



ANNO VICESIMO QUARTO

ELIZABETHAE II REGINAE

A.D. 1975

No. 12 of 1975

An Act to amend the Real Property Act, 1886-1972.

[Assented to 20th March, 1975]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

Short titles.

1. (1) This Act may be cited as the "Real Property Act Amendment Act, 1975".

(2) The Real Property Act, 1886-1972, is hereinafter referred to as "the principal Act".

(3) The principal Act, as amended by this Act, may be cited as the "Real Property Act, 1886-1975".

Commencement.

2. This Act shall come into operation on a day to be fixed by proclamation.

Amendment of principal Act, s. 18—
Functions of Deputy Registrar-General.

3. Section 18 of the principal Act is amended by inserting after the passage "any Deputy Registrar-General" the passage "or by any delegate acting under and in accordance with a delegation pursuant to section 18a of this Act".

Enactment of s. 18a of principal Act—

4. The following section is enacted and inserted in the principal Act immediately after section 18 thereof:—

Delegation by Registrar-General.

18a. (1) The Registrar-General may by writing under his hand delegate to any officer or clerk any of the powers or functions of the Registrar-General under this Act or any other Act (except this power of delegation) so that the delegated powers may be exercised by the delegate with respect to the matter or matters of a class specified or the place or locality defined in the instrument of delegation.

(2) A delegation under subsection (1) of this section shall be revocable in writing at will and no delegation shall prevent the exercise of any power or function of the Registrar-General.

Amendment of principal Act, s. 21—
Seal of office to be received in evidence.

5. Section 21 of the principal Act is amended by inserting after the passage "one of his deputies" the passage "or by a delegate referred to in section 18a of this Act".

6. Section 23 of the principal Act is repealed and the following sections are enacted and inserted in its place:—

Repeal of s. 23 of principal Act and enactment of sections in its place—

23. (1) The Registrar-General shall keep a correct account of all sums of money received by him in accordance with the provisions of this Act, and shall pay the same to the Treasurer.

Accounting by Registrar-General, etc.

(2) All fines and fees received under the provisions of this Act shall (subject to the provisions of Part XVIII of this Act) be carried into account by the Treasurer as General Revenue.

23a. (1) Where the Treasurer has received moneys in trust or otherwise on account of absent mortgagees or other persons, and the Treasurer is satisfied that the moneys may be properly paid to any person the Treasurer may upon the application of that person and upon provision by that person of such an indemnity or indemnities, if any, as the Treasurer thinks fit, make payment of the moneys to that person.

Payment of moneys received in Trust.

(2) Any payment made by the Treasurer before the commencement of the Real Property Act Amendment Act, 1975, of moneys of a kind referred to in subsection (1) of this section shall be for all purposes as lawful, valid and effectual as it would have been if—

(a) that subsection was enacted and in force at the time at which that payment was made;

and

(b) the payment of those moneys complied in all respects with the provisions of that subsection.

7. Section 48 of the principal Act is amended by striking out the passage “bind up” and inserting in lieu thereof the word “file”.

Amendment of principal Act, s. 48—
Certificates to be in duplicate.

8. Section 51 of the principal Act is amended by striking out the passage “signed by” and inserting in lieu thereof the passage “sealed with the seal of”.

Amendment of principal Act, s. 51—
Memorial defined.

9. Section 54 of the principal Act is amended by inserting after the present contents thereof (which are hereby designated subsection (1) thereof) the following subsections:—

Amendment of principal Act, s. 54—
Instruments to be according to Act.

(2) Notwithstanding anything in subsection (1) of this section, the Registrar-General may, in his discretion, register any instrument notwithstanding any error in or omission from its memorandum or endorsement of prior encumbrances and, in such case, the error or omission shall not invalidate or otherwise affect the registration of the instrument.

(3) Notwithstanding anything in subsection (1) of this section, where an instrument contains a patent error, the Registrar-General may of his own motion correct the error by marginal notation on the instrument, and the instrument so corrected shall have the like validity and effect as if the error had not been made.

Repeal of
s. 79 of
principal Act
and enactment
of section in
its place.

Substituted
certificate.

10. Section 79 of the principal Act is repealed and the following section is enacted and inserted in its place:—

79. (1) The Registrar-General, on application in that behalf and on proof to his satisfaction that any duplicate certificate or any tenant's copy of a Crown lease has been lost, mislaid or destroyed, may issue a substituted certificate or tenant's copy of Crown lease (as the case may be).

(2) Before issuing a substituted certificate or tenant's copy of Crown lease the Registrar-General shall give at least fourteen days' notice in the *Government Gazette* of his intention so to do.

(3) Every substituted certificate so issued shall be a facsimile of the original certificate filed in the Register Book and every substituted tenant's copy of Crown lease so issued shall be a facsimile of the copy thereof bound in the Register of Crown leases.

(4) Upon issuing a substituted certificate or tenant's copy of Crown lease the Registrar-General shall make an endorsement thereon stating the reason for the issue thereof and shall at the same time enter in the Register Book or the Register of Crown Leases (as the case may be) notice of the issue of such substituted certificate or tenant's copy of Crown lease, and the date thereof, and the reason for the issue thereof.

(5) Every such substituted certificate or tenant's copy of Crown lease shall be available for all purposes and uses for which the certificate or tenant's copy of Crown lease so lost, mislaid or destroyed would have been available, and shall supersede the duplicate certificate or tenant's copy of Crown lease for which it is substituted.

(6) Instead of issuing a substituted certificate the Registrar-General, after giving notice similar to that provided in subsection (2) hereof, may cancel the relevant folio of the Register Book, recording thereon that the folio was cancelled pursuant to this section, and may issue a new certificate in lieu thereof.

(7) For the purposes of this section every lease or agreement for sale of Crown lands granted or made by or on behalf of the Crown, shall be deemed a Crown lease.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

W. R. CROCKER, Governor's Deputy