

Property Legislation Amendment Act 2005 No 68

[2005-68]



New South Wales

Status Information

Currency of version

Repealed version for 20 June 2006 to 3 July 2007 (accessed 2 July 2024 at 2:22)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Repeal**

The Act was repealed by Sch 5 to the [Statute Law \(Miscellaneous Provisions\) Act 2007 No 27](#) with effect from 4.7.2007.

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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Contents

Long title	3
1 Name of Act	3
2 Commencement	3
3 Amendment of Real Property Act 1900 No 25	3
4-7 (Repealed)	3
Schedule 1 Amendment of Real Property Act 1900	3
Schedules 2-5 (Repealed)	4

Property Legislation Amendment Act 2005 No 68



New South Wales

An Act to amend the *Real Property Act 1900*, the *Conveyancing Act 1919*, the *Local Government Act 1993* and Acts relating to strata titles to make miscellaneous provisions concerning real property; and for other purposes.

1 Name of Act

This Act is the *Property Legislation Amendment Act 2005*.

2 Commencement

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

3 Amendment of *Real Property Act 1900* No 25

The *Real Property Act 1900* is amended as set out in Schedule 1.

4-7 (Repealed)

Schedule 1 Amendment of *Real Property Act 1900*

(Section 3)

[1]-[6] (Repealed)

[7] Section 47 Recording, variation and release of easements etc

Insert before section 47 (1):

(1A) In this section, ***affecting interest*** means an easement, profit à prendre or restriction on the use of land.

[8] Section 47 (1)-(7)

Omit “easement or profit à prendre” wherever occurring (except in section 47 (1) (b) and where lastly occurring in section 47 (5A)).

Insert instead “affecting interest”.

[8A] Section 47 (1) (b)

Omit the paragraph. Insert instead:

- (b) if the affecting interest is an easement or profit à prendre that benefits land under the provisions of this Act—in the folio of the Register for the land benefited.

[9] Section 47 (5A)

Omit the second sentence.

[10] Section 47 (5B) and (5C)

Insert after section 47 (5A):

(5B) The dealing effecting the variation and the plan (if any) must be executed:

- (a) by the registered proprietors of the land burdened, and of any land benefited, by the affecting interest, and
- (b) by every mortgagee, chargee or covenant chargee under a mortgage, charge or covenant charge recorded in the folio of the Register relating to that land.

(5C) The Registrar-General may refuse to register any such dealing or plan unless consents in writing to the registration of the dealing or plan signed by (or by an agent authorised by) such of the following persons as the Registrar-General may determine:

- (a) the lessee under any lease, or the judgment creditor under any writ, recorded in the folio of the Register relating to that land,
 - (b) the caveator under a caveat relating to any estate or interest in that land,
- are lodged in the office of the Registrar-General.

[11] Section 47 (9)

Insert after section 47 (8):

- (9) Subsection (7) applies only to a restriction on the use of land recorded under this section after the commencement of Schedule 1 [10] to the *Property Legislation Amendment Act 2005*.

[12]-[14] (Repealed)

Schedules 2-5 (Repealed)