

**REAL PROPERTY (AMENDMENT) ACT, 1978,
No. 39**

New South Wales



ANNO VICESIMO SEPTIMO

ELIZABETHÆ II REGINÆ

Act No. 39, 1978.

An Act to amend the Real Property Act, 1900, and the Real Property (Amendment) Act, 1976, in relation to recording the issue of certain certificates of title and in relation to the power of a mortgagee or encumbrancee to sell mortgaged or encumbered land. [Assented to, 28th March, 1978.]

Real Property (Amendment).

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 "Real Property (Amendment) Act, 1978".

Commence- **2.** (1) Except as provided in subsections (2) and (3),
ment. this Act shall commence on the date of assent to this Act.

(2) Section 4, in its application to Schedule 1 (1), (2) and (4), and Schedule 1 (1), (2) and (4) shall be deemed to have commenced on 1st April, 1977.

(3) Section 4, in its application to Schedule 1 (5), and Schedule 1 (5) and section 5, in its application to Schedule 2 (4) and (5), and Schedule 2 (4) and (5) shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Schedules. **3.** This Act contains the following Schedules :—

SCHEDULE 1.—AMENDMENTS TO THE REAL
PROPERTY ACT, 1900.

SCHEDULE 2.—AMENDMENTS TO THE REAL
PROPERTY (AMENDMENT) ACT, 1976.

Amendment **4.** The Real Property Act, 1900, is amended in the
of Act No. manner set forth in Schedule 1.
25, 1900.

Real Property (Amendment).

5. The Real Property (Amendment) Act, 1976, is amended in the manner set forth in Schedule 2. Amendment of Act No. 96, 1976.

SCHEDULE 1.

Sec. 4.

AMENDMENTS TO THE REAL PROPERTY ACT, 1900.

(1) Section 28GA—

After section 28G, insert :—

28GA. Immediately after bringing land under the provisions of this Act by issuing a qualified certificate of title or by issuing an ordinary certificate of title under section 28EA, the Registrar-General shall cause a notification of the issue of the certificate of title to be entered, in such manner as appears to him to be appropriate, in the index to the General Register of Deeds kept pursuant to the Registration of Deeds Act, 1897. Issue of qualified or ordinary certificate of title to be indexed.

(2) Section 28H (1)—

Omit the subsection.

(3) Section 28P (2) (a)—

Omit “(5)”, “(6)” and “(7)”, insert instead “(8)”, “(9)” and “(10)”, respectively.

(4) Section 28T (6)—

Omit “28H (1)” wherever occurring, insert instead “28GA”.

Real Property (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE REAL PROPERTY ACT,
1900—*continued.*

(5) Section 58 (2)—

Omit “given as aforesaid”, insert instead “served as referred to in section 57 (2)”.

Sec. 5.

SCHEDULE 2.

AMENDMENTS TO THE REAL PROPERTY (AMENDMENT)
ACT, 1976.

(1) (a) Section 2 (2)—

Omit “6,”.

(b) Section 2 (2)—

Omit “15”, insert instead “12 or of Schedule 14 or 15”.

(c) Section 2 (4)—

Omit “and Schedule 13”.

(2) Section 3, matter relating to Schedule 13—

Omit the matter.

(3) Section 6—

Omit the section.

Real Property (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE REAL PROPERTY (AMENDMENT)
ACT, 1976—*continued.*

- (4) Section 57 of the Real Property Act, 1900, as to be inserted by section 5 of, and Schedule 8 (3) to, the Real Property (Amendment) Act, 1976—
- (a) In subsection (2) (a), after “covenant”, insert “, agreement or condition”.
 - (b) From subsection (2) (a), omit “on the due date”, insert instead “, in accordance with the terms of the mortgage or encumbrance,”.
 - (c) From subsection (2) (b), omit “the mortgagee or encumbrancee serves on the mortgagor or encumbrancer, in the manner authorised by section 170 of the Conveyancing Act, 1919, a written notice that complies with subsection (3)”, insert instead “a written notice that complies with subsection (3) has been served on the mortgagor or encumbrancer in the manner authorised by section 170 of the Conveyancing Act, 1919”.
 - (d) In subsection (3) (b) (i), after “covenant” wherever occurring, insert “, agreement or condition”.
 - (e) From subsection (3) (c), omit “the mortgagee or encumbrancee in”.
 - (f) From subsection (3) (d), omit “the mortgagee or encumbrancee proposes to exercise his power of sale”, insert instead “it is proposed to exercise a power of sale in respect of the land mortgaged or encumbered”.

Real Property (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE REAL PROPERTY (AMENDMENT)
ACT, 1976—*continued.*

- (5) Section 58A (1) of the Real Property Act, 1900, as to be amended by section 5 of, and Schedule 8 (5) to, the Real Property (Amendment) Act, 1976—

Omit “on the due date”, insert instead “, in accordance with the terms of the mortgage or encumbrance,”.

- (6) Schedule 13—

Omit the Schedule.
