



ANNO VICESIMO NONO

ELIZABETHAE II REGINAE

A.D. 1980

No. 68 of 1980

An Act to amend the Real Property Act, 1886-1980

[Assented to 13 November 1980]

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

1. (1) This Act may be cited as the "Real Property Act Amendment Act, 1980". Short titles.

(2) The Real Property Act, 1886-1980, is in this Act referred to as "the principal Act".

(3) The principal Act, as amended by this Act, may be cited as the "Real Property Act, 1886-1980".

2. Section 136 of the principal Act is repealed and the following section is substituted:

Repeal of s. 136 and substitution of new section.

136. (1) Upon the registration of a transfer by a mortgagee or encumbrancee exercising the power of sale conferred by this Act the estate or interest of the mortgagor or encumbrancer passes to the transferee—

Transfer upon sale by mortgagee or encumbrancee.

(a) freed and discharged from the mortgage or encumbrance and from all estates, interests and rights to which the mortgage or encumbrance has priority,

but—

(b) subject to all estates, interests and rights that have priority to the mortgage or encumbrance.

(2) The registration of a transfer by a mortgagee or encumbrancee exercising the power of sale conferred by this Act is not prevented by a caveat or an instrument that has effect as a caveat where the caveat or the instrument relates to an estate, interest or right to which the mortgage or encumbrance has priority and, upon registration of the transfer—

(a) any such caveat;

and

(b) the registration of any such instrument that has effect as a caveat,

shall be deemed to have been cancelled.

(3) This section shall be deemed to have had effect from the commencement of this Act.

Amendment of
s. 192—
Summons to
give up
possession.

3. Section 192 of the principal Act is amended by striking out all the words preceding paragraph I and substituting the following words:

Any of the following persons (in the following sections called “the claimant”) may cause any person in possession of land under the provisions of this Act to be summoned to appear before the Court to show cause why the person summoned should not give up possession to the claimant—

Amendment of
s. 223mc—
Strata plans
for new
building
schemes.

4. Section 223mc of the principal Act is amended—

(a) by striking out subsection (3) and substituting the following subsection:

(3) Where—

(a) a building or buildings were constructed before the commencement of the Real Property Act Amendment (Strata Titles) Act, 1967;

(b) the building or buildings are situated upon land comprised in one or more certificates;

and

(c) the land and buildings are divided in accordance with a building unit scheme into two or more building units, each designed for separate occupation,

a strata plan of the land, and of the building or buildings on the land, may be lodged with the Registrar-General for deposit in the Lands Titles Registration Office.;

(b) by striking out from paragraph (a) of subsection (4) the passage “referred to in paragraph (c) of subsection (3) of this section”;

and

(c) by striking out subsection (5).

Amendment of
s. 223md—
Certificate on
behalf of
Council and
by the
Director.

5. Section 223md of the principal Act is amended—

(a) by striking out from paragraph (b) of subsection (1) the passage “as constructed or laid out”;

(b) by striking out paragraph (ba) of subsection (1);

and

(c) by striking out paragraphs (a) and (b) of subsection (3) and substituting the following paragraphs:

(a) the strata plan does not represent an accurate delineation of the units and unit subsidiaries (if any) as they exist on the parcel;

(b) the building or buildings shown on the plan are not structurally sound or are not in good repair;.

6. Schedule 26 of the principal Act is amended by striking out paragraph (b) of clause 7 and substituting the following paragraph: Amendment of schedule 26.

(b) keep any animals in the unit or in the common property other than—

(i) a guide dog that is used by a blind person who is residing in the unit;

or

(ii) an animal kept in accordance with the corporation's permission (which may be withdrawn at any time by written notice given pursuant to a special resolution);.

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

K. D. SEAMAN, Governor