

LOCAL GOVERNMENT (REAL PROPERTY COMPUTER REGISTER) AMENDMENT ACT, 1979, No. 172

New South Wales



ANNO VICESIMO OCTAVO

ELIZABETHÆ II REGINÆ

Act No. 172, 1979.

An Act to amend the Local Government Act, 1919, so as to facilitate the keeping of the Register maintained under the Real Property Act, 1900, in a computer, and for other purposes. [Assented to, 14th December, 1979.]

Local Government (Real Property Computer Register) 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 "Local Government (Real Property Computer Register) Amendment Act, 1979".

**Commence-
ment.** **2.** (1) This section and section 1 shall commence on the date of assent to this Act.

(2) Except as provided in subsection (1), this Act shall commence on the day appointed and notified pursuant to section 2 (2) of the Real Property (Computer Register) Amendment Act, 1979.

**Principal
Act.** **3.** The Local Government Act, 1919, is referred to in this Act as the Principal Act.

**Amendment
of Act No.
41, 1919.** **4.** The Principal Act is amended in the manner set forth in Schedule 1.

Sec. 4.

SCHEDULE 1.

AMENDMENTS TO THE PRINCIPAL ACT.

(1) Section 4, definition of "Subdivision", "subdivide" and similar expressions—

From paragraph (c), omit "issue of a certificate of title", insert instead "creation of a folio of the Register kept".

Local Government (Real Property Computer Register) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(2) (a) Section 276C (6) (a)—

After “completed”, insert “and registrable”.

(b) Section 276C (7)—

After “subsection (4)”, insert “and, unless he has dispensed with its production, the certificate of title to which the transfer relates”.

(3) (a) Section 327AA (1), definition of “plan of subdivision”—

(i) From paragraph (e), omit “a certificate of title has issued”, insert instead “a folio of the Register has been created”.

(ii) From paragraph (g), omit “land.”, insert instead “land;”.

(b) Section 327AA (1), definition of “Register”—

After the definition of “plan of subdivision”, insert :—

“Register” means the Register kept under the Real Property Act, 1900.

(c) Section 327AA (4) (a) (iii)—

Omit “certificate of title or Crown Grant”, insert instead “folio of the Register”.

(d) Section 327AA (4) (b)—

Omit “certificate of title or Crown Grant”, insert instead “folio of the Register”.

Local Government (Real Property Computer Register) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(4) Section 327B—

Omit “Act, issue in the name of the council a certificate of title for each lot comprising the temporary road and shall enter thereon a caveat forbidding the registration of any dealings not consistent with the provisions of this Act relating to temporary roads.”, insert instead :—

Act—

- (a) create a folio of the Register kept under the Real Property Act, 1900, for the estate or interest of the council in each lot comprised in the temporary road;
- (b) record therein a caveat forbidding the registration of any dealings not consistent with the provisions of this Act relating to temporary roads; and
- (c) issue to the council a certificate of title for each such lot.

(5) Section 340c (2)—

Omit “issuing to the council a certificate of title under the provisions of the Real Property Act, 1900, for”, insert instead “creating a folio of the Register kept under the Real Property Act, 1900, for the estate or interest of the council in”.

(6) (a) Section 340D (2)—

Omit “issue to the council a certificate of title for”, insert instead “create a folio of the Register kept under that Act for the estate or interest of the council in”.

Local Government (Real Property Computer Register) Amendment.

SCHEDULE 1—continued.

AMENDMENTS TO THE PRINCIPAL ACT—continued.

(b) Section 340D (2)—

Omit “thereon”, insert instead “therein”.

(7) (a) Section 536AA (3)—

Omit “The council”, insert instead “Subject to subsection (3A), the council”.

(b) Section 536AA (3A)—

After section 536AA (3), insert :—

(3A) Where a resumption application relating to land resumed or appropriated under this Part has been lodged under section 31A (2) of the Real Property Act, 1900, with the Registrar-General—

- (a) a notification under subsection (3) published in the Gazette after the commencement of this subsection may not divest from the council the minerals resumed or appropriated within that land; and
- (b) any transfer of those minerals after that land has been brought under the provisions of the Real Property Act, 1900, shall, for the purposes of subsection (5), be deemed, upon its registration under that Act, to vest those minerals under this section in the transferee.

Local Government (Real Property Computer Register) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(c) Section 536AA (4), (4A)—

Omit section 536AA (4), insert instead :—

(4) Upon publication of a notification under subsection (3), the council shall, in respect of minerals vested under that subsection by the notification—

- (a) where the minerals so vested are under the provisions of the Real Property Act, 1900, make a request under section 46C of that Act in relation to those minerals and furnish such of the evidence required in connection therewith as may be in its possession or under its control; or
- (b) where the minerals so vested are not under the provisions of the Real Property Act, 1900, forward a copy of the notification of the vesting to the Registrar-General who shall, upon receipt thereof, cause a memorandum of the vesting of those minerals to be prepared and registered in the General Register of Deeds kept under the Registration of Deeds Act, 1897, and, for the purposes of that Act, that memorandum shall be deemed to be a registration copy of an instrument duly registered under that Act.

(4A) A request made by the council in compliance with subsection (4) (a) shall be deemed to have been made by the person entitled so to do under section 46C of the Real Property Act, 1900.

(d) Section 536AA (6)—

Omit “affecting”, insert instead “effecting”

Local Government (Real Property Computer Register) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(e) Section 536AA (7)—

Omit the subsection, insert instead :—

(7) Without limiting the discretion conferred upon the Registrar-General by section 46c of the Real Property Act, 1900, the Registrar-General shall not, when creating a folio of the Register kept under that Act or making recordings in that Register in respect of minerals pursuant to a request made under subsection (4) (a), be required to make any recordings in that Register, other than—

- (a) such recordings as may, in his opinion, be necessary with respect to the vesting of the minerals in the person and for the estate specified, in the notification of the vesting of those minerals, as the person in whom, and the estate for which, they were thereby vested; and
- (b) any recordings relating to the land described in the notification, being recordings that appeared in that Register immediately before the resumption or appropriation of that land, other than recordings relating only to estates or interests excepted in the notification.

(8) (a) Section 604 (3), proviso—

From paragraph (a), omit “entries notifications and cancellations in the register-book as”, insert instead “recordings in the Register kept under that Act, create or cancel such folios of that Register and issue such certificates of title as, in his opinion,”.

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SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) Section 604 (3), proviso—

From paragraph (b), omit “notified on the folium of the register-book constituted by the Crown grant or certificate of title”, insert instead “recorded in the relevant folio of that Register”.

(c) Section 604 (3), proviso—

From paragraph (b), omit “and so notified”.

(d) Section 604 (3), proviso—

From paragraph (b), omit “entries or notifications of”, insert instead “recordings with respect to”.

(e) Section 604 (3), proviso—

From paragraph (b), omit “notify on the folium of the register-book from time to time constituted by the Crown grant or certificate of title”, insert instead “record in the relevant folio of that Register”.

(f) Section 604 (3), proviso—

Omit paragraph (c).

(g) Section 604 (3), proviso—

In paragraph (e), after “effect”, insert “, other than any transfer by the council which shall be in the form approved under the Real Property Act, 1900, by the Registrar-General.”.

(h) Section 604 (3), proviso—

From paragraph (f), omit “entry, notification, or cancellation or”, insert instead “recording or for”.

Local Government (Real Property Computer Register) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(i) Section 604 (3), proviso—

From paragraph (f), omit “Conveyancing Acts, 1919–1943”, insert instead “Real Property Act, 1900”.

(9) (a) Section 622 (1) (a)—

After “Act”, insert “is prima facie evidence that the person is the owner or lessee of the land”.

(b) Section 622 (1) (b)—

Omit the paragraph, insert instead :—

(b) a certificate furnished by the Registrar-General under subsection (2) with respect to any land is prima facie evidence—

(i) that the person described in the certificate as the proprietor or owner of the land was the owner of that land; and

(ii) that the person, if any, so described as the lessee of the land was the lessee of that land,

at the time or during the period specified in the certificate pursuant to subsection (2) (d) (i) or (ii), as the case may be.

(c) Section 622 (1)—

Omit “shall be prima facie evidence that such person is owner or lessee, as the case may be, of the land.”.

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SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(d) Section 622 (2)—

Omit the subsection, insert instead :—

(2) Where—

(a) written application with respect to any land has been made to the Registrar-General pursuant to this subsection by the town or shire clerk of a council; and

(b) he has been paid the prescribed fee,

the Registrar-General shall furnish to the council a certificate setting forth such of the following particulars as are recorded in the Register kept under the Real Property Act, 1900, or in the General Register of Deeds maintained under the Registration of Deeds Act, 1897, as the case may be, and that he is able to ascertain from the information about the land furnished in the application :—

(c) the situation and a description of the land;

(d) in the case of—

(i) land subject to the provisions of the Real Property Act, 1900—the names and addresses of the person registered under that Act as the proprietor of, and any person so registered as a lessee of, the land at the time or during the period in respect of which the application is made and the dates of registration of the instruments under which they became so registered; or

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (ii) land not subject to those provisions
—the names and addresses of the owner and of any lessee of the land at the time or during the period in respect of which the application is made and the dates and dates of registration under the Registration of Deeds Act, 1897, of the instruments kept in the General Register of Deeds maintained under that Act under which the owner or lessee became the owner or lessee, as the case may be, of the land.

(e) Section 622 (4)—

After section 622 (3), insert :—

(4) In subsection (2) (b), a reference to the prescribed fee is, in relation to an application made under that paragraph—

- (a) with respect to land subject to the provisions of the Real Property Act, 1900— a reference to the fee prescribed under that Act for the purposes of that paragraph; or
 - (b) with respect to land that is not subject to the provisions of that Act—a reference to the fee prescribed under the Conveyancing Act, 1919, for the purposes of that paragraph.
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