

Act 1992 No. 5

CONVEYANCING (AMENDMENT) BILL 1992

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The Liens on Crops and Wool and Stock Mortgages (Amendment) Bill 1992 and the Bills of Sale (Amendment) Bill 1992 are cognate with this Bill.

The object of this Bill is to amend the Conveyancing Act 1919 so that entries of the kind at present made, and instruments of the kind at present kept, in certain registers other than the General Register of Deeds ("the General Register") will in future be made or kept in the General Register. Those other registers are:

- (a) the register of causes, writs and orders kept under Division 2 of Part 23 of the principal Act; and
- (b) the Register of Resumptions kept under section 196A of the Principal Act; and
- (c) the registers kept under the Liens on Crops and Wool and Stock Mortgages Act 1898; and
- (d) the register kept under the Bills of Sale Act 1898.

Each of those registers in its existing form will also become part of the General Register on the commencement of the amendments proposed for the Act under which the register is kept at present.

The Bill also provides for the inclusion in the General Register of distinctively numbered forms of covenants any of which, by reference to its number, may be adopted with or without amendment for inclusion in an instrument

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the proposed Act to commence on a day or days to be appointed by proclamation.

Clause 3 provides for amendment of the Principal Act as set out in Schedules 1–3.

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SCHEDULE 1—AMENDMENTS TO PART 23, DIVISION 1

Schedule 1 (1) explains references in Division 1 of Part 23 to registration copies. These are copies of original instruments and they are made for inclusion in the General Register.

Schedule 1 (2) makes an amendment under which an instrument that relates only to land under the Real Property Act 1900 will no longer be registrable in the General Register.

Schedule 1 (3) makes provision for the inclusion in the General Register of

- (a) current and future entries of matters that may at present be entered in the register of causes, writs and orders; and
- (b) current and future entries of matters that may at present be entered in the Register of Resumptions; and
- (c) copies of current and future liens on crops and wool, and current and future stock mortgages; and
- (d) copies of current and future bills of sale; and
- (e) standard forms of covenants referred to in Division 5 of Part 6.

Schedule 1 (4) enables the Registrar-General to refuse to accept an instrument for registration in the General Register unless it is accompanied by a certificate in a form approved by the Registrar-General.

Schedule 1 (5) provides for registration of an instrument (other than a trader's bill of sale) in the General Register after the commencement of the proposed Act to be effected when the Registrar-General allocates to it a distinctive reference signifying its registration. The registration of a trader's bill of sale is dealt with in the cognate Bills of Sale (Amendment) Bill 1992.

Schedule 1 (6) sets out the circumstances in which the Registrar-General may destroy a document forming part of the General Register.

SCHEDULE 2—AMENDMENTS TO PART 23, DIVISION 2

Schedule 2 (1) makes a consequential amendment.

Schedule 2 (2) omits section 185 which establishes the register of causes, writs and orders affecting land. This register is to be discontinued and its place taken by the General Register. Entries already made in the register before it is discontinued will be transferred to the General Register.

The other items in Schedule 2, except Schedule 2 (7) and (9), make consequential amendments and substitute "current legal proceedings" for the Latin expression "lis pendens".

Schedule 2 (7) inserts new section 190A which provides for the vacation of registration of causes, writs and orders affecting land.

Schedule 2 (9) provides for references in other Acts to the register of causes, writs and orders affecting land to be read as references to the General Register of Deeds.

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SCHEDULE 3—OTHER AMENDMENTS

Schedule 3 (1) inserts definitions of “Approved form” and “General Register of Deeds”.

Schedule 3 (2) and **(3)** make consequential amendments.

Schedule 3 (4) inserts new Division 5 of Part 6 (sections 89A–89C) dealing with standard forms of covenants that may be registered in the General Register and included in instruments, with or without amendments, by reference to the registered form.

Schedule 3 (5) and **(6)** make consequential amendments.

Schedule 3 (7) excludes from the errors in official searches for which the Registrar-General may be liable those occurring in a certificate given to the Registrar-General as referred to above in relation to Schedule 1 (4).

Schedule 3 (8) removes the present restriction limiting register indexes to alphabetical indexes in a prescribed form and enables the Registrar-General to provide a copy of the whole or part of an index. It also absolves the Registrar-General from any liability for errors in the index or a copy that occur in a certificate given to the Registrar-General as referred to in relation to Schedule 1 (4).

Schedule 3 (9) substitutes “current legal proceedings” for the Latin expression “lis pendens”.

Schedule 3 (10) authorises the making of regulations of a savings or transitional nature as a consequence of the enactment of the proposed Act.
