 ..	171	7168 ..	189
3571 ..	215	7253 ..	207
3647 ..	134	7331 ..	127
3658 ..	90	7498 ..	50
3803 ..	172	7545 ..	41
4027 ..	124	7596 ..	135
4056 ..	22	7601 ..	234
4074 ..	203	7771 ..	115
4193 ..	142	7834 ..	112

SCHEDULE

*Glebe and Other Properties (Special Provisions).*SCHEDULE—*continued.*

No. 53, 1974

PART 1—*continued.*

VOLUME	FOLIO	VOLUME	FOLIO
7834	118	10672	211
7896	183	10697	177
8303	223	11036	38
8486	77	11036	39
9020	29	11286	31
9020	30	11312	247
9298	140	11376	231
9337	91	11397	207
9372	191	11671	119
9474	73	11671	120
9527	57	11719	56
9558	156	11719	57
9833	223	11719	58
9905	205	11719	59
9905	206	11719	60
9905	207	11719	61
9905	208	11765	105
9905	209	11894	92
10336	242	11894	93
10336	243	11894	94
10469	194	11894	95
10469	195	11969	113
10469	196	12148	87
10667	111		

PART 2

BOOK	NUMBER	BOOK	NUMBER
3016	170	3112	103
3051	722	3114	682
3054	878	3127	913
3060	18	3132	140
3063	703	3134	258
3068	536	3138	496
3080	805	3148	615
3103	855		

PAY-ROLL