

Act No. 22, 1897.

An Act to consolidate the Law relating to the  
Registration of Deeds. [*6th December, 1897.*]

REGISTRATION  
OF DEEDS.  
—

**B**E 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:—

1. This Act may be cited as the "Registration of Deeds Act, Short title. 1897."

2. The Acts mentioned in the First Schedule to this Act, to the extent to which the same are there expressed to be repealed, are hereby repealed. Repeal of Acts.

**3.**

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- Registrar-General.**  
19 Vic. No. 34, s. 2.  
20 Vic. No. 27, s. 2.
- 3.** (I) The term "Registrar-General" throughout this Act shall mean the person appointed Registrar-General under the provisions of any Act for the time being in force for the establishment of a general register in New South Wales for the registration of births, deaths, and marriages.
- Interpretation of the term instrument.**  
7 Vic. No. 16, s. 22.
- (II) For the several purposes of this Act, the term instrument shall, except where otherwise provided, include not only conveyances and other deeds, but also all instruments in writing whatsoever, whereby real or leasehold estate is affected or is intended so to be.
- Appointment of deputy.**  
20 Vic. No. 27, s. 3.
- 4.** The Registrar-General may, with the sanction of the Governor, appoint a deputy or deputies, whose acts with respect to all the duties by this Act imposed upon the Registrar-General shall have the same force and effect as if done by the Registrar-General.
- At what time office to be open.**  
7 Vic. No. 16, s. 3.
- 5.** (I) The office of the Registrar-General shall be kept open for the recording, registration, and filing of all grants, deeds, conveyances, instruments, and other documents in accordance with the provisions of this Act for not less than six hours, beginning at the hour of ten in the forenoon, on all Mondays, Tuesdays, Wednesdays, Thursdays, and Fridays throughout the year, and for not less than three hours, beginning at the hour aforesaid, on all Saturdays throughout the year.
- (II) The said office shall not be open on Sundays, Christmas Day, Good Friday, and such other days as are duly notified in the Government Gazette as public holidays throughout New South Wales.
- Documents directed or permitted to be registered.**  
*Ibid.* s. 9.
- 6.** (I) All statutes enacted by the Parliament of New South Wales shall within ten days from the day on which the same become law be transmitted to and enrolled and recorded in the office of the Registrar-General.
- Ibid.* s. 8.  
26 Vic. No. 9, ss. 12, 13c.
- (II) All grants by the Crown of lands or other hereditaments in New South Wales alienated previously to the first day of January, one thousand eight hundred and sixty-three, which have not been already enrolled in the Supreme Court or recorded in the office of the Registrar-General, shall be recorded by entry at full length in the office of the Registrar-General in some book or books there kept for that purpose, and being so recorded shall for all purposes be of the like force and effect as if the same had been duly recorded under the provisions of the Act seventh Victoria number sixteen, and this Act had not been passed.
- 7 Vic. No. 16, ss. 8, 10.**
- (III) All wills and devises affecting any estate in land, and all instruments (except leases for less than three years) affecting any estate in land in New South Wales, and all charters of incorporation and memorials of companies may be registered in the office of the Registrar-General.
- (IV) Where any such instrument, charter, or memorial as aforesaid is already duly registered, recorded, enrolled, or deposited in the
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the office of the Registrar-General in accordance with the provisions of the Acts hereby repealed, or any of them, the same shall not be required to be re-registered under this Act.

(v) Instruments which are registered or require to be registered under the provisions of the *Real Property Act* shall not be affected by the provisions of this Act.

7. (i) All instruments (other than wills) affecting any estate in land tendered for registration in the office of the Registrar-General shall be registered in the manner following, that is to say:—A full copy thereof upon good vellum or parchment, signed by some or one of the parties to the original instrument, and certified to be a true copy by the oath of one credible person, such oath having been taken before a Judge of the Supreme Court or before the Registrar-General or his deputy, or before any Commissioner of the Supreme Court for taking affidavits, not residing within five miles of Sydney, shall be filed in the office of the Registrar-General.

Mode of registering instruments relating to realty.

7 Vic. No. 16, s. 13, and 20 Vic. No. 27, s. 4.

(ii) All wills and devises affecting any estate in land tendered for registration in the office of the Registrar-General shall be registered in the manner following, that is to say:—The will or a full copy thereof upon good vellum or parchment certified to be a true copy by the oath of one credible person taken before a Judge of the Supreme Court, or before the Registrar-General or his deputy, or before any commissioner of the Supreme Court for taking affidavits, not residing within five miles of Sydney, shall be filed in the office of the Registrar-General.

Mode of registering wills of realty.

7 Vic. No. 16., s. 10.

8. (i) The original instrument to which any such certified copy or memorial relates shall be produced to the Judge or Registrar-General or other person before whom the same is verified as aforesaid.

Original instrument to be produced.

*Ibid.* s. 18.

(ii) If such instrument appears to have been executed by any party unable to write, then such Judge or Registrar-General or other person shall refuse to complete such certified copy by certifying the same, unless the execution by such party is attested by some justice of the peace or barrister or attorney or notary public, other than the party by whom such instrument has been prepared, whose attestation shall contain a certificate that the contents of such instrument were previously explained to the party so unable to write, and that the nature and effect thereof were at the time of such attestation to the best of the belief of such justice or barrister or attorney or notary public understood by such party.

Course to be taken if there is a marksman thereto.

*Ibid.* s. 18.

9. When any party to any instrument tendered for registration is dead or absent from New South Wales at the time when the registration thereof is required to be made, the attorney under a power of attorney or the lawful representative of such party, upon application to a Judge of the Supreme Court, and upon proof to the satisfaction of such Judge of the fact of the death or absence of such party and upon the

Representative or agent of deceased or absent party may sign attested copy.

*Ibid.* s. 12.

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the order of such Judge, may sign the attested copy of such instrument in the name and on behalf of such party, and such signing shall be as valid and effectual to all intents and purposes as if such attested copy had been signed by the original party thereto.

Receipts by Registrar-General and endorsement.  
7 Vic. No. 16, s. 14.

**10.** (i) Upon the delivery into the Registrar-General's office of any such certified copy as aforesaid and the verification of the same, the Registrar-General or his deputy shall grant and sign a receipt for such copy, in which shall be specified the day and hour on which the same has been delivered into the said office, and the name and place of abode of the witnesses attesting or verifying the same, and the number of such verified copy according as the same shall be numbered in the said office, and such receipt shall be endorsed or written on the original instrument to which such certified copy relates, and shall also be entered on such certified copy.

Time endorsed conclusive.

(ii) The time so endorsed shall be taken to be the time of the registration of every such instrument whereof such certified copy has been made as aforesaid.

Entry in, and inspection of register.

(iii) Every such certified copy so delivered into the said office shall be numbered successively according to the order of time in which the same has been delivered, and shall immediately be registered according to such number and order of time in a book or books to be provided and kept for such purpose in the said office, and every such book shall be open at all convenient times to the inspection of all persons desirous of searching the same.

Erasures and interlineations to be noted.  
*Ibid.* s. 15.

(iv) No certified copy as aforesaid having therein any erasures or interlineations shall be received by the Registrar-General into his office, unless such erasure or interlineation is noticed in the margin opposite thereto by the signature or initials of the person certifying on oath to the truth and correctness of such copy.

Form and size of certified copies, &c.  
*Ibid.* s. 29.

**11.** The Registrar-General shall, from time to time, prescribe the form and size of copies of deeds, memorials, and other instruments to be registered in his office, so as to facilitate reference to them and render their preservation secure, and shall also make proper indexes to all registrations that (as far as may be) information may readily be obtained by parties interested therein, as to all incumbrances and liens or instruments affecting or intended to affect real estate in New South Wales.

Deeds to take effect according to priority of registration.  
*Ibid.* s. 11.

**12.** (i) All instruments (wills excepted) affecting any lands or hereditaments, or any other property, in New South Wales which are executed or made bonâ fide, and for valuable consideration, and are duly registered under the provisions of this Act, or of any Act hereby repealed, shall have and take priority not according to their respective dates but according to the priority of the registration thereof only.

(ii)

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(II) No instrument registered under the provisions of this Act shall lose any priority to which it would be entitled by virtue of such registration by reason only of bad faith in the conveying party, if the party beneficially taking under such instrument acted bonâ fide, and there was valuable consideration given for the same.

Registered deed—  
Fraud of conveying party.  
22 Vic. No. 1, s. 18.  
24 Vic. No. 7.

13. No registration of any instrument under this Act, intended to be in pursuance of this Act, shall be defeated or made ineffectual by reason of any omission, misdescription, or error in any case where the identity of the instrument in evidence with the one alleged to have been registered is established, and the substantial requirements of this Act have been complied with.

Mistakes in registration.  
22 Vic. No. 1, s. 17.

14. Any person wilfully forswearing himself, or stating anything contrary to the truth in any oath taken under this Act shall be deemed guilty of perjury.

False swearing to be perjury.  
7 Vic. No. 16, s. 27.

15. If the Registrar-General or his deputy or any clerk in the office of the Registrar-General upon whom the duty devolves, wilfully or negligently omits to number, register, or enter, or cause to be numbered, registered, or entered in the manner herein directed any instrument or certificate delivered into the said office, the person so offending shall forfeit to the Crown for every such offence the penalty of one hundred pounds, and be further liable in damages to the party injured to the extent of the loss or injury sustained.

Penalties for neglect of Registrar-General or clerk in registering instruments.  
13 Vic. No. 45, s. 7.

16. (I) The several fees mentioned in the Second Schedule to this Act shall (except as is hereinafter provided) be taken by the Registrar-General for the several matters and things in the said Schedule mentioned, and a true and regular account of all such fees shall be kept in the Registrar-General's office, and all such fees shall be accounted for and paid over by the Registrar-General to the Public Treasury.

Fees payable under this Act.  
7 Vic. No. 16, s. 19.

(II) The fees payable on the enrôlment of any grant from the Crown shall not be paid to the Registrar-General but to the Colonial Treasurer, or to such other officer as is appointed by the Governor to deliver such grant upon the delivery of the same to such grantee or to his representatives or assigns; and all such fees so paid shall be accounted for and applied in the same manner as other public moneys coming into the hands of the Colonial Treasurer are required to be accounted for and applied.

*Ibid.*

(III) In addition to the fees aforesaid every such commissioner of affidavits as aforesaid may demand, and have for his own use for the taking of every verification of any such certified copy as aforesaid, the sum of two shillings and sixpence.

*Ibid.* s. 20.

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SCHEDULES.

## Act No. 22, 1897.

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## SCHEDULES.

## FIRST SCHEDULE.

Date of Act.	Name of Act.	Extent of repeal.
7 Vic. No. 16...	Registration of Deeds ...	Sections 1-7 (inclusive), 9, 11, 12, 14, 19, 27, 29, 31-34 (inclusive), the whole; sections 8, 10, 15, 18, 20, 22, and Schedule B, the whole, except so far as such sections and such Schedule respectively relate to stock, to mortgages of stock, to liens on wool, to certificates and registers of births or baptisms, marriages, and burials, or to acknowledgments of deeds; section 13, the whole, except so far as such section relates to the receiving of certified copies as secondary evidence.
13 Vic. No. 45...	Transfer of Registry ...	Sections 1-7 (inclusive) and 9, the whole.
20 Vic. No. 27...	Transfer of Registry ...	Sections 1-3 (inclusive), the whole; section 4, the whole, except so far as it relates to acknowledgments of deeds.
22 Vic. No. 1 ...	Titles to Land ...	Sections 17 and 18, the whole.
24 Vic. No. 7 ...	Registration Amendment..	The whole.

## SECOND SCHEDULE.

	s.	d.
1. For receiving every will or certified copy for registration including verifying the same and indorsement of receipt on original deed ... ..	7	6
2. For the enrolment of every grant of land where the quantity granted shall not exceed 50 acres ... ..	5	0
3. For the enrolment of every grant of land where the quantity shall be over 50 but under 300 acres ... ..	7	6
4. For the enrolment of every grant of land where the quantity shall exceed 300 acres ... ..	10	0
5. For every search for copy of any deed or for any memorial of any deed or for will or copy of will of one property ... ..	2	6
6. For every search for any copy of any grant of land ... ..	2	6
7. For every examined copy of memorial or of any deed not exceeding six folios ... ..	5	0
8. For every folio of 90 words exceeding six folios ... ..	0	8
9. For every extract from any memorial, will, or other writing, per folio ...	0	8
10. For receiving and noting every will deposited for safe custody under any statutory provision ... ..	5	0
11. For every examined copy of deed of public company or charter of incorporation, per folio ... ..	0	8
12. For every search for will ... ..	1	0
13. For every search for copy of deed of settlement of public company or charter of incorporation ... ..	1	0

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