

New Zealand.



ANALYSIS.

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1913, No. 17.

AN ACT to amend the Land Transfer Act, 1908.

[7th November, 1913.]

Title.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. (1.) This Act may be cited as the Land Transfer Amendment Act, 1913, and shall form part of and be read together with the Land Transfer Act, 1908 (hereinafter referred to as the principal Act).

Short Title.

(2.) This Act shall commence on the first day of March, nineteen hundred and fourteen.

Commencement.

2. (1.) Section one of the principal Act is hereby amended by omitting from paragraph (a) of subsection two the words “when the mortgage was registered,” and substituting the words “on the commencement of this Act in respect to that mortgage.”

Section 1 of principal Act amended.

(2.) This section shall be deemed to have been in force as from the date of the commencement of the principal Act.

3. Section two of the principal Act is hereby amended by omitting the definition of “transmission,” and substituting the following:—

Section 2 of principal Act amended.

“ ‘Transmission’ means the acquirement of title to an estate or interest consequent on the death or bankruptcy of a registered proprietor, or as his executor or administrator, or as trustee under a will or settlement, or by virtue of appointment or succession to any office.”

Section 4 (2) of principal Act amended.

4. (1.) Subsection two of section four of the principal Act is hereby amended by omitting the words "an Examiner of Titles, also an Assistant Land Registrar, which last-named officer," and substituting the words "one or more Examiners of Titles, and one or more Assistant Land Registrars, which last-named officers."

(2.) All references in the principal Act to the Examiner of Titles shall be deemed to be references to any Examiner of Titles appointed for the district.

Section 20 (2) of principal Act amended.

5. Subsection two of section twenty of the principal Act is hereby amended by omitting paragraph (j).

Instruments to be in duplicate.

6. (1.) Every instrument presented for registration shall (except in the case of a memorandum of transfer) be in duplicate, or, if the person presenting the same so requires, in triplicate, and shall be attested by a witness.

(2.) In the case of an instrument registered in triplicate one part shall be marked "Triplicate," and it shall not be necessary to record on that part any memorial as provided by section thirty-seven of the principal Act.

(3.) Every instrument shall be registered in the order of time in which the same is presented for that purpose.

Instruments entitled to priority according to date of registration.

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

(5.) On registration thereof the Registrar shall file the same or one part thereof (if in duplicate or triplicate) in his office and deliver the other or others (if any) to the person presenting the same for registration.

(6.) So soon as registered every instrument drawn in any of the forms provided in the Schedules to the principal Act, or in any form which for the same purpose may be authorized in conformity with the provisions of that Act, shall, for the purposes of that Act, be deemed and taken to be embodied in the Register as part and parcel thereof.

(7.) Such instrument, when so constructively embodied and stamped with the seal of the Registrar, shall have the effect of a deed duly executed by the parties signing the same.

Repeal.

(8.) This section is in substitution for section thirty-five of the principal Act, and that section is hereby accordingly repealed.

Section 73 of principal Act amended.

7. Section seventy-three of the principal Act is hereby amended by inserting, after the word "Act," in the second line thereof, the words "whether upon application or by force of any statute or of the order of any Court"; and by omitting, in the fourth line thereof, the word "applicant," and substituting the words "first registered."

Provision in case of lost lease.

8. After section one hundred of the principal Act there shall be inserted the following section:—

"100A. (1.) The provisions of section eighty-one hereof shall, *mutatis mutandis*, apply to any memorandum of lease of which the outstanding duplicate has been lost, mislaid, or destroyed.

"(2.) The same provisions shall, *mutatis mutandis*, apply to any memorandum of lease of which the outstanding duplicate has become defaced or dilapidated and is surrendered to the Registrar for cancella-

tion, but in such case the statutory declaration referred to in subsection one and the notices referred to in subsection four of the said section eighty-one shall not be necessary."

9. Section one hundred and two of the principal Act is hereby amended by repealing subsection two thereof.

Section 102 of principal Act amended.

10. (1.) In the case of every mortgage under the principal Act (whether made before or after the commencement of this Act)—

Alteration of terms of mortgage by indorsement thereon.

(a.) The amount secured by the mortgage may be increased or reduced ;

(b.) The rate of interest may be increased or reduced ; and

(c.) The term or currency of the mortgage may be shortened, extended, or renewed,

by a memorandum in such one of the forms numbered (1), (1A), or (2) in the Sixth Schedule to the principal Act (as amended by this Act) as is applicable.

(2.) The memorandum may include all or any of the matters mentioned in subsection one hereof, and in such case the said forms shall be modified accordingly.

(3.) The memorandum may be registered in like manner as the original mortgage.

(4.) A memorandum or instrument varying the terms or conditions of any mortgage of land subject to a subsequent mortgage shall not be binding on any mortgagee unless he has consented thereto in writing on such memorandum or instrument, but such consent shall render the said memorandum or instrument binding on the mortgagee so consenting, and shall be deemed to be notice to and shall be binding on all persons who may subsequently derive from him any interest in the mortgaged property.

(5.) Section one hundred and four of the principal Act is hereby repealed.

Repeal.

11. Section one hundred and fourteen of the principal Act is hereby amended by omitting from subsection one the word "exceeding," and substituting the words "shall such fee be less than one pound nor more than."

Section 114 of principal Act amended.

12. Section one hundred and sixteen of the principal Act is hereby amended by adding the following subsections :—

Section 116 of principal Act amended.

"(4.) A mortgage subject to a submortgage shall not be discharged, nor shall the terms thereof be varied, nor shall the power of sale contained or implied therein be exercised, without the consent in writing of the submortgagee.

"(5.) The consent of the submortgagee to the variation of the terms of a mortgage shall render the instrument making the variation binding on him and on all persons who may subsequently derive from him any interest in the mortgage."

13. Section one hundred and seventeen of the principal Act is hereby amended by inserting, after the words "absent from New Zealand" in subsection one, the words "or is dead."

Section 117 of principal Act amended.

14. Section one hundred and twenty-four of the principal Act is hereby repealed, and the following substituted therefor :—

Repeal.

"124. (1.) If on such application and upon the evidence adduced in support thereof it appears to the Registrar and Examiner of Titles that the applicant is entitled to the estate or interest

Procedure on application for transmission.

claimed, the Registrar, with the concurrence of the Examiner, shall register the applicant as proprietor thereof.

“(2.) The person so registered as proprietor shall hold the estate or interest transmitted subject to all equities affecting the same, but for the purpose of any dealing therewith shall be deemed to be the absolute proprietor thereof.”

Repeal.

15. Section one hundred and twenty-five of the principal Act is hereby repealed.

Section 151 of principal Act amended.

16. Section one hundred and fifty-one of the principal Act is hereby amended by adding the following proviso:—

“Provided that nothing herein shall prevent the completion of the registration of an instrument which has been accepted for registration before the receipt of the caveat.”

Section 155 of principal Act amended.

17. Section one hundred and fifty-five of the principal Act is hereby amended by omitting all words after the word “unless,” and substituting the words “notice is, within the said fourteen days, given to the Registrar that application for an order to the contrary has been made to the Supreme Court or a Judge thereof, and such order is made and served on the Registrar within a further period of fourteen days.”

Section 169 of principal Act amended.

18. Subsection one of section one hundred and sixty-nine of the principal Act is hereby amended by omitting all words after the word “witness,” and substituting the words “and if the instrument is executed in New Zealand such witness shall add to his signature his place of abode and calling, office, or description, but no particular form of words shall be requisite for the attestation.”

Plans to be deposited in certain cases.

19. (1.) On any application to bring land under the provisions of the principal Act, or for a new certificate on the subdivision of or other dealing with the land comprised in any certificate or other instrument of title or any part thereof, or for the untransferred part of the land comprised in any such certificate or other instrument of title, the Registrar may require the applicant to deposit in the Land Registry Office of the district a plan of the land or subdivision or portion thereof, as the case may be, which plan shall be in accordance with the regulations for the time being in force in that behalf, and shall be verified by the statutory declaration of a licensed surveyor in such form as the regulations prescribe; and until such requisition is complied with the Registrar shall not be bound to proceed with the application.

Repeal.

(2.) This section is in substitution for sections one hundred and eighty and one hundred and eighty-one of the principal Act, and those sections are hereby accordingly repealed.

Section 201 of principal Act amended.

20. Section two hundred and one of the principal Act is hereby amended by adding thereto the following words: “This section shall be read subject to the provisions of sections seventy-one and seventy-three hereof.”

Section 216 of principal Act amended.

21. Section two hundred and sixteen of the principal Act is hereby amended by adding the following subsection:—

“(2.) Every such license shall continue in force until the thirty-first day of December next after the date thereof.”

Section 223 of principal Act amended.

22. Section two hundred and twenty-three of the principal Act is hereby amended by omitting the words “Land Registry Office, or

