

REAL PROPERTY (AMENDMENT)
ACT.

Act No. 25, 1928.

An Act to amend the Real Property Act, 1900, and the Real Property (Amendment) Act, 1921; to validate certain registrations made under the said Acts; and for purposes connected therewith. [Assented to, 12th October, 1928.]

George V,
No. 25, 1928.

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. This Act may be cited as the "Real Property (Amendment) Act, 1928," and shall be read with the Real Property Act, 1900, as amended by subsequent Acts.

Short title.

2. The Real Property Act, 1900, is amended by adding at the end of section twenty the following proviso:—

Amendment
of Act 1900
No. 25, s. 20.

Provided that the Registrar-General may, if he thinks fit, dispense with the service of notice upon all or any of the persons stated by the applicant to be in occupation of the land the subject of the application or of land contiguous thereto.

3. (1) The Real Property Act, 1900, is further amended by inserting at the end of subsection two of section thirty-two the following proviso:—

Further
amendment
of Act 1900
No. 25, s. 32
(2).

Provided that so far as any such instrument, dealing, or other matter affects only a mortgage, encumbrance, or lease, it shall be sufficient if particulars of the instrument, dealing, or other matter

matter

No. 25, 1923.

matter are recorded on the memorandum of mortgage, encumbrance, or lease affected; and for the purposes of the record of any such particulars whether required or authorised by this or any other Act, the memorandum of mortgage, encumbrance, or lease on which the particulars are recorded shall be deemed to be part of the grant or certificate of title.

Validation.

(2) Every such record as is mentioned in subsection one of this section, made by the Registrar-General before the passing of this Act, shall be as valid and effectual as if this Act had been passed before the record was made.

Further amendments of Act 1900 No. 25.

4. The Real Property Act, 1900, is further amended—

Sec. 34.

(a) by omitting section thirty-four;

Sec. 38 (1).

(b) by omitting from subsection one of section thirty-eight the words “except in the case of a transfer or other dealing indorsed upon any grant certificate or other instrument as hereinafter provided”;

Sec. 50 (2).

(c) by adding at the end of subsection two of section fifty the following proviso:—

Provided that the Registrar-General may, at his discretion, instead of retaining a partially cancelled grant or certificate of title, deliver the same to the proprietor of the residue of the land comprised therein or other the person entitled to receive it;

Sec. 73.

(d) by inserting in section seventy-three after the words “such registered proprietor” the words “or some person claiming his estate or interest or an estate or interest derived therefrom”;

Sec. 93 (2).

(e) by omitting from subsection two of section ninety-three all words after the word “lease” to the end of the subsection;

Sec. 97 (2).

(f) by inserting in subsection two of section ninety-seven after the words “registered proprietor” the words “or any person claiming under any memorandum of transfer or other instrument registerable under this Act and signed by such registered proprietor or otherwise according to law”;

(g) by omitting from subsection one of section one hundred the words “and shall each receive a separate and distinct certificate of title in respect of such joint estate marked respectively with the name of the owner to whom the same shall be delivered” ;

No. 25, 1928;
Sec. 100 (1).

(h) by inserting after subsection one of section one hundred and ten the following new subsection :—

Sec. 110.
New subsec.
1A.

(1A) Where, in the opinion of the Registrar-General, a grant or certificate of title is incapable of conveniently containing any further endorsement, or the condition of the duplicate is such that, in the opinion of the Registrar-General, it should not be delivered to the registered proprietor, the Registrar-General may compel him to receive a new certificate of title.

5. The Real Property (Amendment) Act, 1921, is amended by adding at the end of section fourteen the following new subsection :—

Amendment
of Act 1921
No. 3, s. 14.

(4) Where the Registrar-General enters in the register book, upon the appropriate grant, certificate of title or memorandum of mortgage, encumbrance or lease, a memorandum of any such vesting as is mentioned in this section, the person in the memorandum of vesting expressed to be the proprietor or the person in whom the land is vested shall be deemed to be at the time of entry the registered proprietor of the land.

This subsection applies in respect of entries made before as well as after the commencement of this Act.

6. Nothing in this Act shall affect the rights of any party to any proceedings at law or in equity commenced before or pending at the passing of this Act.

Savings.