

# CONVEYANCING (AMENDMENT) ACT 1992 No. 5

NEW SOUTH WALES



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# CONVEYANCING (AMENDMENT) ACT 1992 No. 5

NEW SOUTH WALES



## Act No. 5, 1992

An Act to amend the Conveyancing Act 1919 with respect to the registration of instruments in the General Register of Deeds including liens on crops and wool, stock mortgages and bills of sale; to discontinue the register of causes, writs and orders affecting land and provide for its effect to be continued by means of the General Register of Deeds; and for other purposes. [Assented to 17 March 1992]

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See also Liens on Crops and Wool and Stock Mortgages (Amendment) Act 1992; Bills of Sale (Amendment) Act 1992.

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**The Legislature of New South Wales enacts:**

**Short title**

1. This Act may be cited as the Conveyancing (Amendment) Act 1992.

**Commencement**

2. This Act commences on a day or days to be appointed by proclamation.

**Amendment of Conveyancing Act 1919 No. 6**

3. The Conveyancing Act 1919 is amended as set out in Schedules 1–3.

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**SCHEDULE 1—AMENDMENTS TO PART 23, DIVISION 1**

(Sec. 3)

(1) Section 184A:

Omit the section, insert instead:

**Registration copies**

184A. A reference in this Division to a registration copy of an instrument is a reference to a copy of the original instrument that is made or provided as prescribed by the regulations.

(2) Section 184B (**Application of Division to certain instruments**):

- (a) From section 184B (1), omit “instruments which are”, insert instead “an instrument which is”.
- (b) After “Division” in section 184B (1), insert “, unless it is an instrument that is registrable under the Real Property Act 1900 and relates only to land under that Act”.
- (c) Omit section 184B (2), insert instead:
  - (2) Section 184G does not apply to an instrument registered, or required to be registered, under the Real Property Act 1900.

SCHEDULE 1—AMENDMENTS TO PART 23, DIVISION 1—  
*continued*(3) Section 184C (**General Register of Deeds**):

- (a) From section 184C (2) (c), omit “and”.
- (b) After section 184C (2) (d), insert:
  - (e) a record of registrations made under Division 2 after the amendment of that Division by the Conveyancing (Amendment) Act 1992;
  - (f) a record of registrations of resumptions and rescissions of resumptions made under section 196A after the amendment of that section by the Conveyancing (Amendment) Act 1992;
  - (g) instruments registered under the Liens on Crops and Wool and Stock Mortgages Act 1898 after the commencement of the Liens on Crops and Wool and Stock Mortgages (Amendment) Act 1992;
  - (h) instruments registered under the Bills of Sale Act 1898 after the commencement of the Bills of Sale (Amendment) Act 1992; and
  - (i) memoranda of covenants registered under Division 5 of Part 6.
- (c) After section 184C (2), insert:
  - (2A) The General Register of Deeds is also comprised of:
    - (a) entries under Division 2 that constituted the register of causes, writs and orders affecting land immediately before the amendment of that Division by the Conveyancing (Amendment) Act 1992;
    - (b) recordings of resumptions, and of rescissions of resumptions, that constituted the Register of Resumptions under section 196A immediately before the amendment of that section by the Conveyancing (Amendment) Act 1992;
    - (c) each register kept for the purposes of a provision of the Liens on Crops and Wool and Stock Mortgages Act 1898 immediately before the amendment of the provision by the Liens on Crops and Wool and Stock Mortgages (Amendment) Act 1992; and

SCHEDULE 1—AMENDMENTS TO PART 23, DIVISION 1—  
*continued*

- (d) each filing, recording or registration that, immediately before the repeal or amendment of a provision of the Bills of Sale Act 1898 by the Bills of Sale (Amendment) Act 1992, was a filing, recording or registration for the purposes of the provision.

(4) Section 184D (**Registration of instruments**):

- (a) After “not” in section 184D (1), insert “, unless the instrument is registrable under the Real Property Act 1900 and relates only to land under that Act”.
- (b) After section 184D (2), insert:
- (3) The Registrar-General may:
- (a) refuse to accept an instrument for registration in the General Register of Deeds; or
- (b) refuse to register an instrument in the General Register of Deeds; or
- (c) reject an instrument lodged for registration in the General Register of Deeds,

if the instrument is not accompanied by a certificate that is in an approved form setting out particulars of or relating to the instrument and that is signed as prescribed.

(4) A person who signs such a certificate knowing that it is false or misleading in a material particular is guilty of an offence.

Maximum penalty: 10 penalty units.

(5) Liability for, or recovery of, a penalty under this section does not preclude the recovery, of damages in an action based on a false or misleading certificate signed for the purposes of this section.

(6) The Registrar-General is not required to be satisfied as to the accuracy of a certificate provided under this section, except to the extent of ensuring that it appears on its face to comply with the requirements of this section.

(7) Proceedings for an offence under this section are to be taken before a Magistrate sitting as a Local Court.

SCHEDULE 1—AMENDMENTS TO PART 23, DIVISION 1—  
*continued*(5) Section 184E (**Method of registration**):

(a) Omit section 184E (1), insert instead:

(1) Registration of an instrument in the General Register of Deeds after the commencement of the Conveyancing (Amendment) Act 1992 is effected by the Registrar-General allocating a distinctive reference to the instrument in accordance with the regulations in order to signify registration of the instrument. This subsection does not apply to a trader's bill of sale.

(1A) Registration of a trader's bill of sale in the General Register of Deeds is effected as provided by section 5F of the Bills of Sale Act 1898.

(b) Omit section 184E (2) and (3).

(c) After "Instruments" in section 184E (5), insert "(other than traders' bills of sale)".

(d) Omit section 184E (7).

## (6) Section 184F:

Omit the section, insert instead:

**Destruction of documents**

184F. (1) The Registrar-General may destroy a document forming part of the General Register of Deeds unless this section prohibits its destruction.

(2) The Registrar-General is not to destroy such a document if under a duty to deliver or issue it to any person.

(3) Instead of destroying such a document, the Registrar-General may deliver it to a person who, in the opinion of the Registrar-General, intends to preserve it for historical reasons.

(4) The Registrar-General is not to destroy or dispose of a document under this section unless a copy of the document is captured and retained by the Registrar-General in a manner that enables the document to be reproduced.

(5) The Registrar-General is to retain each document that forms part of the General Register of Deeds and is not destroyed or disposed of under this section.

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SCHEDULE 1—AMENDMENTS TO PART 23; DIVISION 1—  
*continued*

(6) This section does not authorise a failure to comply with, or a contravention of, any Act or other law and does not prevent the destruction of a document under the authority of an Act other than this Act.

(7) In this section, a reference to a document includes a reference to any certificate referred to in section 184D that is on, or accompanies, the document.

SCHEDULE 2—AMENDMENTS TO PART 23, DIVISION 2

(Sec. 3)

- (1) Part 23, Division 2, heading:  
Omit “Register”, insert instead “Registration”.
- (2) Section 185:  
Omit the section.
- (3) Section 186 (**Writs and orders under judgments or relating to legal proceedings**):
  - (a) From section 186 (1), omit “such register”, insert instead “the General Register of Deeds”.
  - (b) From section 186 (1) (b) and (2), omit “lis pendens” wherever occurring, insert instead “current legal proceedings”.
- (4) Section 187 (**Orders affecting land**):  
Omit “such register”, insert instead “the General Register of Deeds”.
- (5) Section 188 (**Protection of purchasers against non-registered writs etc.**):
  - (a) From section 188 (1), omit “a lis pendens”, insert instead “current legal proceedings”.
  - (b) From section 188 (1), omit “lis pendens” where secondly occurring, insert instead “current legal proceedings”.
  - (c) From section 188 (1), omit “register of causes, writs, and orders affecting land”, insert instead “General Register of Deeds”.

**SCHEDULE 2—AMENDMENTS TO PART 23, DIVISION 2—  
*continued***

- (d) From section 188 (2), omit “lis pendens”, insert instead “current legal proceedings”.
- (e) From section 188 (2), omit “register of causes, writs, and orders affecting land or the general registry of deeds”, insert instead “General Register of Deeds”.
- (6) Section 189 (**Judgments etc. not to be a charge on land until writ or order registered**):  
From section 189 (1), omit “register of causes, writs, and orders affecting land”, insert instead “General Register of Deeds”.
- (7) Section 190A:  
After section 190, insert:  
**Vacation of registration of causes, writs and orders**  
190A. (1) The Registrar-General may vacate any registration made under this Division if the registration has expired or has otherwise ceased to have effect.  
(2) The Registrar-General may vacate such a registration whether it was made before, or is made after, the commencement of this section.  
(3) Application for vacation of a registration under this Division is to be made as prescribed and is to be accompanied by such evidence, if any, as the Registrar-General may require.
- (8) Section 191 (**Application of Division to land under Real Property Act 1900**):  
(a) From section 191 (2), omit “lis pendens” where firstly occurring, insert instead “current legal proceedings”.  
(b) From section 191 (2), omit “a lis pendens”, insert instead “current legal proceedings”.
- (9) Section 192 (**Writs, orders etc. to which Division applies**):  
At the end of the section, insert:  
(2) A reference in any other Act or other instrument to entry in, or to registration in, the register of causes, writs and orders affecting land, however expressed, is taken to be a reference to registration in the General Register of Deeds.



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SCHEDULE 2—AMENDMENTS TO PART 23, DIVISION 2—  
*continued*

- (10) Section 193 (**Legal proceedings to which Division applies**):  
Omit “every lis pendens”, insert instead “all legal proceedings”.

**SCHEDULE 3—OTHER AMENDMENTS**

(Sec. 3)

- (1) Section 7 (**Definitions**):
- (a) After the definition of “Administrator” in section 7 (l), insert:  

**“Approved form”** means a form approved by the Registrar-General for the purposes of the provision of this Act in which the expression is used.
  - (b) After the definition of “Executor” in section 7 (l), insert:  

**“General Register of Deeds”** means the General Register of Deeds maintained under section 184C.
- (2) Section 23 (**Dealings with land of undischarged bankrupt**):
- (a) From section 23 (3), omit “the register of causes, writs, and orders affecting land established under this Act”, insert instead “the General Register of Deeds”.
  - (b) From section 23 (4), omit “the register of causes, writs, and orders affecting land”, insert instead “ the General Register of Deeds”.
- (3) Section 69 (**Application of Part 6 to land under the Real Property Act 1900**):  
Omit “Divisions 2 and 3”, insert instead “Divisions 2, 3 and 5”.
- (4) Part 6, Division 5:  
After Division 4, insert:  

**Division 5—Other covenants**

**Application of Division**

89A. In this Division:  
**“registered memorandum”** means a memorandum registered under section 89B of this Act or filed under section 80A of the Real Property Act 1900;

SCHEDULE 3—OTHER AMENDMENTS— *continued*

**“registrable instrument”** means an instrument registrable in the General Register of Deeds.

**Memorandum of covenants**

89B. The Registrar-General may register in the General Register of Deeds a memorandum setting out provisions which are capable of being covenants in a registrable instrument of a class specified in the memorandum.

**Inclusion in registrable instrument of covenants in registered memorandum**

89C. A registrable instrument is taken to include the following covenants as if they were set out at length in the instrument:

- (a) the covenants in a registered memorandum, if the instrument states that the covenants are included and does not state that they are amended;
- (b) the covenants in a registered memorandum amended as set out in the instrument, if the instrument states that the covenants are included as so amended.

(5) Part 23, Division 3A:

From the heading, omit “Register” insert instead “Registration”.

(6) Section 196A (**Registration of Resumptions**):

- (a) Omit section 196A (2).
- (b) From section 196A (4), omit “record particulars of the resumption or rescission in the Register of Resumptions”, insert instead “register the notice in the General Register of Deeds”.
- (c) After section 196A (4A), insert:
  - (4B) A reference in any Act or other instrument to entry in, or to registration in, the Register of Resumptions, however expressed, is taken to be a reference to registration in the General Register of Deeds.

(7) Section 197 (**Official searches**):

- (a) After “copy” in section 197 (3) (b), insert “(other than an error or omission which occurred in a certificate provided to the Registrar-General under section 184D)”.

SCHEDULE 3—OTHER AMENDMENTS—*continued*

- (b) After “office copy” where secondly occurring in section 197 (4), insert “if it is not an error or omission which occurred in a certificate provided by the solicitor to the Registrar-General under section 184D”.

## (8) Section 198:

Omit the section, insert instead:

**Index to registers**

198. (1) The Registrar-General is to keep an index of the registers kept under this Act.

(2) The Registrar-General may, on payment of the prescribed fee, provide a copy, or permit the inspection, of the whole or a part of the index.

(3) The Registrar-General does not incur any liability for an error in, or omission from, a copy provided, or matter inspected, under this section if the error or omission occurred in a certificate provided to the Registrar-General under section 184D.

(4) The Registrar-General may correct errors in the index.

(9) Section 201 (**Vacation of entry of legal proceedings**):

- (a) Omit “a lis pendens”, insert instead “current legal proceedings”.
- (b) Omit “the lis pendens”, insert instead “the legal proceedings”.

## (10) Section 202A:

After section 202, insert:

**Savings and transitional provisions**

202A. (1) The regulations may include provisions of a savings or transitional nature consequent on the enactment of the Conveyancing (Amendment) Act 1992.

(2) A provision referred to in subsection (1) may, if the regulations so provide, take effect from the date of amendment or repeal of the related provision amended or repealed by the Conveyancing (Amendment) Act 1992 or from a later date.

SCHEDULE 3—OTHER AMENDMENTS—*continued*

- (3) To the extent that a provision referred to in subsection (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate:
- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of the person existing before the date of publication; or
  - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of publication.

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*[Minister's second reading speech made in—  
Legislative Assembly on 26 February 1992  
Legislative Council on 4 March 1992]*