



ANALYSIS

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3. Incorporation of provisions contained in registered or prescribed memorandum

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1986, No. 94

An Act to amend the Land Transfer Act 1952

[6 November 1986

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

1. Short Title—This Act may be cited as the Land Transfer Amendment Act 1986, and shall be read together with and deemed part of the Land Transfer Act 1952 (hereinafter referred to as the principal Act).

2. Registrar may issue search copies—The principal Act is hereby amended by inserting, after section 45, the following section:

“45A. The Registrar may, upon payment of the prescribed fee, furnish to any person applying for the same a copy of any grant or certificate of title, or any lease or licence or deed forming a folio of or entered in the register under or by virtue of the Land Act 1948.”

3. Incorporation of provisions contained in registered or prescribed memorandum—(1) The principal Act is hereby amended by inserting, after section 155, the following section:

“155A. (1) In this section the term ‘memorandum’ means a memorandum in the prescribed form setting forth provisions that are intended for inclusion in instruments of a class specified in the memorandum.

“(2) For the purposes of this section, any person may execute a memorandum for the purpose of registration, and the Registrar shall number and register any such memorandum that is executed and delivered for registration.

“(3) Notwithstanding anything in subsection (2) of this section, the Registrar may, for the purposes of this section, draw up, number, and register a memorandum.

“(4) A memorandum shall be deemed to be registered when a memorial of registration is endorsed upon it and signed by the Registrar.

“(5) On registration of a memorandum under subsection (2) or subsection (3) of this section, it shall be deemed for the purposes only of section 46 of this Act to be part of the register.

“(6) Without limiting anything in subsection (2) or subsection (3) of this section, the Governor-General may from time to time, by regulations made under this Act, prescribe in respect of any class of instrument a memorandum for the purposes of this section.

“(7) Where an instrument is of a class specified in a memorandum registered under subsection (2) or subsection (3) of this section, or is of a class in respect of which a memorandum has been prescribed under subsection (6) of this section, and contains a provision that incorporates (with or without amendment) any or all of the provisions set out in that memorandum, those provisions or (as the case may require) those provisions as amended shall be implied in that instrument as fully and effectually as if they were set forth at length in the instrument.

“(8) Nothing in subsection (7) of this section shall be construed as limiting the effect, if any, of a provision in an instrument that incorporates in the instrument covenants, conditions, or other provisions otherwise than as referred to in that subsection.”

(2) Section 2 of the principal Act is hereby amended by adding to the definition of the term “instrument” the words “; and includes a memorandum within the meaning of section 155A (1) of this Act”.

(3) Section 38 (2) of the principal Act is hereby amended—

(a) By inserting, after the words “every instrument”, the words, “, other than a memorandum within the meaning of section 155A (1) of this Act, that is”:

(b) By inserting, after the words “with the provisions of this Act”, the words “or as may be prescribed by regulations made under this Act”.

4. Regulations—Section 236(1) of the principal Act is hereby amended by adding the following paragraph:

“(d) Prescribing the form of any memorandum to be registered under section 155A of this Act; and prescribing the form of any instrument intended for use in conjunction with any memorandum for the purposes of that section.”

This Act is administered in the Department of Justice.
