

REAL PROPERTY (AMENDMENT) BILL 1989

NEW SOUTH WALES



EXPLANATORY NOTE

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

The object of this Bill is to amend the Real Property Act 1900 so as—

- (a) to extend the time for registering certain interests that affected Crown land before it was converted to Torrens Title or that affected land before a qualified folio of the Register was created for it; and
- (b) to allow a greater variety of arrangements to be made by the Registrar-General for the provision of information and search certificates and the payment of fees under that Act; and
- (c) to repeal a redundant provision of that Act.

The Bill also contains transitional provisions as a consequence of the proposed amendments.

Clause 1 specifies the short title of the proposed Act.

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

Clause 3 is a formal provision that gives effect to the Schedule of amendments to the Principal Act.

Clause 4 makes it clear that each of the extensions of time for the registration of instruments to be effected by the proposed Act will apply to folios of the Real Property Act Register created before that time is extended.

SCHEDULE 1—AMENDMENTS

Extension of times for registration of certain interests

Schedule 1 (1) amends the current requirement that transfers, mortgages, charges or covenant charges affecting Crown land before it was brought under the Principal Act pursuant to section 13A or 13B of that Act must be presented for recording within 6 months of creation of a folio for the land. The 6 months period is extended to 5 years.

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Schedule 1 (2) amends the current requirement that registered deeds affecting land before it was brought under the Principal Act by the creation of a qualified folio of the Register must be presented for recording within 6 months of creation of the folio. The 6 months period is extended until the qualification lapses or is cancelled.

Increased flexibility relating to provision of information and payment of fees

Schedule 1 (3), (4) and (5) contain minor amendments aimed at enabling the Registrar-General to modernise the practices of the Land Titles Office. The new practices are intended to facilitate access to land data held at that office and to enable fees for the provision of data and search certificates to be paid on a periodic basis, if appropriate, or in accordance with other arrangements approved by the Registrar-General.

Repeal of redundant provision

Schedule 1 (6) repeals section 120 of the Principal Act. That section required the Registrar-General—

- (a) to keep and render accounts, and to pay money to the Treasurer, in accordance with regulations under that Act; and
- (b) to follow certain procedures in accounting for money paid to the credit of absent mortgagees; and
- (c) to pay fines and fees to the Consolidated Fund.

These provisions are redundant because—

- There are no such regulations in force. Accounting requirements are now imposed under the Public Finance and Audit Act 1983. In particular, a working account has been established under that Act for Land Titles Office fees.
- It is not the practice of the Registrar-General to receive money paid to the credit of absent mortgagees. There are other more appropriate ways (such as the schemes provided by section 98 of the Conveyancing Act 1919 and by the Unclaimed Money Act 1982) to deal with any such money.
- The Fines and Penalties Act 1901 deals comprehensively with the payment of fines.

Amendment of power to make regulations

Schedule 1 (7) amends section 144 of the Principal Act so as to make it clear that regulations may be made to enable the refund or waiver of fees and other charges otherwise than in prescribed circumstances. The intention is again to allow up-dating of practices in the Land Titles Office.
