



New South Wales

Real Property Amendment (Land Transactions) Bill 2009

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Real Property Act 1900*:

- (a) to enable the electronic lodgment of a notice of sale, and
- (b) so that the Registrar-General may require a certificate of correctness in relation to a notice of sale (whether or not the notice is lodged electronically), and
- (c) to clarify the circumstances in which compensation may be payable from the Torrens Assurance Fund in relation to the details supplied in a notice of sale, and
- (d) to make other minor amendments.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Schedule 1 Amendment of Real Property Act 1900 No 25

Section 39 (1B) of the *Real Property Act 1900* provides that the Registrar-General may:

- (a) refuse to accept for registration certain land dealings or applications relating to a change in the name of a registered proprietor, or
- (b) refuse to register such a dealing or application, or
- (c) reject such a dealing or application,

if it is not accompanied by a fully completed notice in the approved form. The current approved form is known as a notice of sale.

Schedule 1 [1] provides that a dealing or application is taken to be accompanied by a notice of sale if, before the presentation of the dealing or application, a notice relating to the dealing or application is lodged electronically in a form and in the manner approved by the Registrar-General.

Schedule 1 [3] provides that the Registrar-General may reject, or may refuse to accept or to take any action in relation to, any dealing accompanied by a notice (in accordance with section 39 (1B) of the *Real Property Act 1900*) if a certificate of correctness in relation to that notice is not completed in the specified manner.

Schedule 1 [4] makes a consequential amendment.

Schedule 1 [5] and [6] clarify that compensation is not payable in relation to any loss or damage arising from the provision by the Registrar-General of information supplied in a notice of sale except in relation to an error of the Registrar-General in recording the details supplied in such a notice.

Schedule 1 [8] enables regulations of a savings or transitional nature to be made consequent on the enactment of the proposed Act.

Schedule 1 [9] contains a transitional provision.

Schedule 1 [2] and [7] make statute law revision amendments.

First print



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New South Wales

Real Property Amendment (Land Transactions) Bill 2009

No. , 2009

A Bill for

An Act to amend the *Real Property Act 1900* in relation to the lodgment and registration of dealings; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Real Property Amendment (Land Transactions) Act 2009</i> .	3 4
2 Commencement	5
This Act commences on a day or days to be appointed by proclamation.	6

Schedule 1	Amendment of Real Property Act 1900	1
	No 25	2
[1]	Section 39 Treatment of dealings that do not comply with requirements	3
	Insert after section 39 (1B):	4
	(1C) For the purposes of subsection (1B), a dealing or application is taken to be accompanied by a notice in the approved form if, before the presentation of the dealing or application, a notice relating to the dealing or application is lodged electronically in a form and in the manner approved by the Registrar-General.	5 6 7 8 9
[2]	Section 117 Certificate of correctness	10
	Insert “application,” after “by whom the” in section 117 (1) (a).	11
[3]	Section 117 (1A) and (1B)	12
	Insert after section 117 (1):	13
	(1A) The Registrar-General may reject, or may refuse to accept or to take any action in relation to, any dealing accompanied by a notice (in accordance with section 39 (1B)) unless:	14 15 16
	(a) in the case of a notice lodged electronically—the dealing is accompanied by a certificate to the effect that the notice has been lodged electronically in a form and in the manner approved by the Registrar-General and that the notice is correct for the purposes of this Act, and	17 18 19 20 21
	(b) in any other case—the notice bears a certificate to the effect that the notice is correct for the purposes of this Act.	22 23
	(1B) A certificate referred to in subsection (1A) must be signed by:	24
	(a) the person lodging the dealing, or	25
	(b) a party to the dealing, or	26
	(c) a solicitor or agent acting for the person lodging, or a party to, the dealing.	27 28

[4] Section 117 (2)	1
Omit “any such application, dealing or caveat”.	2
Insert instead “any application, dealing, caveat or notice referred to in this section”.	3 4
[5] Section 129 Circumstances in which compensation payable	5
Insert at the end of section 129 (1) (f):	6
or	7
(g) any error of the Registrar-General in recording details supplied in the notice referred to in section 39 (1B),	8 9
[6] Section 129 (2) (p)	10
Insert at the end of section 129 (2) (o):	11
, or	12
(p) where the loss or damage arises from the provision by the Registrar-General of information supplied in the notice referred to in section 39 (1B) (subject to subsection (1) (g)).	13 14 15 16
[7] Section 144 Regulations	17
Insert “and” at the end of section 144 (1) (a).	18
[8] Schedule 3 Savings and transitional provisions	19
Insert at the end of clause 1 (1):	20
<i>Real Property Amendment (Land Transactions) Act 2009</i>	21

[9] Schedule 3, Part 9	1
Insert after Part 8:	2
Part 9 Real Property Amendment (Land Transactions) Act 2009	3
	4
24 Application of amendments	5
(1) Sections 39 (1C) and 117 (1A) or (1B), as inserted by the <i>Real Property Amendment (Land Transactions) Act 2009</i> , apply in respect of a dealing only if the relevant date for that dealing occurs after the commencement of the relevant subsection.	6
	7
	8
	9
(2) In this clause, relevant date means:	10
(a) if a contract has resulted in the execution of the dealing—the date of the contract, or	11
	12
(b) in any other case—the date of the acquisition of the land or other event that gave rise to the dealing concerned.	13
	14