

Queensland



ANNO TRICESIMO QUINTO

ELIZABETHAE SECUNDAE REGINAE

No. 26 of 1986

An Act to amend the Real Property Act 1861-1985, the Real Property Act 1877-1981 and other specified Acts to facilitate the computerization of the office of the Registrar of Titles, to make other amendments and for related purposes

[ASSENTED TO 8TH APRIL, 1986]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY

1. Short title. This Act may be cited as the *Real Property Acts and Other Acts Amendment Act 1986*.

2. Commencement. (1) Part I shall commence on the day this Act is assented to for and on behalf of Her Majesty.

(2) Sections 8, 9, 10, 25, 30, 43 and 81 shall commence on 1 July 1986 but, if a later date is appointed by Proclamation made prior to 1 July 1986, those provisions shall commence on that later date.

(3) Except as provided by subsections (1) and (2), the provisions of this Act shall commence on a date appointed by Proclamation. The date of commencement of those provisions is in this Act referred to as the commencement of this Act.

3. Arrangement. This Act is divided into Parts as follows:—

PART I—PRELIMINARY (ss. 1-5);

PART II—AMENDMENT OF REAL PROPERTY ACT 1861-1985 (ss. 6-82);

PART III—AMENDMENT OF REAL PROPERTY ACT 1877-1981 (ss. 83-104);

PART IV—AMENDMENT OF THE REAL PROPERTY (COMMONWEALTH TITLES) ACT OF 1924 (ss. 105-106);

PART V—AMENDMENT OF REAL PROPERTY (COMMONWEALTH DEFENCE NOTIFICATION) ACT 1929-1974 (ss. 107-108);

PART VI—AMENDMENT OF THE REAL PROPERTY ACTS AMENDMENT ACT OF 1952 (ss. 109-115);

PART VII—AMENDMENT OF REAL PROPERTY ACTS AMENDMENTS ACT 1956-1974 (ss. 116-117);

PART VIII—AMENDMENT OF THE REAL PROPERTY (LOCAL REGISTRIES) ACT OF 1887 (ss. 118-122);

SCHEDULE.

4. Amendment of scheduled Acts. (1) The Acts specified in the Schedule are amended in the provisions and to the extent therein specified.

(2) An Act specified in the Schedule and amended as provided in the Schedule may be cited as indicated in the Schedule.

5. Savings and transitional. (1) Notwithstanding the amendment of the *Real Property Act 1861-1985* by this Act, the provisions of the

Real Property Act 1861-1985 in respect of encumbrances, bills of encumbrance, encumbrancers and encumbrancees and in respect of memoranda of transfer and charge and the transferors and transferees thereunder shall continue to apply in respect of any bill of encumbrance or, as the case may be, memorandum of transfer and charge registered or executed before the commencement of this Act as if this Act (other than this section) had not been enacted.

(2) Notwithstanding the provisions of this Act, the provisions of sections 73 and 75 of the *Real Property Act 1861-1985* shall continue to apply after the commencement of this Act in respect of any lease or mortgage executed prior to that commencement to the same extent that those provisions would have applied had this Act (other than this section) not been enacted.

(3) No provision of this Act shall prevent the registration of any instrument, executed before the commencement of that provision and lodged with the Registrar of Titles for registration, which the Registrar of Titles would have been empowered to register had that provision not been enacted and the Registrar of Titles shall in respect of such an instrument continue to have all the powers that he had in respect of instruments lodged for registration prior to the commencement of that provision.

(4) A reference in any Act, Proclamation, Order in Council, regulation, rule, by-law, ordinance or other document, instrument or writing whatever before the commencement of this Act to the register book by whatever means expressed shall, on and from that commencement, be read and construed as referring to the register maintained pursuant to the *Real Property Act 1861-1986* and shall operate and have effect accordingly.

(5) A requirement, direction or authorization in any Act to make an endorsement, a memorial or note on a grant or certificate of title, by whatever means expressed, in respect of land under the *Real Property Act 1861-1985* shall be read as a requirement, direction or authorization to make the appropriate recording in the register maintained pursuant to the *Real Property Act 1861-1986*.

PART II—AMENDMENT OF REAL PROPERTY ACT 1861-1985

6. Citation. (1) In this Part the *Real Property Act 1861-1985* is referred to as the Principal Act.

(2) The Principal Act as amended by this Part may be cited as the *Real Property Act 1861-1986*.

7. Amendment of s. 3. Interpretation of certain terms. Section 3 of the Principal Act is amended by—

(a) after the term “Grant” and its meaning inserting the following term and meaning:—

“Minister” means the Minister for Justice and Attorney-General or other Minister of the Crown for the time being charged

with the administration of this Act and includes any Minister of the Crown for the time being performing the duties of the Minister”;

(b) omitting from the meaning of the term “Proprietor” the word “seised” and substituting the word “holding”;

(c) omitting the term “Memorandum of transfer” and its meaning and substituting the following terms and meanings:—

“Memorandum of transfer” means an instrument in the prescribed form executed by a person with a view to transferring an estate or interest in land

“Time-sharing scheme” means a scheme whereby it is proposed that participants therein shall have the exclusive possession or occupation of land for one or more specified periods of the year either in perpetuity or for a term of years”;

(d) omitting the term “Certificate of title” and its meaning and substituting the following term and meaning:—

“Certificate of title” means an instrument evidencing the estate in fee simple or other estate or interest in any land executed by the Registrar of Titles in the prescribed form”;

(e) omitting the term “Bill of mortgage” and its meaning and substituting the following term and meaning:—

“Bill of mortgage” means an instrument in the prescribed form executed by the intending mortgagor with a view to creating a mortgage”;

(f) omitting the term “Encumbrance”, the term “Encumbrancer”, the term “Encumbrancee” and the term “Bill of Encumbrance” and their respective meanings;

(g) omitting the term “Registration abstract” and its meaning and substituting the following term and meaning:—

“Register” when used as a noun means the register maintained by the Registrar of Titles in accordance with section 32”;

(h) omitting from the paragraph commencing with the words “The describing” the words “seized of or”;

(i) omitting from the last paragraph all words from and including the words “and whenever a form” to the end of the paragraph.

8. Repeal of and new s. 9. Registrar-General with sanction of Governor to issue forms of instrument, etc. The Principal Act is amended by repealing section 9 and substituting the following section:—

“9. Registrar of Titles may license person to print and sell forms. The Registrar of Titles may, upon such terms and conditions as he thinks fit, license any person to print and sell any of the several forms of instruments (other than the form of a certificate of title) prescribed by this Act and such a form if made in a form purporting to be a proper form and marked

with some distinguishing mark determined by the Registrar of Titles shall, unless the contrary is proved, be taken to be made in the prescribed form.”.

9. Repeal of s. 9A. Prescribed forms of instruments, etc. The Principal Act is amended by repealing section 9A.

10. Repeal of and new s. 10. Penalty for not using forms issued by the Registrar-General. The Principal Act is amended by repealing section 10 and substituting the following section:—

“**10. Prescribed forms of instruments, etc.** (1) The Governor in Council may from time to time make regulations prescribing the forms of instruments that may be lodged in the office of or issued by the Registrar of Titles and the number of executed copies (if any) of those instruments that shall be so lodged.

(2) Notwithstanding any other provisions of this Act, an instrument lodged in the office of or issued by the Registrar of Titles shall be in the prescribed form.

(3) Where by this or any other Act an instrument is prescribed to be in duplicate or triplicate, the instrument shall not be lodged in the office of the Registrar of Titles unless it is accompanied by a duplicate original or, as the case may require, the triplicate originals of the instrument.

The Registrar of Titles may in his absolute discretion refuse to register any instrument lodged that is not accompanied by the prescribed number of executed copies thereof.

(4) For the purposes of this Act, an instrument is not in the prescribed form unless it is in the form—

(a) prescribed by regulation;

(b) prescribed by or under any other Act;

or

(c) in the case of an instrument executed prior to the commencement of section 10 of the *Real Property Acts and Other Acts Amendment Act 1986*, prescribed or permitted by the provisions of *The Real Property Act of 1861* or of any Act amending that Act in force at the time of execution of the instrument,

and in all cases, is made and completed in the manner prescribed at the time of execution of the instrument.

(5) Regulations made pursuant to this section may also prescribe—

(a) the size, type and quality of paper upon which a form may be printed;

(b) the size and nature of the type to be used in the printing and completion of a form;

(c) the ink or other substance with which a form shall or may be printed or completed;

and

(d) for the purpose of facilitating the registration of an instrument, any other matter or thing in respect of a form.

(6) Where a form is prescribed to be used, the Registrar of Titles may in his absolute discretion refuse to register any instrument not in the prescribed form.

(7) A person shall not print, sell or use a form purporting to be a prescribed form knowing that it is not a prescribed form or that its printing or sale is or was without the authority of the Registrar of Titles.

Penalty: \$100.”.

11. **New s. 10A.** The Principal Act is amended by inserting after section 10 the following section:—

“10A. Registrar of Titles to record etc. in register. The Registrar of Titles shall make the recordings in the register and issue the certificates of title in respect of estates in land which recording and issuing is provided for under this or any other Act.”.

12. **Amendment of s. 11. Powers of Registrar.** Section 11 of the Principal Act is amended by—

(a) inserting in the note to the section, after the word “Registrar” the words “of Titles”;

(b) omitting the words “The Registrar-General” and substituting the words “The Registrar of Titles”;

(c) in paragraph (1), omitting from subparagraph (b) the words “, encumbrance”, the words “or encumbrance” and the words “or registration abstract is about to be granted”;

(d) omitting from paragraph (2) the words “Registrar-General” where they twice occur and substituting the words “Registrar of Titles” in each case;

(e) omitting paragraph (4) and the proviso thereto and substituting the following paragraph and provisos:—

“(4) To correct errors. He may, upon such evidence as shall appear to him and the Master of Titles sufficient in that behalf, correct errors in certificates of title, or in the register or in entries made therein respectively and may supply entries omitted to be made under the provisions of this Act:

Provided that in the correction of any such error he shall maintain a record in the register of the original words and shall record in the register the original words and shall record the date on which such correction was made or entry supplied and every certificate of title so corrected and every entry so corrected or supplied shall have the like validity

and effect as if the error had not been made or the entry omitted except as regards any assurance or instrument which may have been entered in the register previously to the actual time of correcting the error or supplying the omitted entry:

Provided further that if the certificate of title to which the correction or entry relates is not in the possession of the Registrar of Titles, he may require any person who has possession of the certificate of title to produce it to him”;

(f) in paragraph (4A)—

(i) omitting the word “book” where it twice occurs;

(ii) omitting the proviso thereto and substituting the following proviso:—

“Provided always that the Registrar of Titles shall maintain a record in the register of the original name”;

(g) omitting from paragraph (8) the word “book”;

(h) omitting from the last paragraph the words “appropriate form D of the Schedule” and substituting the words “prescribed form”.

13. Amendment of s. 16. Lands granted prior to the day on which this Act comes into operation may be brought under the operation of this Act. Section 16 of the Principal Act is amended by—

(a) omitting from the second paragraph the words “form A of the Schedule hereto or in words to the like effect” and substituting the words “the prescribed form”;

(b) omitting the words “Registrar-General” where they occur three times and substituting the words “Registrar of Titles” in each case.

14. Amendment of s. 19. Application to be advertised when title is complete. Section 19 of the Principal Act is amended by—

(a) omitting the word “encumbrance” where it twice occurs;

(b) omitting the words “thirty-two” and the word “published” and substituting the word “50” and the word “circulated” respectively.

15. Amendment of s. 20. Applications to be advertised when title not complete. Section 20 of the Principal Act is amended in subsection (1) in the first paragraph by—

(a) omitting the words “or encumbrance”;

(b) omitting the words “Registrar-General” where they occur 3 times and substituting the words “Registrar of Titles” in each case.

16. Amendment of s. 23. Parties interested may enter caveat. Schedule B. Section 23 of the Principal Act is amended by—

(a) omitting from the note to the section the words “Schedule B.”;

(b) omitting the words “Registrar-General a caveat in form B of the Schedule hereto” and substituting the words “Registrar of Titles a caveat in the prescribed form”;

(c) omitting the words “Registrar-General deliver” and substituting the words “Registrar of Titles deliver”.

17. Repeal of and new s. 32. Registrar-General to keep register book. The Principal Act is amended by repealing section 32 and substituting the following section:—

“**32. Register.** (1) The Registrar of Titles shall cause to be maintained a register of every parcel of land brought under this Act (whether before or after the commencement of this section) and of all estates and interests which are required or permitted by this or any other Act to be registered in each parcel of land at the time of or subsequent to the bringing of the parcel of land under this Act together with particulars of all instruments affecting the land.

(2) There shall be included in the register—

(a) names of the persons who hold, or at any time have held, an estate or interest in land or other interest recorded in the register and the nature of that estate or interest or other interest;

(b) information required by this or any other Act to be recorded in the register;

and

(c) all instruments recorded in the register.

(3) A distinctive reference shall be allocated in the register to an estate or interest in one parcel of land which reference shall correspond with the reference upon the current certificate of title or deed or grant issued in respect of that estate or interest.

(4) The register may be maintained wholly or partly—

(a) on paper, or microfilm or in or on such other medium as the Registrar of Titles from time to time considers appropriate;

(b) in such device for storing or processing information as the Registrar of Titles from time to time considers appropriate.

(5) The Registrar of Titles may, if he considers it appropriate to do so, create within the register a record of a leasehold estate created by a lease recorded in the register.

(6) The Registrar of Titles may from time to time cause a microfilm or such other copy to be made by the means approved from time to time by the Minister for the purposes of this section of any part of the register, including any instrument and, upon the Registrar of Titles certifying that the microfilm or other copy is an accurate copy of that part, that microfilm or other copy shall form part of the register.

(7) The Registrar of Titles may cause information recorded in one part of the register to be recorded in another part of the register.

(8) The Registrar of Titles may cause to be deleted from a part of the register particulars that he is satisfied have been accurately recorded in another part of the register.

(9) The Register Book kept by the Registrar of Titles prior to the commencement of this section shall, subject to the provisions of this Act, form part of the register.”.

18. New s. 32A. The Principal Act is amended by inserting after section 32 the following section:—

“**32A. Registrar of Titles may maintain other records.** The Registrar of Titles may cause to be maintained, not being part of the register, such indices and supplementary information as he considers appropriate for the efficient operation of the register or of the office of the Registrar of Titles.”.

19. Repeal of and new s. 33. Certificates of title to be in duplicate and to be bound up in register. Schedule C. The Principal Act is amended by repealing section 33 and substituting the following section:—

“**33. Certificate of title.** (1) Every certificate of title issued after the commencement of this section shall have recorded thereon by the Registrar of Titles in such manner as to preserve their priority particulars of all unsatisfied mortgages and of every lease or outstanding estate or interest whatever affecting the land which may have been registered or of which he may have notice.

(2) If a certificate of title is issued to a minor the Registrar of Titles shall record on the certificate of title, the age of the minor.

(3) A certificate of title issued under this section shall be delivered to the person entitled thereto unless that person is a minor.

(4) Every certificate of title issued by the Registrar of Titles shall be received in all courts as evidence of the particulars therein set forth or endorsed thereon and of their being registered and shall be conclusive evidence that the person named in the certificate of title as holding or as taking an estate or interest in the land therein described holds or is possessed of that land for the estate or interest therein specified and that the property comprised in the certificate of title has been duly brought under the provisions of this Act.

(5) No certificate of title shall be impeached or defeasible on the ground of want of notice or of insufficient notice of the application to bring land therein described under the provisions of this Act or on account of any error, omission or informality in such application or in the proceedings pursuant thereto by the Master of Titles or by the Registrar of Titles.”.

20. Repeal of and new s. 34. Grants and certificates of title registered when embodied in register book. The Principal Act is amended by repealing section 34 and substituting the following section:—

“34. Registration of grants, titles and other instruments. (1)

On and from the recording, made on or after the commencement of this section, in the register of the estate in fee simple or other estate or interest in any land granted by the Crown or the subject of an application to bring land under the provisions of this Act, the land shall be under the provisions of this Act and registered.

(2) Every instrument purporting to transfer or in any way to affect land under the provisions of this Act shall be registered as soon as—

(a) particulars thereof are recorded in the register together with particulars of the day of the production in the office of the Registrar of Titles for the purposes of registration of the instrument;

and

(b) registration of the instrument under the authority of the Registrar of Titles is recorded in the register in the prescribed manner by a person authorized in that regard by the Registrar of Titles,

and the person recorded in the register as holding or taking an estate or interest in the land shall be the registered proprietor of the estate or interest described in the instrument.

(3) Every land grant, certificate of title, transfer and other instrument that, pursuant to section 34 of the *Real Property Act 1861-1985*, was, prior to the commencement of this section, deemed to have been registered shall be taken to have been registered in the register and have effect accordingly.”.

21. Repeal of and new s. 35. Upon entry of particulars instrument deemed to be part of register book. Schedule. The Principal Act is amended by repealing section 35 and substituting the following section:—

“35. Upon recording of particulars, instrument becomes part of register. (1) So soon as particulars thereof are recorded in the register, every instrument drawn in any of the several prescribed forms and every plan shall for the purposes of this Act be taken to be embodied in the register as part and parcel thereof and shall thereupon create and impose the like obligations on the persons signing the same and for a like period of time as if the instrument or plan had been sealed and delivered.

(2) An instrument prescribed by or under this or any other Act to be lodged in duplicate or, as the case may be, triplicate shall be in duplicate or triplicate as prescribed and upon registration thereof the provisions of subsection (1) shall apply to one and the Registrar of Titles shall deliver the other or, as the case may be, the others to, the person entitled thereto.”.

22. Repeal of and new s. 36. Remainderman may be registered as such. Name of remainderman to be endorsed on certificate of title. The Principal Act is amended by repealing section 36 and substituting the following section:—

“36. Registration of remainderman. (1) Whenever a certificate of title has been issued to a proprietor in respect of a life estate or any other estate less than an estate in fee simple, the person entitled as remainderman may apply in the prescribed form to be recorded in the register as a remainderman.

(2) The Registrar of Titles shall cause the title of an applicant to the estate or interest claimed by him to be investigated and shall take the direction of the Master of Titles thereon.

(3) If the Master of Titles directs that it appears the applicant is a remainderman as claimed by him, the Registrar of Titles—

(a) shall cause advertisements to be published in the manner prescribed for the case of bringing land under this Act;

and

(b) shall proceed to record the name of the applicant in the register as remainderman of the estate or interest to which he shall appear to be entitled unless a caveat in the prescribed form forbidding such recording is received by him within the time specified in the advertisement for that purpose or by any order of the Supreme Court.

(4) If the current certificate of title of land is produced to the Registrar of Titles for the purpose, the Registrar of Titles shall cancel that certificate of title and issue a fresh certificate of title that includes particulars that a person has been recorded in the register as a remainderman and the date and hour of that recording.

(5) The fees payable upon an application under this section shall be the same as are payable by a person applying to bring land under the provisions of this Act.”.

23. Amendment of s. 37. Remainderman registered as such prohibited from dealing with estate except in manner prescribed in this Act. Section 37 of the Principal Act is amended by—

(a) omitting the word “book” where it twice occurs;

(b) omitting the words “Registrar-General” and substituting the words “Registrar of Titles”;

(c) omitting the word “enter” and substituting the word “record”;

(d) omitting the word “encumber”, the words “bill of encumbrance” and the word “encumbrances”.

24. Amendment of s. 38. Certificate of title to be issued to remainderman as soon as his estate shall revert into an estate in

possession and to purchaser entitled to a present estate in fee simple. Section 38 of the Principal Act is amended by—

(a) omitting the words “Registrar-General” where they occur four times and substituting the words “Registrar of Titles” in each case;

(b) omitting the word “enter” and the word “entered” and substituting the word “record” and the word “recorded” respectively;

(c) omitting the words “book and on the certificate of title when delivered up”.

25. Repeal of and new s. 40. Persons registered as joint proprietors to be joint tenants. Tenants in common may request issue of separate certificates of title. The Principal Act is amended by repealing section 40 and substituting the following section:—

“**40. Persons registered as co-owners.** (1) Two or more persons registered jointly as proprietors of land or any estate or interest therein shall, in the absence of an entry in the register indicating that they hold as tenants in common, be entitled as joint tenants at law.

(2) Subject to subsection (4), where two or more persons are entitled at law as tenants in common to any estate or interest in land, those tenants in common shall not receive separate and distinct certificates of title unless all those tenants in common request the Registrar of Titles to issue separate and distinct certificates of title or other instruments evidencing their title as tenants in common to the relevant estate or interest.

(3) Nothing in this Act affects the operation of section 35 of the *Property Law Act 1974-1986*.

(4) Where, under a time-sharing scheme, a registered proprietor transfers or proposes to transfer to each participant in the scheme an estate or interest in the land the subject of the scheme as a tenant in common of an undivided share with other participants, the Registrar of Titles may, and it is hereby declared always could, whenever he considers it expedient so to do, issue in the name of the registered proprietor separate certificates of title for each such estate or interest in that land.

Nothing in this subsection shall prevent the Registrar of Titles issuing one certificate of title in respect of several such estates or interests in the name of the same registered proprietor.

(5) For the purposes of this section land includes a lot within the meaning of the *Building Units and Group Titles Act 1980-1986*.”

26. Amendment of s. 43. Instruments not effectual until entry in register book. Section 43 of the Principal Act is amended by—

(a) omitting from the note to the section the words “entry in register book” and substituting the words “recording in register”;

(b) omitting the words “transfer or encumber” and the words “Registrar-General” and substituting the words “transfer or mortgage” and the words “Registrar of Titles” respectively.

27. Amendment of s. 44. Estate of registered proprietor paramount. Section 44 of the Principal Act is amended by—

(a) omitting the word “encumbrances” where it twice occurs and substituting the word “mortgages” in each case;

(b) omitting the words “notified by entry or memorial on the folium of the register book constituted by the land grant or certificate of title” and substituting the words “recorded in the register in respect”.

28. Repeal of and new s. 45. Memorial to be recorded on duplicate grant or other instrument. The Principal Act is amended by repealing section 45 and substituting the following section:—

“45. Endorsement of instrument upon registration. (1) Whenever particulars of an instrument have been recorded in the register, the Registrar of Titles shall endorse on the instrument a memorandum of the day and hour on which the particulars were recorded in the register and shall authenticate the endorsement by affixing his signature to the endorsement.

For the purposes of this section, the signature of the Registrar of Titles may be affixed by any officer for the time being employed in his office and authorized by the Registrar of Titles in that regard. The authority may specify the manner in which an officer is to affix the signature of the Registrar of Titles.

(2) An instrument endorsed and authenticated as prescribed in subsection (1) shall be received in all courts as conclusive evidence of the particulars therein set forth and of all the covenants, conditions and matters therein expressed or by this Act declared to be implied and that that instrument has been duly registered.”.

29. Amendment of s. 46. Surrendered deeds and instruments dated prior to existing certificate of title not to be produced. Section 46 of the Principal Act is amended by omitting the words “book and upon the existing certificate of title as an encumbrance” and substituting the words “as a mortgage”.

30. Repeal of and new s. 46A. Destruction of instruments, etc., in certain circumstances. The Principal Act is amended by repealing section 46A and substituting the following section:—

“46A. Destruction of instruments, etc. in certain circumstances. (1) Notwithstanding any provisions of this Act or of any Act amending or to be read as one with this Act and subject to the *Libraries Acts 1943-1979*, the Registrar of Titles may destroy any

part of the register or any instrument that is held in the office of the Registrar of Titles, that in his opinion—

(a)—

- (i) does not evidence a subsisting interest;
or
- (ii) does evidence a subsisting interest which interest is also accurately evidenced in another part of the register;
- (b) will not be required for the purpose of recording therein or thereon the effect of any dealing;
and
- (c) has been accurately copied by microfilm or other means and the copy so made forms part of the register.

(2) Notwithstanding section 50, the Registrar of Titles may in his absolute discretion return a suitably perforated cancelled grant or certificate of title to the person who was prior to its final delivery to the Registrar for cancellation, entitled to the grant or certificate.”.

31. Amendment of s. 48. Transfer. Section 48 of the Principal Act is amended in subsection (1) by—

- (a) omitting the words “memorial of a”;
- (b) omitting the words “entered in the register book” and substituting the words “recorded in the register”;
- (c) omitting the words “form W of the Schedule” and substituting the words “the prescribed form”;
- (d) omitting from provision (d) the words “encumbrances.”.

32. Repeal of and new s. 49. If estate in fee-simple be transferred certificate of title to be delivered up and cancelled so far as regards the portion of land transferred. The Principal Act is amended by repealing section 49 and substituting the following section:—

“**49. Certificate of title, etc, to be delivered up with instrument and cancelled.** Save where this or any other Act otherwise provides, an instrument, other than a transfer of lease or a caveat, shall not be registered until the current grant or certificate of title in respect of the estate or interest which is wholly or partly affected by the instrument is delivered up to the Registrar of Titles who, upon registration of that instrument, may cancel the grant or certificate of title.”.

33. Amendment of s. 51. Easements and incorporeal right to be registered. Section 51 of the Principal Act is amended by—

- (a) omitting from subsection (1) all words from and including the expression “Registrar-General” to and including the words “certificate

of title of” and substituting the words “Registrar of Titles shall record in the registrar particulars of the instrument creating that easement or incorporeal right in relation to”;

(b) omitting from subsection (2) the words “enter a memorial of the instrument creating that easement on the folio of the register book constituted by the existing grant or certificate of title of” and substituting the words “record in the registrar particulars of the instrument creating that easement in relation to”.

34. Amendment of s. 52. Lands under the provisions of this Act how leased. Schedule E. Section 52 of the Principal Act is amended by—

(a) omitting from the note to the section the words “Schedule E.”;

(b) in the first paragraph—

(i) omitting the words “or demised”;

(ii) omitting the words “form E of the Schedule hereto” and substituting the words “the prescribed form”;

(c) omitting from the second paragraph the words “or encumbered”, the words “or bill of encumbrance” and, where they twice occur, the words “or encumbrance”.

35. Amendment of s. 54. Lease may be surrendered by endorsement by lessee with concurrence of lessor. Section 54 of the Principal Act is amended by—

(a) omitting the note to the section and substituting the note “Surrender of lease.”;

(b) in the first paragraph—

(i) omitting the words “or demise”;

(ii) omitting the words “endorsed upon such lease or on the counterpart thereof the word “Surrendered” with the date of such surrender and such endorsement” and substituting the words “executed an instrument of surrender of lease in the prescribed form which”;

(c) omitting from the second paragraph all words from and including the words “and the Registrar-General” to and including the words “so made in the register book” and substituting the words “and the Registrar of Titles, upon production of that instrument of surrender of lease shall record in the register the fact of the surrender and the date of the surrender and shall endorse upon the lease a memorandum recording the fact of that recording having been made in the register and upon that recording being made in the register”;

(d) omitting from the proviso the words “. encumbrance” and the words “. encumbrancee”.

36. Repeal of and new s. 55. Proceedings when lessee insolvent. The Principal Act is amended by repealing section 55 and substituting the following section:—

“**55. Proceedings where lessee bankrupt.** Whenever the Registrar of Titles receives notification pursuant to the provisions of section 133 (3) of the *Bankruptcy Act 1966* of the Commonwealth or of that provision as amended from time to time or of any provision of any Act of the Commonwealth in substitution of that section of the disclaimer of any lease by the trustee in bankruptcy pursuant to that section, the Registrar, upon being satisfied of the disclaimer and upon receipt of a request in the prescribed form, shall record in the register particulars of the disclaimer.”.

37. Repeal of and new s. 56. Lands under this Act how mortgaged or encumbered. Schedule F. The Principal Act is amended by repealing section 56 and substituting the following section:—

“**56. Mortgage of lands.** (1) Whenever any land or any estate or interest in land under the provisions of this Act is intended to be charged or made security in favour of a mortgagee, the mortgagor shall execute a bill of mortgage in the prescribed form.

(2) Each bill of mortgage shall—

(a) contain an accurate statement of the estate or interest intended to be mortgaged and shall refer to the description given in the grant or certificate of title of the land in which that estate or interest is held together with a statement of any mortgage affecting the land;

and

(b) be attested by a witness.

(3) Each bill of mortgage shall be registered in the order of time in which it is produced to the Registrar of Titles for that purpose.

(4) Bills of mortgage registered in respect to or affecting the same estate or interest in land shall, notwithstanding any express, implied or constructive notice, be entitled to priority one over the other according to the date of registration and not according to the date of each instrument itself.”.

38. Amendment of s. 57. Remedy when mortgagor or encumbrancer is in default. Power to sell. Section 57 of the Principal Act is amended by—

(a) omitting from the note to the section the words “or encumbrancer”;

(b) omitting the words “or encumbrancee”.

39. Amendment of s. 58. Registrar-General to give effect to sale by mortgagee or encumbrancee. Section 58 of the Principal Act is amended by—

(a) omitting the note to the section and substituting the note “**Registrar of Titles to give effect to sale by mortgagee.**”;

(b) omitting the words “or encumbrancee”, the words “or encumbrancer” and, where they twice occur, the words “or encumbrance”.

40. Repeal of s. 59. Payments by instalments. Schedules F and G. The Principal Act is amended by repealing section 59.

41. Amendment of s. 60. Bill of mortgage or bill of encumbrance not a transfer. Section 60 of the Principal Act is amended by—

(a) omitting from the note to the section the words “or bill of encumbrance”;

(b) omitting from the first paragraph the words “and bill of encumbrance”;

(c) omitting from the note to the second paragraph the words “or encumbrancee” and the words “or may distrain”;

(d) omitting from the second paragraph the words “or encumbrancee”, the words “or bill of encumbrance”, the words “or encumbered” and the words “or to distrain upon the occupier or tenant of the said land under the power to distrain hereinafter contained”;

(e) omitting from the third paragraph the words “or encumbrancee” where they twice occur, the words “or making any distress as aforesaid”, the words “or bill of encumbrance”, the words “or encumbrancer” and the words “or encumbered”.

42. Amendment of s. 62. Mortgagee or encumbrancee of leasehold entering into possession of rent and profits becomes liable to lessor. Section 62 of the Principal Act is amended by—

(a) omitting from the note to the section the words “or encumbrancee”;

(b) omitting the words “or encumbrancee” where they twice occur;

(c) omitting the words “encumbrancee or” and substituting the word “or”.

43. Repeal of and new s. 63. Discharge of mortgages and encumbrances. The Principal Act is amended by repealing section 63 and substituting the following section:—

“**63. Discharge of mortgages.** (1) Upon production of a duplicate bill of mortgage together with a memorandum of discharge in the prescribed form executed by the mortgagee and attested by a witness discharging the estate or interest by the bill of mortgage pledged or subjected as security from the whole or

part of the principal sum, annuity or sum of money thereby secured or discharging any part of the land comprised in the bill of mortgage from the whole or part of the principal sum, annuity or sum of money and upon production of the relevant grant or certificate of title, the Registrar of Titles shall record in the register that the mortgage is discharged wholly or partially or that part of the land is discharged as the case may require.

(2) Upon a discharge (wholly or partially) of a mortgage or of part of land the subject of the mortgage being recorded in the register, the estate or interest pledged or subjected by the mortgage as security for any principal sum or annuity or the portion of the land referred to in the discharge as intended to be discharged from the principal sum or annuity shall cease to be subject to or liable for the same or, as the case may be, for the part thereof recorded in the register as discharged.

(3) The discharge of part only of land comprised in a bill of mortgage shall only have the effect of discharging the portion of land described in the discharge as intended to be discharged and shall not have the effect of discharging the whole of the land so comprised from the principal sum or annuity.”.

44. Repeal of and new s. 65. Transfer of mortgage and of encumbrance and of lease. The Principal Act is amended by repealing section 65 and substituting the following section:—

“**65. Transfer of mortgage or lease.** A registered mortgage or lease may be transferred to any person by memorandum of transfer in the prescribed form and upon the memorandum being registered the estate or interest of the transferor as set forth in the memorandum with all rights, powers and privileges thereto belonging or appertaining shall pass to the transferee and the transferee shall become subject to and liable for all and every the same requirements and liabilities to which he would have been subject and liable if named in the memorandum originally as mortgagee or lessee of that land, estate or interest.”.

45. Amendment of s. 66. Transfer of mortgage or lease includes transfer of right to sue thereunder. Section 66 of the Principal Act is amended by omitting the words “bill of encumbrance”.

46. Amendment of s. 68. Transferee of land subject to mortgage or encumbrance to indemnify transferor. Section 68 of the Principal Act is amended by—

- (a) omitting from the note to the section the words “or encumbrance”;
- (b) omitting the words “or bill of encumbrance” where they occur three times.

47. Amendment of s. 72. Registrar-General to note particulars of re-entry in register book. Section 72 of the Principal Act is amended by—

(a) in the note to the section—

(i) omitting the words “**Registrar-General**” and substituting the words “**Registrar of Titles**”;

(ii) omitting the word “**book**”;

(b) omitting the words “note the same by entry in the register book” and the words “**Registrar-General**” and substituting the words “record the re-entry in the register” and the words “**Registrar of Titles**” respectively.

48. Repeal of s. 73. Abbreviated form of words for expressing covenants to be as effectual as if such covenants were set forth in words at length. The Principal Act is amended by repealing section 73.

48A. Amendment of s. 74. Such covenants may be set forth in declaration in actions for breach. Section 74 of the Principal Act is amended by—

(a) omitting from the note to the section the word “**Such**” and substituting the word “**Implied**”;

(b) omitting the words “such implied covenants” and substituting the words “covenants implied by this Act”.

49. Repeal of s. 75. Covenants declared to be implied to have the same force as if the same had been expressed. The Principal Act is amended by repealing section 75.

50. Amendment of s. 76A. Incorporation of provisions contained in memorandum. Section 76A of the Principal Act is amended by—

(a) in subsection (3)—

(i) omitting the word “section” and substituting the words “sections 32 (4), (6) to (9) and”;

(ii) omitting the word “book”.

(b) omitting subsection (6).

51. Repeal of and new s. 77. Lands may be vested in trustees by instrument of nomination. Schedule I. The Principal Act is amended by repealing section 77 and substituting the following section:—

“77. **Transfers to trustees.** A registered proprietor of land under this Act may transfer any estate or interest in that land to trustees by an instrument in the prescribed form.”.

52. Repeal of and new s. 78. Trusts may be declared either by schedule to instrument of nomination or by separate deed or instrument.

The Principal Act is amended by repealing section 78 and substituting the following section:—

“78. Declaration of trusts. The trusts upon which land transferred to trustees is held may be declared by a schedule to the instrument by which the trustees are nominated or by a separate instrument or deed deposited with the Registrar of Titles.”.

53. Amendment of s. 79. No entry of trusts to be made in register book. Section 79 of the Principal Act is amended by—

(a) omitting from the note to the section the word **“book”**;

(b) omitting from the first paragraph the words **“Registrar-General shall not make any entry of the said trusts in the register book”** and substituting the words **“Registrar of Titles shall not record those trusts in the register”**;

(c) omitting from the second paragraph the words **“entry in the register book”** and substituting the words **“recording in the register”**.

54. Amendment of s. 80. The words “no survivorship” in any instrument of appointment shall operate to prevent a less number of trustees than are named in such instrument dealing with the land. Section 80 of the Principal Act is amended by—

(a) in the second paragraph—

(i) omitting the words **“Registrar-General shall enter a memorial”** and substituting the words **“Registrar of Titles, upon receipt of a request in the prescribed form, shall record particulars”**;

(ii) omitting the word **“book”**;

(b) in the proviso thereto—

(i) in the note to the proviso—

(A) omitting the words **“Schedule I.”**;

(B) omitting the words **“noted in register-book”** and substituting the words **“recorded in the register”**;

(ii) omitting the words **“form I of the Schedule hereto”** and the words **“upon entry in the register book of the memorial”** and substituting the words **“the prescribed form”** and the words **“the recording in the register of the particulars”** respectively.

55. Amendment of s. 81. The words “no survivorship” to be written on certificate of title if on instrument of nomination. Section 81 of the Principal Act is amended by—

(a) omitting the words **“Registrar-General”** and substituting the words **“Registrar of Titles”**;

(b) omitting the words “on the duplicate of every such certificate bound up in the register book” and substituting the words “cause the register to be noted accordingly”.

56. Repeal of and new s. 83. Direction decree or order of Supreme Court to be registered. The Principal Act is amended by repealing section 83 and substituting the following section:—

“**83. Registration of Supreme Court order regarding trust lands.** (1) Where the Supreme Court or a Judge thereof makes an order in respect of any trust affecting land under the provisions of this Act, the Registrar of Titles, upon receipt of a request in the prescribed form together with an office copy of that order, shall record particulars of the order in the register.

(2) Until particulars of an order are, pursuant to subsection (1), recorded in the register, the order shall not under this Act be effective to transfer or otherwise vest the land and any sale, transfer or other dealing under the order shall not to that extent be valid or effectual.”.

57. Repeal of and new s. 86. Transmission by insolvency. Certified copy of appointment of official assignee and elected assignee to be deposited with Registrar-General. The Principal Act is amended by repealing section 86 and substituting the following section:—

“**86. Transmission on bankruptcy etc.** Save where otherwise expressly provided in any Act, before a transmission or vesting or re-vesting of land or of any estate or interest in land consequent upon bankruptcy or upon the annulling of an adjudication of bankruptcy shall be recorded in the register a request in the prescribed form, together with such other evidence as the Registrar of Titles shall require, shall be lodged with the Registrar.”.

58. Amendment of s. 89. Heir-at-law or devisee may apply to Judge of Supreme Court to order the Registrar-General to issue certificate of title to him. Section 89 of the Principal Act is amended by—

(a) omitting the note to the section and substituting the note “**Application to Supreme Court in estate of deceased person.**”;

(b) omitting the first paragraph ending with the words “deceased proprietor” and substituting the following paragraph:—

“The personal representative, devisee, Public Trustee or any other person interested in the land or in any estate or interest in the land of a deceased proprietor may, at any time, apply to the Supreme Court or a Judge thereof for an order to register the applicant therefor as a proprietor of that land or of an estate or interest in the land.”;

(c) omitting from the second paragraph the words “and the Supreme”, the words “therein as may seem”, the word “entered”, the words “just and such order shall be left with the Registrar-General who shall enter the particulars thereof in the register-book and” and the

word "entry" and substituting the words "The Supreme", the words "upon the application as the Court considers", the word "lodged", the words "just. Upon production of a copy of the order and a request in the prescribed form, the Registrar of Titles" and the word "recording" respectively;

(d) omitting from the proviso the word "encumbrance".

59. Amendment of s. 91. No writ of execution binding until a memorial shall have been entered in the register book and also upon the instrument evidencing title. Section 91 of the Principal Act is amended by—

(a) omitting the note to the section and substituting the note "Writ of execution to be registered.";

(b) omitting from the first paragraph all words from and including the words "a memorial of the said" to and including the words "to the Registrar-General" and substituting the words ", upon production of a copy of the writ and a request in the prescribed form, particulars of the writ are recorded in the register.";

(c) omitting the second paragraph commencing with the words "and upon proof" and ending with the words "be discharged or satisfied" and substituting the following paragraph:—

"Upon production of a request in the prescribed form and proof to his satisfaction that a writ of execution has been discharged or satisfied the Registrar of Titles shall record that particular in the register whereupon that writ of execution shall be deemed to be discharged or satisfied.";

(d) in the proviso to the second paragraph—

(i) omitting the words "although duly entered in the register book as aforesaid";

(ii) omitting the words "entering such writ" and substituting the words "registration of the writ in the register.";

(e) inserting after the proviso the following paragraph:—

"The Registrar of Titles may, at any time after the expiration of three months from the date of production for registration of a writ of execution whether produced for registration before or after the commencement of section 59 of the *Real Property Acts and Other Acts Amendment Act 1986*, cancel that registration."

60. Amendment of s. 94. Registrar of Titles may issue new certificates. Section 94 of the Principal Act is amended by—

(a) in subsection (1)—

(i) omitting the word "application" and substituting the words "request in the prescribed form";

(ii) inserting after paragraph (b) the word "or";

(iii) omitting the expression “; or” occurring after paragraph (c) and omitting paragraph (d);

(b) inserting after subsection (1) the following subsection:—

“(1A) The Registrar of Titles may in his absolute discretion, at any time, and from time to time, whether or not upon the request in the prescribed form of the registered proprietor, issue a certificate of title in relation to land under the provisions of this Act:

Provided that where a current grant or certificate of title in respect of that land is not held by the Registrar of Titles, a certificate of title shall not be issued in respect of that land or any part of that land until the current grant or certificate of title is produced to and cancelled by the Registrar of Titles or, pursuant to this or any other Act, the Registrar of Titles dispenses with the production of the current grant or, as the case may be, certificate of title.”;

(c) in subsection (2)—

(i) inserting in the first paragraph, after the expression “subsection (1)” the expression “or (1A)”;

(ii) omitting from the second paragraph all words from and including the words “, and shall endorse” to the end of the paragraph.

61. Repeal of and new s. 95. Registrar-General may dispense with production of duplicates of certificates of title and other instruments in certain cases. The Principal Act is amended by repealing section 95 and substituting the following section:—

“**95. Registrar of Titles may dispense with production of instruments.** (1) The Registrar of Titles may, where he sees reasonable cause for so doing on application in the prescribed form and subject to compliance with subsection (4), dispense with the production of any instrument or any duplicate or triplicate thereof which is required to be produced to him for the purpose of recording any dealing with land under the provisions of this Act.

(2) The Registrar of Titles may require proof, by affidavit or otherwise, that the person purporting to deal with the land is the registered proprietor of that land or is authorized to deal therewith and that the instrument is not deposited with any person as security for any purpose or for safe custody.

(3) Upon recording any dealing with land after dispensing with the production of any instrument in accordance with this section, the Registrar of Titles shall record in the register that the instrument was not produced and a statement of the reasonable cause whereby the Registrar of Titles has dispensed with production of the instrument.

(4) Before dispensing with the production of an instrument, the Registrar of Titles shall give at least 14 days' notice of his

intention so to do, by a notice published in the Gazette and at least once in a newspaper published in Brisbane and where, in the opinion of the Registrar, the land to which the dealing relates is situated more than 50 kilometres from Brisbane, at least once in a newspaper circulated in the neighbourhood of the land.”.

62. Amendment of s. 98. Caveat may be lodged. Schedule K. Section 98 of the Principal Act is amended by—

- (a) omitting from the note to the section the words “Schedule K.”;
- (b) omitting the words “form K of the Schedule hereto or as near thereto as circumstances will permit” and substituting the words “prescribed form”.

63. Amendment of s. 101. Registration of instrument while caveat in force. Section 101 of the Principal Act is amended in provision (c) by omitting the words “or encumbrancee” and the words “or bill of encumbrance”.

64. Amendment of s. 104. Power-of-attorney. Schedule L. Section 104 of the Principal Act is amended by—

- (a) omitting from the note to the section the words “Schedule L.”;
- (b) omitting the words “form L of the Schedule hereto” and substituting the words “any form authorized by any other Act”;
- (c) omitting the words “any such power being brought to the Registrar-General he shall enter a memorial of the same in the register book and from and after the date of such entry in the register book” and substituting the words “production of a request in the prescribed form together with the power, the Registrar of Titles shall record particulars of the power of attorney in the register including particulars in respect of any land to which the power applies that is specified in the request whereupon”;
- (d) omitting the words “that the memorial of the same has been so entered signed by the Registrar-General” and substituting the words “by the Registrar of Titles that it has been so recorded”;

(e) omitting the proviso and substituting the following paragraphs:—

“The Registrar of Titles shall retain a copy of the power of attorney.

It shall not be necessary for the Registrar of Titles to require proof that at the time of execution of any instrument executed under a power of attorney recorded in the register that the power was unrevoked.

Upon the commencement of section 64 of the *Real Property Acts and Other Acts Amendment Act 1986*, the separate register of powers of attorney maintained pursuant to section 13 of the *Real Property Act 1877-1981* shall form part of the register.”.

65. Repeal of s. 105. Registration abstract for registering dealings without the limits of the colony. Schedule M. The Principal Act is amended by repealing section 105.

66. Repeal of s. 106. Mode of procedure under registration abstract. The Principal Act is amended by repealing section 106.

67. Amendment of s. 107. General rules applicable to powers-of-attorney and registration abstracts. Section 107 of the Principal Act is amended by—

(a) omitting from the note to the section the words “and registration abstracts”;

(b) omitting the words “and registration abstracts” occurring immediately before rule (i) and substituting the expression “—”;

(c) omitting the words “lease or encumbrance” where they twice occur in rule (ii) and once in rule (iii) and substituting the words “or lease” in each case;

(d) omitting from rule (iii) the words “lessee or encumbrance” and substituting the words “or lessee”;

(e) omitting rules (iv), (v), (vi), (vii) and (viii).

68. Repeal of and new s. 108. Revocation of power-of-attorney. Schedule N. The Principal Act is amended by repealing section 108 and substituting the following section:—

“**108. Revocation of power of attorney.** (1) Upon production of a revocation of power of attorney which power is recorded, whether before or after the commencement of this section, in the register, the Registrar of Titles shall record particulars of the revocation in the register.

(2) The Registrar of Titles shall not register any instrument executed pursuant to a power of attorney where that instrument took effect between the parties thereto subsequent to the date of the recording in the register of particulars of the revocation of the power of attorney.”

69. Amendment of s. 109. Transferee not affected by notices. Section 109 of the Principal Act is amended by—

(a) omitting the words “entry in the register-book” and substituting the words “being recorded in the register”;

(b) omitting the proviso to the section.

70. Amendment of s. 116. Mode of proving instruments. Section 116 of the Principal Act is amended by—

(a) omitting the note “**Schedule P.**” occurring before the words “then the Registrar-General”;

(b) omitting the note “**Schedule Q.**” occurring before the words “Provided always”;

(c) omitting the words "Registrar-General" where they occur four times and substituting the words "Registrar of Titles" in each case;

(d) omitting the words "form P of the Schedule hereto" and the words "form or to the effect of the form marked Q in the Schedule hereto" and substituting the words "prescribed form" in each case.

71. Repeal of and new s. 117. Provision in case of lost grant. The Principal Act is amended by repealing section 117 and substituting the following section:—

"117. Lost instruments. (1) The Registrar of Titles, upon production of a request in the prescribed form and proof to his satisfaction that a registered instrument has been lost or destroyed, may issue a substitute instrument in place of that lost or destroyed instrument and thereafter the substitute instrument shall be used for all purposes in place of the original instrument and the original instrument shall no longer be evidence of the state of the register.

(2) The Registrar of Titles shall record in the register—

(a) the fact of the issue of the substitute instrument;

and

(b) the date of issue of the substitute instrument.

(3) The Registrar of Titles shall endorse upon the substitute instrument—

(a) that the instrument is a substitute instrument replacing a lost or destroyed instrument;

and

(b) the date of issue of the substitute instrument.

(4) Before issuing a substitute instrument, the Registrar of Titles shall give at least 14 days notice of his intention so to do, by notice published once in the Gazette and at least once in a newspaper published in Brisbane, and where, in the opinion of the Registrar, the land to which the instrument relates is situated more than 50 kilometres from Brisbane, at least once in a newspaper circulated in the neighbourhood of the land.

(5) For the purposes of this section—

"original instrument" means a registered instrument that has been or is being replaced by a substitute instrument;

"registered instrument" includes a grant, certificate of title and any other instrument and a duplicate or triplicate of a registered instrument issued by the Registrar of Titles under the authority of this or any other Act;

"substitute instrument" means an instrument issued in place of a lost or destroyed registered instrument."

72. Amendment of s. 119. When new certificates of title to issue in respect of subdivisions. Section 119 of the Principal Act is amended by—

(a) inserting in subsection (1), after the words “of the land” the words “in the prescribed form”;

(b) in subsection (3)—

(i) omitting from the first paragraph the words “register the same in the register book by recording a memorial thereof on the grant or certificate of title therein relating to the land” and substituting the words “record the same in the register”;

(ii) omitting the second paragraph and substituting the following paragraph:—

“Particulars of any dedication to public use of any land pursuant to this section shall be recorded in the register.”;

(c) omitting from subsection (4) the words “as aforesaid”.

73. Amendment of s. 120. Registrar of Titles may require plan to be deposited. Section 120 of the Principal Act is amended by—

(a) inserting in the first paragraph after the words “shall be” the words “in the prescribed form and shall be”;

(b) inserting in the second paragraph after the words “of such land” the words “in the prescribed form”.

74. Repeal of and new s. 121. Search and copy allowed. The Principal Act is amended by repealing section 121 and substituting the following section:—

“**121. Search and copy allowed.** At the discretion of the Registrar of Titles and at a reasonable time during the hours and upon the days appointed for search, a person, upon payment of the prescribed fee, may—

- (a) have access to information recorded in the register;
- (b) be provided with a statement of any particulars recorded in the register;
- (c) be provided with a copy of any instrument recorded in the register (whether taken directly from the instrument or from a microfilm or any other part of the register);
- (d) be provided with information stored in indices or by other means by the Registrar of Titles;
- (e) search and obtain a copy of an instrument lodged or deposited in the office of the Registrar of Titles, except an instrument destroyed pursuant to section 46A, whether or not that instrument has been cancelled.”.

75. Amendment of s. 122. Certified copies signed and sealed to be furnished by the Registrar-General and to be received in evidence. Schedule R. Section 122 of the Principal Act is amended by—

(a) in the note to the section—

(i) omitting the words “**Registrar-General**” and substituting the words “**Registrar of Titles**”;

(ii) omitting the words “**Schedule R.**”;

(b) omitting the words “Registrar-General upon payment of the fee specified in the list marked R in the Schedule hereto” and substituting the words “Registrar of Titles, upon payment of the prescribed fee,”;

(c) inserting after the words “provisions of this Act” the words “or a certified statement of particulars recorded in the register in respect of such land”;

(d) inserting after the words “original instrument” the words “or, as the case may be, of the particulars recorded in the register.”;

(e) inserting in the last paragraph after the words “photostatic copy” the words “a print taken from a microfilm or other copy of a registered instrument where the microfilm or other copy is part of the register”.

76. Amendment of s. 124. Supreme Court may order the cancelling of any entry in the register book obtained through fraud and the substitution of any other entry. Section 124 of the Principal Act is amended by—

(a) in the note to the section—

(i) omitting the word “**entry**” where it twice occurs and substituting the word “**recording**” in each case;

(ii) omitting the word “**book**”;

(b) omitting the words “certificate of title or other instrument or entry in the register book” and the words “Registrar-General” and substituting the words “recording in the register” and the words “Registrar of Titles” respectively.

77. Amendment of s. 126. Persons defrauded may bring action against fraudulent proprietor for damages. Section 126 of the Principal Act is amended by—

(a) omitting from the first paragraph the words “entry in the register book” where they twice occur and substituting the words “recording in the register” in each case;

(b) omitting the words “such entry” and substituting the words “such recording”.

78. Amendment of s. 130. Registrar-General may summon person by whom a certificate of title or entry has been fraudulently or wrongfully obtained. Section 130 of the Principal Act is amended by—

(a) omitting from the note to the section the words “**Registrar-General**” and the word “**entry**” and substituting the words “**Registrar of Titles**” and the word “**recording**” respectively;

(b) omitting the word “**entry**” and substituting the words “**recording in the register or**”;

(c) omitting the words “**Registrar-General**” where they occur four times in the section and substituting the words “**Registrar of Titles**” in each case;

(d) omitting from the note to the second paragraph the words “**Registrar-General**” and substituting the words “**Registrar of Titles**”.

79. Amendment of s. 132. Party appearing may be examined on oath. Registrar-General or Court may order the delivery of the instrument. In case of neglect or refusal fresh certificate or other instrument may be issued. Section 132 of the Principal Act is amended by—

(a) omitting from the note to the section the words “**Registrar-General**” and substituting the words “**Registrar of Titles**”;

(b) omitting the words “**Registrar-General**” where they occur four times and substituting the words “**Registrar of Titles**” in each case;

(c) omitting the words “**enter in the register book notice**” and the words “**enter therein**” and substituting the words “**record in the register**” and the words “**record therein**” respectively.

80. Amendment of s. 139. Authority to register. Section 139 of the Principal Act is amended by—

(a) omitting from the first paragraph the words “**Registrar-General**” and substituting the words “**Registrar of Titles**”;

(b) omitting from the second paragraph the words “**Registrar-General**” and the words “**the duplicate**” and substituting the words “**Registrar of Titles**” and the words “**any duplicate**” respectively.

81. Repeal of and new s. 140. Fees to be charged. The Principal Act is amended by repealing section 140 and substituting the following section:—

“**140. Fees to be charged.** (1) The Governor in Council may from time to time make regulations, not inconsistent with this Act, prescribing the fees to be paid in respect of the lodgement and registration in the office of the Registrar of Titles of instruments whether pursuant to this Act or any other Act and for the provision of other services by the Registrar of Titles.

(2) The Registrar of Titles may charge and recover the fees prescribed pursuant to this section.

(3) Until fees are prescribed by regulation, the fees in force immediately before the commencement of section 81 of the *Real Property Acts and Other Acts Amendment Act 1986*, shall continue to be chargeable and recoverable after that commencement by the Registrar of Titles as if this section had not been enacted.”.

82. Repeal of schedules. The Principal Act is amended by repealing all schedules to the Principal Act.

PART III—AMENDMENT OF REAL PROPERTY ACT 1877-1981

83. Citation. (1) In this Part the *Real Property Act 1877-1981* is referred to as the Principal Act.

(2) The Principal Act as amended by this Part may be cited as the *Real Property Act 1877-1986*.

84. Repeal of s. 13. Register of powers of attorney. The Principal Act is amended by repealing section 13.

85. Repeal of s. 16. Transfers of fee-simple not in duplicate. Leases may be in triplicate. The Principal Act is amended by repealing section 16.

86. Repeal of and new s. 17. Except in certain cases not necessary for fresh certificates of title to issue to transferees. The Principal Act is amended by repealing section 17 and substituting the following section:—

“17. Issue of new certificate of title or endorsement on current certificate of title. Upon the registration of a memorandum of transfer or other dealing in the fee-simple comprising the whole of the land described in a grant or certificate of title, the Registrar of Titles shall—

(a) cancel the grant or current certificate of title and issue a fresh certificate of title disclosing the current state of the register in respect of that land;

or

(b) endorse the grant or current certificate of title with a memorial of that transfer or other dealing,

and deliver the certificate to the transferee or other person entitled thereto:

Provided that where several transfers or dealings are to be registered the Registrar need only issue a fresh certificate of title upon the registration of the last transfer or dealing.”.

87. Amendment of s. 18. Leases for less than three years valid and same may be registered. Section 18 of the Principal Act is amended by omitting the words “form E or to the purport or effect of form E of the schedule to” and substituting the words “form prescribed under”.

87A. Amendment of s. 19. Case of purchase of land by mortgagee. Section 19 of the Principal Act is amended by omitting the words “or encumbrance” where they occur three times.

87B. Amendment of s. 20. Application of proceeds of sale under mortgage, etc. Section 20 of the Principal Act is amended by omitting the words “or encumbrancee” and the words “or bill of encumbrance”.

88. Repeal of s. 22. Mortgages to building societies and trade unions. The Principal Act is amended by repealing section 22.

89. Repeal of s. 24. Transfer subject to a charge. The Principal Act is amended by repealing section 24.

90. Repeal of s. 25. Transfer subject to charge to be in duplicate. The Principal Act is amended by repealing section 25.

91. Repeal of s. 26. Transfer subject to a charge when registered to be equivalent to a bill of mortgage. The Principal Act is amended by repealing section 26.

92. Repeal of s. 27. Certificate of title to transferee under a transfer subject to a charge to be noted as subject to such charge. The Principal Act is amended by repealing section 27.

93. Repeal of s. 28. A certificate of title to an easement may be issued on cancellation of transfer subject thereto. The Principal Act is amended by repealing section 28.

94. Repeal of s. 29. Husband consenting to his wife’s bill of mortgage to be liable on implied covenants. The Principal Act is amended by repealing section 29.

95. Amendment of s. 32. Application by personal representatives, etc., to be registered as proprietor upon death of registered proprietor. Section 32 of the Principal Act is amended by—

(a) in subsection (2)—

(i) omitting from subparagraph (a) the words “entered up in the Register Book” and substituting the words “recorded in the register”;

(ii) omitting from provision (ii) of subparagraph (a) the words “entered up” and substituting the word “recorded”;

(iii) omitting from subparagraph (b) the words “entered as” and the words “entered up in the Register Book” and substituting the words “recorded as” and the words “recorded in the register” respectively;

(b) omitting from subsection (3) the words “in respect of which he claims to be registered prior to his being entered in the Register Book as hereinbefore mentioned”;

(c) omitting from subsection (6) the words “entry in the Register Book”, the words “entered up”, the words “entered shall” and the

words “entry up” and substituting the words “recording in the register”, the word “recorded”, the words “recorded shall” and the word “recording” respectively;

(d) omitting subsection (7).

96. Repeal of s. 34. Transmission by registered adjudication of insolvency subsequently annulled. The Principal Act is amended by repealing section 34.

97. Amendment of s. 35. Sheriff’s sales. Section 35 of the Principal Act is amended by—

(a) omitting from the first paragraph the words “form U of the schedule hereto” and substituting the words “the form prescribed pursuant to the Principal Act.”;

(b) in the second paragraph—

(i) omitting the words “Registrar-General” where they twice occur and substituting the words “Registrar of Titles” in each case;

(ii) omitting the words “notified by memorandum entered on” and the words “make an entry thereof in the register book and on making such entry” and substituting the words “recorded in” and the words “record the transfer in the register whereupon” respectively.

98. Amendment of s. 38. Persons interested may procure removal of caveat. Section 38 of the Principal Act is amended by omitting the word “entry” and substituting the word “recording”.

99. Amendment of s. 46. Vesting order to be registered. Section 46 of the Principal Act is amended by omitting all words from and including the words “Registrar-General” to the end of the section and substituting the words “Registrar of Titles shall on production to him of the order and a request in the prescribed form record particulars thereof in the register and do all things necessary to give full effect to the order.”.

100. Amendment of s. 48. Unregistered instrument to confer claim to registration. Section 48 of the Principal Act is amended by—

(a) omitting from the second paragraph the words “Registrar-General” and the word “entries” and substituting the words “Registrar of Titles” and the words “recordings in the register” respectively;

(b) omitting from the proviso the word “entry” and substituting the word “recording”.

101. Amendment of s. 49. Provision for transmission of land of deceased proprietor and dealing with unregistered instruments and other documents. Section 49 of the Principal Act is amended by—

(a) omitting the words “Registrar-General” and the word “entries” and substituting the words “Registrar of Titles” and the words “recordings in the register” respectively;

(b) omitting from the proviso the word “entry” and substituting the word “recording”.

102. Repeal of s. 50. Search and copy of instrument. The Principal Act is amended by repealing section 50.

103. Amendment of s. 51. Equitable jurisdiction not abolished. Section 51 of the Principal Act is amended by omitting the words “entered in the register book” and substituting the words “recorded in the register”.

104. Repeal of Schedule. The Principal Act is amended by repealing The Schedule to the Principal Act.

PART IV—AMENDMENT OF THE REAL PROPERTY
(COMMONWEALTH TITLES) ACT OF 1924

105. Citation. (1) In this Part *The Real Property (Commonwealth Titles) Act of 1924* is referred to as the Principal Act.

(2) The Principal Act as amended by this Part may be cited as the *Real Property (Commonwealth Titles) Act 1924-1986*.

106. Amendment of s. 6. Authority of Registrar of Titles to enter acquisition in register in certain circumstances. Section 6 of the Principal Act is amended by—

(a) omitting from the note to the section the word “enter” and substituting the word “record”;

(b) omitting the words “make an entry” and substituting the word “record”.

PART V—AMENDMENT OF REAL PROPERTY
(COMMONWEALTH DEFENCE NOTIFICATION) ACT 1929-1974

107. Citation. (1) In this Part the *Real Property (Commonwealth Defence Notification) Act 1929-1974* is referred to as the Principal Act.

(2) The Principal Act as amended by this Part may be cited as the *Real Property (Commonwealth Defence Notification) Act 1929-1986*.

108. Amendment of s. 3. Section 3 of the Principal Act is amended by—

(a) omitting from subsection (1) the words “book concerned, and on the” and the words “a notification” and substituting the words “in respect of any” and the word “particulars” respectively;

(b) omitting from subsection (2) the words “purpose of endorsing such notification thereon” and substituting the words “purposes of this section”.

PART VI—AMENDMENT OF THE REAL PROPERTY ACTS
AMENDMENT ACT OF 1952

109. Citation. (1) In this Part *The Real Property Acts Amendment Act of 1952* is referred to as the Principal Act.

(2) The Principal Act as amended by this Part may be cited as the *Real Property Acts Amendment Act 1952-1986*.

110. Amendment of s. 52. Form of application [Schedule, form 1]. Section 52 of the Principal Act is amended by—

(a) omitting from the note to the section the words “[Schedule, form 1.]”;

(b) in subsection (1) omitting from provision (a) the words “form 1 in the Schedule to this Act or in words to the like effect” and substituting the words “the form prescribed under the Principal Act”.

111. Amendment of s. 56. Objection to application to be by caveat. Section 56 of the Principal Act is amended by—

(a) in subsection (1), omitting from the first paragraph the words “form 2 in the Schedule to this Act” and substituting the words “the form prescribed under the Principal Act”;

(b) in subsection (2), omitting from the proviso thereto the words “include in any certificate of title issued to the applicant a memorial” and substituting the words “make a recording in the register and endorse on any certificate of title issued to the applicant”.

112. Amendment of s. 57. When certificate of title by possession may be issued. Section 57 of the Principal Act is amended by—

(a) omitting the words “issue to the applicant a certificate of title” and substituting the words “record in the register the applicant as proprietor”;

(b) omitting the word “book”;

(c) inserting after the words “Local Authority” the words “and shall issue to the applicant a certificate of title in accordance with the register”.

113. Amendment of s. 58. Cancellation of existing instruments of title consequent on the issue of a certificate of title by possession. Section 58 of the Principal Act is amended by—

(a) in subsection (1)—

(i) omitting from paragraph (a) the words “instrument entry or memorial in the register book” and substituting the words “recording in the register”;

(ii) omitting the expression “; and” occurring after paragraph (a) and omitting paragraph (b).

(b) omitting subsection (2) and substituting the following subsection:—

“(2) Upon the recording in the register of the applicant’s estate or interest, the prior estate or interest evidenced in the register shall cease and determine.”.

114. Amendment of s. 59. When future estates or interests barred by issue of certificate of title by possession. Section 59 of the Principal Act is amended by—

(a) omitting the words “a certificate of title by possession under this Act” and substituting the words “title by possession under this Act shall have been recorded in the register and a certificate of title in respect thereof”;

(b) inserting after the words “certificate of title, have” the word “neither”;

(c) omitting from provision (i) the words “Neither given” and substituting the word “Given”.

115. Repeal of Schedule. The Principal Act is amended by repealing the Schedule thereto.

PART VII—AMENDMENT OF REAL PROPERTY ACTS
AMENDMENT ACT 1956-1974

116. Citation. (1) In this Part the *Real Property Acts Amendment Act 1956-1974* is referred to as the Principal Act.

(2) The Principal Act as amended by this Part may be cited as the *Real Property Acts Amendment Act 1956-1986*.

117. Amendment of s. 2. Cancellation of registration of certain leases which are bona vacantia. Section 2 of the Principal Act is amended by—

(a) omitting from subsection (7) the words “the duplicate of”;

(b) in subsection (8)—

(i) omitting from the first paragraph all words from and including the word “endorsing” to and including the words “certificate of title” and substituting the words “recording the cancellation in the register in respect”;

(ii) omitting the second and third paragraphs;

(c) omitting from subsection (9) all words from and including the words “but upon” to the end of the subsection.

PART VIII—AMENDMENT OF THE REAL PROPERTY (LOCAL
REGISTRIES) ACT OF 1887

118. Citation. (1) In this Part *The Real Property (Local Registries) Act of 1887* is referred to as the Principal Act.

(2) The Principal Act as amended by this Part may be cited as the *Real Property (Local Registries) Act 1887-1986*.

119. Repeal of s. 5. Duplicate Register Books to be transmitted to Local Registry. The Principal Act is amended by repealing section 5.

120. Repeal of and new s. 6. Local Register Books. The Principal Act is amended by repealing section 6 and substituting the following section:—

“**6. Local registers.** (1) The Local Deputy Registrar of Titles for each District shall maintain a register which shall be deemed to be the register for the District for the purposes of the Principal Act.

(2) The Local Deputy Registrar of Titles for each District shall record in the register maintained by him particulars of—

(a) all deeds of grant and certificates of title relating to land under the Principal Act within the District;
and

(b) all instruments affecting the land under the Principal Act within the District.

(3) The Local Register Book kept by the Local Deputy Registrar of Titles for each District immediately prior to the commencement of section 120 of the *Real Property Acts and Other Acts Amendment Act 1986* shall be continued to be kept by the Local Deputy Registrar of Titles as part of the register for the District.”.

121. Amendment of s. 7. Transactions affecting land to be dealt with and registered at Local Registries. Section 7 of the Principal Act is amended in the paragraph commencing with the words “When a certificate” by omitting the word “Book”.

122. Amendment of s. 8. Provisions of Principal Act to apply with respect to instruments lodged, entries made, etc. Section 8 of the Principal Act is amended by—

(a) omitting from the first paragraph the words “entries in the Register Book” and the words “entries in a Local Register Book” and substituting the words “recordings and entries in the register” and the words “recordings and entries in a Local Register” respectively;

(b) omitting from the second paragraph the words “entry in a Local Register Book” and substituting the words “recording or entry in a Local Register”.

SCHEDULE

s. 4

Amendment of Acts

Act, provision amended and amendment	Citation
<i>Acquisition of Land Act 1967-1977</i>	<i>Acquisition of Land Act 1967-1986</i>
<p>Section 12. Effect of Proclamation or Notification of Resumption. Omit from subsection (3) the words “entries, notings and endorsements” and the words “Register Book” and substitute the word “recordings” and the word “register” respectively</p>	
<i>Agricultural Bank (Loans) Act 1959-1981</i>	<i>Agricultural Bank (Loans) Act 1959-1986</i>
<p>Schedule. In clause 6, omit from paragraph (ii) the words “note the same by entry in the register book” and substitute the words “record particulars of the cancellation in the register”.</p>	
<i>Ambulance Services Act 1967-1983</i>	<i>Ambulance Services Act 1967-1986</i>
<p>Section 39. Endorsement of titles, &c. (a) Omit from the note to the section the word “Endorsement” and substitute the word “Registration”;</p> <p>(b) Omit from subsection (1) the words “entries or endorsements in the appropriate register book” and substitute the words “recordings in the appropriate register”.</p>	
<i>Australia and New Zealand Banking Group Act 1970</i>	<i>Australia and New Zealand Banking Group Act 1970-1986</i>
<p>Section 23. Endorsement of titles, etc. (a) Omit from the note to the section the word “Endorsement” and substitute the word “Registration”;</p> <p>(b) Omit the word “book”.</p>	

Amendment of Acts—continued

Act, provision amended and amendment	Citation
<i>Beach Protection Act 1968-1984</i>	<i>Beach Protection Act 1968-1986</i>
Section 46. Compensation for injurious affection. In subsection (4)—	
(a) omit from the fourth paragraph the word “registrar” and substitute the words “Registrar of Dealings”;	
(b) insert after the fourth paragraph the following paragraph:—	
“The Registrar of Titles, upon receiving sufficient notice of a notification furnished under this subsection shall record in the register the fact of payment of compensation under this section in respect of the land concerned.”;	
(c) in the fifth paragraph—	
(i) insert after the words “subsequently to the” the words “recording in the register or”;	
(ii) omit the words “in lieu of the instrument upon which the memorial is endorsed”;	
(d) omit from the last paragraph the words “entered the memorial” and substitute the words “a recording made or a memorial entered as”.	
<i>The Brisbane City Council Business and Procedure Acts, 1939 to 1948</i>	<i>Brisbane City Council Business and Procedure Act 1939-1986</i>
Section 6. Interpretation of provisions of “The Local Government Act of 1936” as to title for land sold or acquired by the Local Authority. In the first paragraph—	
(a) omit the words “endorsements upon the relevant certificate of title or deed of grant bound up in the register book in his office” and substitute the words “recordings in the register”;	
(b) omit the word “book”.	

Amendment of Acts—continued

Act, provision amended and amendment

Citation

Brisbane Cricket Ground Act 1958-1982

*Brisbane Cricket
Ground Act 1958-
1986*

Section 22A. Implementation of Improvement Scheme. (a) Omit from subsection (6) the words “register on the instruments of title to the lands so vested a memorial of the vesting” and substitute the words “record in the register the fact of the vesting of those lands”;

(b) Omit from subsection (16) the words “register on the instruments of title to the lands revested under subsection (15) of this section a memorial of the revesting” and substitute the words “record in the register the fact of the revesting of those lands”;

(c) In subsection (25)—

(i) omit the words “entries or endorsements or notings” and substitute the word “recordings”;

(ii) omit the words “book concerned”.

Building Societies Act 1985

*Building Societies
Act 1985-1986*

Section 25. Effect of change of name. In subsection (4) omit from subparagraph (i) the words “entries or endorsements in the appropriate register book” and substitute the words “recordings in the appropriate register”.

Section 118. Amalgamation. Omit from subsection (12) the words “entries or notations” and substitute the words “recordings, entries or notations in the appropriate register or”.

Building Units and Group Titles Act 1980-1984

*Building Units and
Group Titles Act
1980-1986*

Section 8. Subdivision. (a) In subsection (4)—

(i) omit the word “A” and substitute the words “Upon the recording of particulars of the plan in the register the”;

(ii) Omit the word “book”;

Amendment of Acts—continued

Act, provision amended and amendment

Citation

(b) Omit from subsection (5) the words “a memorial thereof shall be entered on the deed of grant or certificate of title relating to the parcel and”.

Section 22. Transfer or lease of part of common property. Omit subsection (11) and substitute the following subsection:—

“(11) The Registrar of Titles shall register the memorandum of transfer, the lease pursuant to subsection (1), the surrender of that lease, the transfer of lease, sub-lease or, as the case may be, surrender of sub-lease by recording particulars thereof in the register in accordance with the provisions of the Real Property Acts.”.

Section 23. Creation of easements. Omit from subsection (7) the words “noting it on the registered plan” and substitute the words “recording the particulars thereof in the register”.

Section 26. Disposition on extinguishment of plan. (a) Omit from subsection (2) the words “make an entry thereof on the registered plan” and substitute the words “record the particulars thereof in the register”;

(b) Omit from subsection (8) the word “entry” and substitute the word “recordings”;

(c) In subsection (9)—

(i) omit from subparagraph (a) the word “duplicate”;

(ii) omit from subparagraph (b) the words “, after cancelling the folios of the register book constituted by the certificates of titles relating to the lots, register the memorandum of transfer by issuing” and substitute the words “cancel the certificates of title relating to the lots and, after registering the memorandum of transfer, issue”;

(d) In subsection (10)—

(i) omit the words “the proprietors may surrender to the Registrar of Titles their duplicate certificates of title for cancellation and”;

Amendment of Acts—continued

Act, provision amended and amendment

Citation

(ii) omit the words “the folios of the register book constituted by the certificates of title relating to the lots” and substitute the words “all certificates of title relating to the lots and recording the extinguishment of the plan in the register”.

Section 112. Recording on plan of effect of certain orders. Insert after the words “record the order” the words “in the register and”.

Co-operative and Other Societies Act 1967-1978

*Co-operative and
Other Societies
Act 1967-1986*

Section 36C. Vesting of property and preservation of rights, etc. In subsection (6)—

(a) insert after the words “any necessary” the word “recordings”;

(b) omit the word “book”.

Electricity Act 1976-1984

*Electricity Act 1976-
1986*

Section 203. Registration of instruments by the Registrar of Titles. Omit from the first paragraph of subsection (2) the words “enter a memorial of the instrument creating such easement on the folium of the register book constituted by the existing grant or certificate of title” and substitute the words “record in the register the fact of the easement in respect”.

Section 207A. Power of Commission with respect to land. Omit from subsection (9) the words “enter a memorial of the instrument creating such easement on the folium of the register book constituted by the existing grant or certificate of title” and substitute the words “record in the register the fact of the easement in respect”.

Second Schedule. In clause 13—

(a) in the first paragraph—

(i) inserting after the words “title to land” the words “or recording in a register”;

Amendment of Acts—continued

Act, provision amended and amendment	Citation
<p>(ii) inserting after the words “make every” the words “recording,”;</p> <p>(b) omitting from the second paragraph the words “made and the said Registrar of Titles,” and substituting the words “made. The”.</p>	
<i>Electricity Act Amendment Act 1984</i>	<i>Electricity Act Amendment Act 1984-1986</i>
<p>Section 189. Savings and transitional. In clause 5 of the Schedule to the section, in paragraph (a) of subclause (4)—</p>	
<p>(a) omit the words “to make or” and substitute the words “to make any recordings in a register or to”;</p>	
<p>(b) Insert after the words “make every” the words “recording,”.</p>	
<i>Friendly Societies Act 1913-1982</i>	<i>Friendly Societies Act 1913-1986</i>
<p>Section 33. Omit from subsection (2) the word “book”.</p>	
<i>Irrigation Act 1922-1983</i>	<i>Irrigation Act 1922- 1986</i>
<p>Schedule. In Part I—</p>	
<p>(a) repeal clause 10A and substitute the following clause:—</p>	
<p>“10A. Acquisition of easement. (1) The Commissioner may acquire by agreement for the purposes of this Act from the owner of land for an estate in fee-simple within an Irrigation Area an easement over that land or any part thereof.</p>	
<p>(2) The Registrar of Titles shall register the grant of the easement granted by the registered proprietor of the land when lodged for registration.</p>	

Amendment of Acts—continued

Act, provision amended and amendment	Citation
<p>(b) in clause 32, omit subclause (1) and substitute the following subclause:— “(1) The provisions of section 121 of the <i>Real Property Act 1861-1986</i> apply in respect of any books, plans and documents registered under that Act.”.</p>	
<i>Land Act 1962-1985</i>	<i>Land Act 1962-1986</i>
<p>Section 6. Grants and leases. In subsection (5), omit from the second paragraph the words “entries or endorsements in the register books” and substitute the words “recordings in the register”.</p>	
<p>Section 8. Issue of grant to trustee. In subsection (2)—</p>	
<p>(a) omit from the first paragraph the words “entry of the duplicate thereof in the register book” and substitute the words “recording of particulars thereof in the register”;</p>	
<p>(b) omit from the second paragraph the words “enter the duplicate of the grant in the aforesaid register book” and substitute the words “record particulars in the register”;</p>	
<p>(c) omit from the third paragraph the words “any entry”, the words “book but” and the words “memorial, entry or noting in or on the grant, including the duplicate thereof entered in the aforementioned register book” and substitute the words “any recording”, the word “but” and the words “recording in the register” respectively.</p>	
<p>Section 9. Omit from subsection (3) the words “entries or endorsements in the register book” and substitute the words “recordings in the register”.</p>	
<p>Section 147A. No transfer to corporation of certain freeholded land without consent of Governor in Council. Omit from subsection (11) the words “make an endorsement on such deed or certificate and on the deed or certificate bound up in the register book” and substitute the words “record in the register that the condition is not applicable”.</p>	

Amendment of Acts—continued

Act, provision amended and amendment

Citation

Section 283. Easements affecting both freehold and leasehold lands or reserves. (a) In subsection (1) omit all words from and including the word “note” to and including the words “lastmentioned Acts” and substitute the words “record particulars of the easement in the register in respect of the land under the *Real Property Act 1861-1986* affected thereby in such manner as to preserve its priority or”;

(b) Omit from subsection (2) the words “noted such easement or, as the case requires, entered a memorial of the instrument creating same” and substitute the words “recorded in the register such easement”;

(c) Omit from subsection (3) the words “noted the easement or, as the case requires, entered a memorial of such instrument upon the deed of grant of the land concerned” and substitute the words “recorded in the register the easement.”

Section 285. (a) Omit from subsection (1) the words “endorse thereon a note” and substitute the words “record in the register particulars”;

(b) Omit from subsection (3) the words “endorse thereon a note” and substitute the words “record in the register particulars”;

(c) In subsection (4)—

(i) omit the words “note thereon” and substitute the words “record in the register particulars of”;

(ii) omit the words “or enter thereon a memorial of the instrument creating such easement”.

Section 331. Application of Division to freehold lands. In subsection (2)—

(a) insert after the words “any necessary” the words “recordings or”;

(b) omit the words “appropriate register book concerned” and substitute the word “register”.

Amendment of Acts—continued

Act, provision amended and amendment	Citation
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Section 334E. Description of land granted in trust, excluded or reserved. Omit subsection (3) and substitute the following subsection:—

“(3) If at any time after a Deed of Grant has been issued in accordance with subsection (2) a survey is made of the land granted in trust or the land excluded or reserved from the grant, the Registrar of Titles shall cancel the Deed of Grant and issue in its stead a Certificate of Title to take account of the survey made.”.

Section 352. (a) Omit from subsection (4) the words “register such copy of the Proclamation and” and substitute the words “record in the register particulars of the Proclamation and register the”;

(b) Omit from subsection (5) the words “to be endorsed by the Registrar of Titles” and substitute the words “for cancellation”.

Section 353A. Special provisions for determining trust for benefit of Aboriginal or Islander inhabitants. Omit from subsection (2) the words “entries or endorsements in the register book concerned” and substitute the words “recordings in the register”.

Section 354A. When lands held in trust for a public purpose may be surrendered to the Crown. Omit from subsection (8) the words “entries or endorsements in the register book concerned” and substitute the words “recordings in the register”.

Section 358. Resumption of reservations for public purposes. In subsection (3), omit from paragraph (c) the words “to be endorsed by the Registrar of Titles” and substitute the words “for cancellation”.

Section 364. Doubts as to dedication to be resolved by Court. Omit from the third paragraph the words “entries or endorsements in the appropriate register book or, as the case requires, register kept in the Department” and substitute the words “recordings, entries or endorsements in the appropriate register”.

Amendment of Acts—continued

Act, provision amended and amendment

Citation

Section 365. Power of Governor in Council with respect to land comprised in permanently closed road. Insert in the second paragraph of subsection (7) after the word “all” the word “recordings”.

Land Act (Aboriginal and Islander Land Grants) Amendment Act 1982-1985

*Land Act
(Aboriginal and
Islander Land
Grants)
Amendment Act
1982-1986*

Section 19. Registration of encumbrances affecting land granted in trust. In subsection (2)—

(a) omit from subparagraph (a) the words “lease registered on the deed” and substitute the words “registered lease”;

(b) in subparagraph (b)—

(i) insert after the words “effect as a” the word “registered”;

(ii) omit the words “registered on the deed”.

Section 20. Registration of easements. Omit from subsection (2) the words “easement registered on the deed” and substitute the words “registered easement”.

Local Government Act 1936-1985

*Local Government
Act 1936-1986*

Section 33. In subsection (1B)—

(a) omit from paragraph (b) the words “register that agreement upon all grants or certificates of title to” and substitute the words “record particulars of that agreement on the register in respect of”;

(b) omit from paragraph (c) the words “endorse a memorial on the grants or certificates of title to” and substitute the words “make a recording in the register in respect of”.

Section 34. In subsection (12G) omit from paragraph (d) the words “endorse a memorial on the grants or certificates of title to the lands concerned to the effect” and substitute the words “record in the register in respect of the lands concerned”.

Amendment of Acts—continued

Act, provision amended and amendment	Citation
<i>Miners' Homestead Leases Act 1913-1986</i>	<i>Miners' Homestead Leases Act 1913- 1986</i>

Section 29C. Noting of Easement on Title, etc.
(a) Omit from subsection (1) all words from and including the words “note such easement” to the end of the subsection and substitute the words “record in the register the easement under the provisions of the *Real Property Act 1861-1986* or enter a memorial of the instrument creating the easement on the lease, licence or instrument under the *Land Act 1962-1986*, affected thereby in such manner as to preserve its priority or for the purpose of being annexed to or used and enjoyed together with which such easement has been created.”;

(b) Omit from the first paragraph of subsection (3) all words from and including the words “noted the” to the end of the paragraph and substitute the words “recorded in the register the easement or, as the case requires, entered a memorial of such instrument on such lease, licence or instrument of the land concerned.”.

Mining Act 1968-1983

*Mining Act 1968-
1986*

Section 46. Registration and effect of agreements. In subsection (3)—

(a) omit the word “note” and substitute the words “record particulars of”;

(b) omit the words “on the instrument of title to” and substitute the words “in respect of”.

(c) omit from the second paragraph the word “noting” and substitute the word “recording”.

Mining Titles Freeholding Act 1980-1986

*Mining Titles
Freeholding Act
1980-1986*

Section 34. Preservation of encumbrances.
(a) Omit subsection (2) and substitute the following subsection:—

“(2) Before the issue of the deed of grant or a certificate of title, the Registrar of Titles shall record in the register particulars of the interests transmitted to him in such manner, as to preserve the priority of the respective interests, in case there is more than one.”;

Amendment of Acts—continued

Act, provision amended and amendment	Citation
(b) Omit from subsection (3) the words “such issue” and substitute the words “the recording of particulars thereof in the register”;	
(c) In subsection (4) insert after the word “grant” the words “or certificate of title”.	

*Petroleum Act 1923-1985**Petroleum Act 1923-1986*

Section 45E. Registration and effect of easements, &c. Omit from subsection (1) all words from and including the words “note such easement” to the end of the subsection and substitute the words “record in the register particulars of the easement or right of way in respect of the land affected thereby in such manner as to preserve its priority.”.

*Primary Producers' Co-operative Associations Act 1923-1981**Primary Producers' Co-operative Associations Act 1923-1986*

Section 25E. Vesting of property and preservation of rights, etc. In subsection (6)—

(a) omit the word “entries” and substitute the word “recordings”;

(b) omit the word “book”.

*Property Law Act 1974-1985**Property Law Act 1974-1986*

Section 4. Interpretation. Omit from the definition “nomination of trustees” the words “nominating any persons to be trustees of land or any estate or interest therein” and substitute the words “transferring land or any estate or interest therein to trustees”.

Section 22. Abolition of estates tail. Omit from subsection (4) the words “all such entries in the register book” and substitute the words “the recordings in the register”.

Amendment of Acts—continued

Act, provision amended and amendment

Citation

Section 30. Creation of future interests in land.

In subsection (2)—

(a) omit the word “entry” and substitute the word “recording”;

(b) omit the words “register-book” where they twice occur and substitute the word “register” in each case.

Section 74. Right of purchaser to lodge caveat.

Omit from subsection (1), subparagraph (b) and substitute the following subparagraph:—

“(b) in the form prescribed under that Act or as nearly in that form as this section will permit.”.

Section 101. Facilitation of redemption in case of absent or unknown mortgagees. (a) In subsection (4) omit from subparagraph (b) the words “of an indorsement of discharge” and substitute the word “prescribed”;

(b) Omit from subsection (5) the word “duplicate”.

Section 103. Abolition of distress for rent and rates. Omit from subsection (1) the words “, distress pursuant to section 60, 61, 61A, 135 and 136 of the *Real Property Act 1861-1974*”.

Section 250. Progressive registration of unregistered land. Omit from subsection (3) the expression “32” and the word “published” and substitute the expression “50” and the word “circulated” respectively.

Second Schedule. Omit from Form 1 the words “note on such Certificate of Title” and substitute the words “record in the register”.

Returned Services League of Australia (Queensland Branch) Act 1956-1977

Returned Services League of Australia (Queensland Branch) Act 1956-1986

Section 2. Interpretation. Omit from the term “Register book” and its meaning the word “book” where it occurs three times.

Amendment of Acts—continued

Act, provision amended and amendment	Citation
<p>Section 3. In subsection (3), omit from subparagraph (b) the word “entries” and substitute the word “recordings”.</p> <p>Section 13. Powers and duties of Registrar of Titles. Omit the words “entries or endorsements in the appropriate register book concerned” and substitute the words “recordings in the register”.</p>	<p><i>Roman Catholic Church Lands Act 1985</i></p> <p><i>Roman Catholic Church Lands Act 1985-1986</i></p>
<p>Section 5. Duty of Registrar of Titles and others. (a) Insert after the words “or law to” the words “record particulars in a register or to”;</p> <p>(b) Omit the word “register book” and substitute the word “register”;</p> <p>(c) Insert after the words “making every” the word “recording”.</p>	<p><i>Sporting Bodies’ Property Holding Act 1975-1976</i></p> <p><i>Sporting Bodies’ Property Holding Act 1975-1986</i></p>
<p>Section 9. Registration of title to property to which Act applies. In subsection (1)—</p> <p>(a) insert after the words “make such” the words “recordings,”;</p> <p>(b) omit the word “book” where it twice occurs.</p>	<p><i>State Housing Act 1945-1985</i></p> <p><i>State Housing Act 1945-1986</i></p>
<p>Section 23B. Sale of lots under Building Units and Group Titles Act to pensioners. Omit from subsection (4) the word “on” and the expression “(2)” and substitute the word “in” and the expression “(3)” respectively.</p>	<p><i>Succession Act 1981-1984</i></p> <p><i>Succession Act 1981-1986</i></p>
<p>Section 45. Devolution of property on death. Omit from subsection (7) the words “sections 32 and 32A” and substitute the words “section 32”.</p>	

Amendment of Acts—continued

Act, provision amended and amendment

Citation

Section 63. Legacies and devises to unincorporated associations of persons. In subsection (3), omit from subparagraph (c) the words “by means of a Nomination of Trustees under and pursuant to the provisions of” and substitute the words “in the form prescribed under”.

Succession Duties Act 1892-1978

*Succession Duties
Act 1892-1986*

Section 43. Duty to be a first charge on the interest of the successor and persons claiming under him in the property, etc. (a) In the paragraph commencing with the words “When a successor”—

(i) omit the words “an entry” and substitute the words “a recording”;

(ii) omit the words “such entry” where they twice occur and substitute the words “such recording” in each case;

(iii) omit the words “an encumbrance” where they twice occur and substitute the words “a mortgage” in each case;

(b) Omit from the paragraph commencing with the words “When it appears” the word “entry” where it twice occurs and substitute the word “recording” in each case.

Trusts Act 1973-1985

*Trusts Act 1973-
1986*

Section 56. Power to delegate trusts. Omit from subsection (9) the word “by” and substitute the words “for the purposes of”.

Section 113. Requirement upon certain transfers to Local Authority. Number the first paragraph as subsection (1) and therein omit the words “other than an instrument in Form I of the Schedule to that Act”.

Amendment of Acts—continued

Act, provision amended and amendment	Citation
<i>United Grand Lodge of Antient Free and Accepted Masons of Queensland Trustees Act 1942-1976</i>	<i>United Grand Lodge of Antient Free and Accepted Masons of Queensland Trustees Act 1942-1986</i>

Section 2. Interpretation. Omit from the term “Register book” and its meaning the word “book” where it occurs three times.

Section 13. Powers and duties of Registrar of Titles. (a) Insert after the words “any necessary” the words “recordings,”;

(b) Omit the words “book concerned”.

Water Act 1926-1983

Water Act 1926-1986

Schedule. In Part I, in clause 28, omit subclause (1) and substitute the following subclause:—

“(1) The provisions of section 121 of the *Real Property Act 1861-1986* apply in respect of any books, plans and documents registered under that Act.”.