

REAL PROPERTY (AMENDMENT) ACT.

Act No. 45, 1940.

George VI. An Act to amend the Real Property Act, 1900,
No. 45, 1940. the Closer Settlement Fund Act, 1928, and
certain other Acts in certain respects; and
for purposes connected therewith. [As-
sented to, 9th December, 1940.]

BE it enacted by the King's Most Excellent Majesty,
by and with the advice and consent of the Legis-
lative 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 "Real Property
(Amendment) Act, 1940."

2.

2. (1) The Real Property Act, 1900, as amended by subsequent Acts, is amended—

No. 45, 1940.

Amendment of Act No. 25, 1900.

(a) by omitting from section nineteen the words “but in such case he may, notwithstanding section one hundred and nineteen, require payment to him of such special fee as he considers adequate in addition to that provided in the Nineteenth Schedule”;

Sec. 19.
(When evidence of title is imperfect.)

(b) by omitting section one hundred and nineteen;

Sec. 119.
(Percentage to be levied for assurance of title.)

(c) by omitting from subsection three of section one hundred and twenty the words “except moneys received under section one hundred and nineteen of this Act”;

Sec. 120.
(Registrar-General to pay moneys into treasury.)

(d) by inserting in section 123A after the words “Closer Settlement Fund” the words “or out of the Consolidated Revenue Fund”;

Sec. 123A.
(Order as to costs and expenses.)

(e) by omitting subsection two of section one hundred and twenty-nine;

Sec. 129.
(Deficiency of assurance fund.)

(f) by omitting from section one hundred and thirty-one the words “out of” wherever occurring and by inserting in lieu thereof the words “in respect of a claim on”;

Sec. 131.
(Moneys paid out of assurance fund may be recovered against estate of deceased or bankrupt person.)

(g) (i) by omitting from subsection one of section one hundred and thirty-two the words “out of” where firstly occurring and by inserting in lieu thereof the words “in respect of a claim on”;

Sec. 132.
(Where person liable is out of New South Wales.)

(ii) by omitting from the same subsection the words “out of” where secondly occurring and by inserting in lieu thereof the words “in respect of the claim on.”

(2) The repeal of section one hundred and nineteen of the Real Property Act, 1900, by subsection one of this section shall not affect the obligation to pay assurance fee or contribution in respect of the land comprised in any Crown grant registered under that Act before the commencement of this Act.

Real Property (Amendment) Act.

No. 45, 1940.

(3) No refund shall be made of any moneys paid to the Registrar-General before the commencement of this Act in respect of any special fee under section nineteen of the Real Property Act, 1900, or in respect of any assurance fee or contribution notwithstanding that the land upon which any such fee or contribution was paid, was not brought under the provisions of that Act before such commencement or, as the case may be, the title to such land was not registered before such commencement:

Provided that where an application on which moneys have been paid in respect of any such special fee or assurance fee or contribution is withdrawn, the Registrar-General may make a refund of such moneys if, having regard to the circumstances of the case, he thinks it just and reasonable so to do.

Further
amendment
of Act No.
25, 1900.

Sec. 61.
(Fore-
closure.)

3. The Real Property Act, 1900, is further amended by inserting next after subsection two of section sixty-one the following new subsection:—

(2A) (a) The notice of intention to make the application may be given personally or by post to the Public Trustee where, at the time such notice is so given—

- (i) the mortgagee has knowledge of the fact that the mortgagor is dead; and
- (ii) there is no personal representative of the mortgagor in New South Wales.

Every notice given to the Public Trustee under this subsection shall be accompanied by a statement containing such particulars as may be prescribed.

(b) Any notice given in accordance with the provisions of paragraph (a) of this subsection shall be as valid and effectual as if given to the personal representative of the mortgagor unless probate of the will or letters of administration of the estate of the mortgagor is granted to some person other than the Public Trustee within one month after such notice has been so given.

(c) The provision made by this subsection for the giving of notice of intention to make application for an order for foreclosure shall be in addition to and not in derogation from the provision made by section 46B of the Moratorium Act, 1932-1939, for the giving of notices.

4.

Transport (Division of Functions) Amendment Act.

429

4. The Closer Settlement Fund Act, 1928, as amended by subsequent Acts, is amended by omitting paragraph (b) of section five.

No. 45, 1940.
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Amendment of
Act No. 38,
1928, s. 5.
(Payments
into Closer
Settlement
Fund.)

