

CONVEYANCING (AMENDMENT) ACT.

Act No. 8, 1943.

An Act 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. [Assented to, 31st May, 1943.]

George VI.
No. 8, 1943.

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. (1) This Act may be cited as the "Conveyancing (Amendment) Act, 1943." Short title and citation.

(2) The Conveyancing Act, 1919, as amended by subsequent Acts and by this Act, may be cited as the Conveyancing Act, 1919-1943.

2.

Conveyancing (Amendment) Act.

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Amendment of
Act No. 6,
1919.

Sec. 160.

(Powers of
attorney to
continue in
force until
notice of
death or
revocation.)**2.** The Conveyancing Act, 1919-1942, is amended—

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

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

- (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;
- (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) 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 continuous service with such forces for the duration of the present war between His Majesty
and

and Germany and her allies, whether or not he has agreed to serve or does serve beyond the limits of the Commonwealth of Australia and those of any territory under the authority of the Commonwealth.

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(c) This subsection shall extend to powers of attorney created by instruments executed before as well as after the commencement of the Conveyancing (Amendment) Act, 1943.

(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.

(e) Where before the commencement of the Conveyancing (Amendment) Act, 1943, a statutory declaration has been accepted by a person dealing in good faith with the donee of the power, the provisions of paragraphs (a) to (d) both inclusive of this subsection shall extend to and in respect of such declaration in like manner as they extend to similar declarations made after such commencement.

(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) by omitting subsection four of section 168A.

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

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 certificate

Amendment of Act No. 32, 1940.

No. 8, 1943. 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.”
