



# Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002

Public Act 2002 No 11  
Date of assent 16 May 2002  
Commencement see section 2

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**The Parliament of New Zealand enacts as follows:**

**1 Title**

- (1) This Act is the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002.
- (2) In this Act, the Land Transfer Act 1952 is called "the principal Act".

## Part 1

### Preliminary provisions

#### 2 Commencement

- (1) Except as provided in subsections (2) and (3), this Act and Schedules 1, 3, and 4 come into force on 1 June 2002.
- (2) Sections 44, 60, and 61 come into force on the day after the date on which this Act receives the Royal assent.
- (3) Sections 42, 43, 45 to 52, 54, 56, 58, 59, 62, 64(1), 65(2), 66, and 67, and Schedule 2 come into force on a date to be appointed by the Governor-General by Order in Council; and 1 or more Orders in Council may be made bringing different provisions into force on different dates.

#### 3 Purposes of this Act

The purposes of this Act are—

- (a) to enable information technology to be used for the following purposes:
  - (i) registering instruments, dealings, and other matters under the principal Act;
  - (ii) recording and storing particulars of instruments, dealings, and other matters relating to land and title to land registered under the principal Act;
  - (iii) preparing and lodging electronic instruments; and
- (b) to enable the things referred to in paragraph (a) to be done in a manner that—
  - (i) preserves the integrity and underlying purposes and principles of the principal Act; and
  - (ii) does not affect the right to claim compensation under Part XI of the principal Act; and
- (c) otherwise to provide for the more efficient operation of the principal Act.

#### 4 Interpretation

In this Act, unless the context otherwise requires,—

**chief executive** means the chief executive of the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

**computer freehold register** means a computer freehold register created by the Registrar under section 7

**computer interest register** means a computer interest register created by the Registrar under section 9

**computer register** means all or any of a computer freehold register, computer interest register, or computer unit title register, as the case requires

**computer unit title register** means a computer unit title register created by the Registrar under section 11

**conveyancer** means—

- (a) a landbroker licensed by the Registrar under section 229 of the principal Act; or
- (b) a person who holds a current practising certificate under section 57 of the Law Practitioners Act 1982

**electronic instrument** means an instrument of a class specified in regulations made under section 236(1)(d) of the principal Act that has been prepared in an electronic workspace facility

**electronic transactions land** has the meaning set out in section 25

**electronic workspace facility** means a facility approved under section 22(1) for use in preparing electronic instruments for presentation to the Registrar

**medium** includes—

- (a) any electronic, electromagnetic, optical, digital, or photographic process or system; and
- (b) any paper; and
- (c) any other means of recording, reproducing, copying, or storing information

**Minister** means, subject to any enactment, the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

**register** means the register referred to in the principal Act

**unique identifier** means a combination of letters or numbers, or both, by which a computer register or an instrument or other document is, or is to be, uniquely identified.

## Part 2

### Computer registers and electronic instruments

#### 5 Registrar may authorise registration in any medium

The Registrar may authorise the registration or deposit of instruments, and the recording of information, in any medium.

#### 6 Recording and registration of certain matters to be effected under this Act

If land is subject to this Act,—

- (a) that land does not cease to be subject to the principal Act; and
- (b) every matter required by the principal Act, or any other enactment, to be entered, noted, deposited, recorded, registered, or specified in respect of the land under the principal Act must instead be done under this Act; and
- (c) in the case of electronic instruments, every matter required by the principal Act must, if provision is made for it in this Act, instead be done under this Act; and
- (d) the principal Act and every other enactment has effect accordingly.

#### *Creation of computer registers*

#### 7 Creation of computer freehold registers for freehold land

- (1) The Registrar may create a computer freehold register for any freehold interest in land that is subject to the principal Act.
- (2) If a computer freehold register is created for any land, the land becomes subject to this Act and remains subject to the principal Act.
- (3) If a computer freehold register for any land is created under this section,—
  - (a) the relevant folium established under section 33 of the principal Act is closed; and
  - (b) if the land is not electronic transactions land, a certificate of title must be issued under section 15, but, until that occurs, the certificate of title issued under the principal Act remains in force; and

- (c) if any instrument has been registered or deposited under the principal Act in respect of that land, or is subsequently lodged for registration or deposit, the instrument may be held in its definitive form as determined by the Registrar.
- (4) The Registrar need not create a computer freehold register for any land in any particular case if, in his or her opinion, it is not expedient to do so.

## 8 Content of computer freehold registers

Each computer freehold register must comprise—

- (a) the unique identifier for that computer freehold register; and
- (b) a description of the land in a form determined by the Registrar from time to time; and
- (c) the unique identifier for each instrument relevant to the land and the information necessary to enable its priority to be determined; and
- (d) the name of the registered proprietor of the freehold interest in the land; and
- (e) any minority or other restriction on the legal capacity of the registered proprietor that is known to the Registrar; and
- (f) any other information or matter—
  - (i) that is required to be included by any Act or regulations; or
  - (ii) that is set out in any form prescribed by the principal Act for certificates of title and that the Registrar considers appropriate to include; or
  - (iii) that the Registrar considers appropriate to give effect to the requirements of any Act or regulations.

## 9 Creation of computer interest registers

- (1) In this section and in section 10, **interest** means—
  - (a) a lease registered or to be registered under the principal Act; or
  - (b) any matter or interest less than the freehold incorporated or embodied as a folium of the register under the principal Act; or

- (c) any matter or interest embodied as a folium of the provisional register; or
  - (d) any other matter incorporated or embodied in any other register in a Land Registry Office; or
  - (e) any proclamation or notice published in the *Gazette* and registered or to be registered in a Land Registry Office.
- (2) The Registrar may create a computer interest register for any interest that is required or permitted to be registered.
- (3) If a computer interest register is created for any interest, the interest becomes subject to this Act and, if subject to the principal Act, remains subject to the principal Act.
- (4) The Registrar need not create a computer interest register for any interest in any particular case if, in his or her opinion, it is not expedient to do so.
- (5) If the principal Act or any other enactment directs or empowers the Registrar to incorporate or embody any registered interest or any other matter as a folium of the register or provisional register, or in any other register in a Land Registry Office, it is sufficient if the Registrar instead creates a computer interest register for that interest.
- (6) A requirement in any enactment to certify, endorse, note, notify, or record any matter, information, or thing against, in, or on any instrument for which the Registrar has created a computer interest register is satisfied if the Registrar records the matter, information, or thing in the computer interest register.

## **10 Content of computer interest registers**

- (1) Each computer interest register must comprise—
- (a) the unique identifier for that computer interest register; and
  - (b) a general description of the interest; and
  - (c) a reference to the instrument that creates the interest; and
  - (d) the unique identifier for each instrument relevant to the interest and the information necessary to enable its priority to be determined; and
  - (e) the date on which the interest was registered; and

- (f) the name of the registered proprietor of the interest or a reference to the instrument stating that name; and
  - (g) any minority or other restriction on the legal capacity of the registered proprietor that is known to the Registrar; and
  - (h) any other information—
    - (i) that is required to be included by any Act or regulations; or
    - (ii) that the Registrar considers appropriate to give effect to the requirements of any Act or regulations.
- (2) If the interest to which the computer interest register relates is a lease registered or to be registered under the principal Act, the register may also include any provisions set out in any form prescribed by the principal Act for certificates of title that the Registrar considers appropriate to include.
- (3) A reference in the computer interest register to the instrument creating the interest to which the register relates takes effect as if the instrument were fully set out in the register.

## **11 Creation of computer unit title registers**

- (1) The Registrar may create a computer unit title register for a stratum estate in freehold or a stratum estate in leasehold, within the meaning of the Unit Titles Act 1972.
- (2) If a computer unit title register is created in respect of any principal unit (and any associated accessory units) and any future development units under the Unit Titles Act 1972,—
- (a) the unit or units become subject to this Act and remain subject to the Unit Titles Act 1972 and the principal Act; and
  - (b) the relevant folium established under section 33 of the principal Act is closed; and
  - (c) if the unit is not electronic transactions land, a certificate of title must be issued under section 15, but, until that occurs, the certificate of title issued under the principal Act remains in force; and
  - (d) if any instrument has been registered or deposited under the principal Act in respect of the unit or units, or is subsequently lodged for registration or deposit, the

Registrar may determine, for the purposes of section 27,  
the definitive form in which the instrument may be held.

- (3) The provisions of this Part apply, to the extent that they are applicable, and with any necessary modifications, to any unit or units in respect of which a computer unit title register has been created as if that register were a computer freehold register.
- (4) On or after creating a computer unit title register in respect of a unit, the Registrar may also create, in any medium determined by the Registrar, a register—
  - (a) that must be treated as the supplementary record sheet kept for the relevant unit plan in accordance with section 20 of the Unit Titles Act 1972; and
  - (b) that includes every entry on any supplementary record sheet kept in accordance with section 20 of the Unit Titles Act 1972 at the time the register is created; and
  - (c) that has a unique identifier determined by the Registrar.
- (5) The Registrar need not create a computer unit title register in respect of any unit in any particular case if, in his or her opinion, it is not expedient to do so.

## **12 Content of computer unit title register**

Each computer unit title register must comprise—

- (a) the unique identifier for that computer unit title register; and
- (b) the number of the principal unit on the relevant unit plan and the letter allotted to any associated accessory unit and any future development unit on that plan; and
- (c) the unique identifier for each instrument relevant to the principal unit and any associated accessory unit, and the information necessary to enable the priority of the instrument to be determined; and
- (d) a statement that the stratum estate concerned is subject to the reservations, restrictions, encumbrances, liens, and interests that are notified by memorial or by a unique identifier on the computer unit title register and on the relevant unit plan and the supplementary record sheet for the plan kept in accordance with section 20 of the Unit Titles Act 1972; and

- (e) the name of the registered proprietor of the stratum estate concerned; and
- (f) any minority or other legal restriction on the legal capacity of the registered proprietor that is known to the Registrar; and
- (g) any other information that is required to be included by any Act or regulations, or that the Registrar considers appropriate to give effect to the requirements of any Act or regulations.

### **13 Composite computer registers**

- (1) If the Registrar considers it appropriate, he or she may create a composite computer register comprising all or any of a computer freehold register, computer interest register, and computer unit title register.
- (2) Composite certificates of title for land that is not electronic transactions land may be issued accordingly.

### **14 Format of computer registers**

A computer register may be held or stored in any medium or combination of media that will enable it to be maintained or accessed for the purposes of this Act and the principal Act, or for any other lawful purpose.

#### *Certificates of title for land that is not electronic transactions land*

### **15 Issue of certificates of title for land that is not electronic transactions land**

- (1) This section applies to land subject to this Act that is not electronic transactions land.
- (2) When acting under section 16(2), (3), (4)(a), or (4)(b), the Registrar must—
  - (a) prepare a new certificate of title; and
  - (b) cancel any other relevant certificate of title relating to the land that is in the Registrar's custody and issue the new certificate in its place; and
  - (c) give the new certificate to the person who would otherwise be entitled to receive the certificate of title.

- (3) The Registrar may not issue a certificate of title under subsection (2) unless any previous relevant certificate of title has been produced and cancelled or unless the Registrar has dispensed with production of the previous relevant certificate of title and that dispensation is recorded in the new certificate of title.
- (4) The format of the certificate of title issued under this section must be determined by the Registrar and must include a representation of the New Zealand Coat of Arms and the seal of the Registrar.
- (5) When creating a computer interest register for a lease registered under this Act, the Registrar must issue a leasehold certificate of title, and the provisions of subsection (2) apply with any necessary modifications.

## **16 Directions and authorisations for land that is not electronic transactions land**

- (1) This section applies to land subject to this Act that is not electronic transactions land.
- (2) When an application or request is made for a certificate of title under any enactment for any purpose, including any amalgamation, subdivision, or separation, the Registrar may instead create the appropriate computer register and issue a certificate of title under section 15.
- (3) If the Registrar is authorised or directed by any enactment to issue a certificate of title, the Registrar may instead create a computer register and issue a certificate of title under section 15.
- (4) If any enactment contains an authorisation or direction of a type described in subsection (5), the Registrar may instead do either or both of the following:
  - (a) make an equivalent entry in a computer register;
  - (b) create an appropriate computer register.
- (5) Subsection (4) refers to an authorisation or direction to—
  - (a) make an entry in the register; or
  - (b) enter a memorandum in the register or endorse one on a certificate of title or on a duplicate certificate of title; or
  - (c) amend a certificate of title; or

- (d) make any other entry or endorsement or notation in the register or on a certificate of title or on a duplicate certificate of title; or
  - (e) file or deposit any instrument or covenant, notice, or resolution in a Land Registry Office.
- (6) If any enactment contains an authorisation or direction to certify, endorse, note, notify, or record any matter, information, or thing against, in, or on a document held in any Land Registry Office, the Registrar may instead make an appropriate entry in a computer register.
- (7) If the Registrar takes action under subsection (4) or subsection (6) in relation to an authorisation or direction, a requirement under any enactment that the Registrar take action in relation to a duplicate or triplicate of a document affected by that authorisation or direction does not apply.

**17 References to certificates of title for land that is not electronic transactions land**

- (1) This section applies to references to certificates of title in relation to land subject to this Act that is not electronic transactions land.
- (2) A reference in the principal Act, or the Unit Titles Act 1972, to a certificate of title that is a reference to a folium of the register must be read as a reference to the appropriate computer register.
- (3) A reference in the principal Act, or the Unit Titles Act 1972, to a certificate of title or duplicate certificate of title that is a reference to a certificate of title issued or capable of being issued to the registered proprietor of an estate or interest in any land must be read in relation to an estate or interest for which a certificate of title has been issued under section 15 as a reference to that certificate of title.
- (4) A reference in any enactment to the issue of a certificate of title must be read as a reference to the creation of a computer register and the issue of a certificate of title.
- (5) A reference in section 7 or section 8 of the Unit Titles Act 1972 to a certificate of title in relation to a stratum estate for which the Registrar has prepared a certificate of title under

section 15 must be read as a reference to that certificate of title.

*No certificates of title for electronic transactions land*

**18 No certificates of title for electronic transactions land**

- (1) The Registrar must not issue a certificate of title for electronic transactions land.
- (2) If land is declared under section 25 to be electronic transactions land, all certificates of title (whether referred to as certificates of title or outstanding duplicate certificates of title) for the land are cancelled as from the date on which the declaration takes effect.

**19 Directions and requirements for electronic transactions land**

- (1) This section applies to land subject to this Act that is electronic transactions land.
- (2) A requirement or authorisation for the Registrar to issue a certificate of title is satisfied by creating an appropriate computer register.
- (3) A requirement that any person produce or deliver a certificate of title does not apply.
- (4) A requirement or authorisation for the Registrar to cancel a certificate of title is satisfied by doing an act in relation to a computer register that has the same effect.
- (5) A reference in any enactment for the purpose of describing a parcel of land must be read as a reference with equivalent effect to a computer register.
- (6) If any enactment contains an authorisation or direction of a type described in subsection (7), the Registrar may instead do either or both of the following:
  - (a) make an equivalent entry in a computer register:
  - (b) create an appropriate computer register.
- (7) Subsection (6) refers to an authorisation or direction to—
  - (a) make an entry in the register; or
  - (b) enter a memorandum in the register or endorse one on a certificate of title or on a duplicate certificate of title; or
  - (c) amend a certificate of title; or

- (d) make any other entry or endorsement or notation in the register or on a certificate of title or on a duplicate certificate of title; or
  - (e) file or deposit any instrument or covenant, notice, or resolution in a Land Registry Office.
- (8) If any enactment contains an authorisation or direction to certify, endorse, note, notify, or record, any matter, information, or thing against, in, or on a document held in any Land Registry Office, the Registrar may instead make an appropriate entry in a computer register.
- (9) If the Registrar takes action under subsection (6) or subsection (8) in relation to an authorisation or direction, any requirement under any enactment that the Registrar take action in relation to a duplicate or triplicate of a document affected by that authorisation or direction does not apply.

## **20 References to certificates of title for electronic transactions land**

- (1) This section applies to references in any enactment to certificates of title in relation to land subject to this Act that is electronic transactions land.
- (2) A reference to a folium of the register must be read as a reference to the appropriate computer register.
- (3) A reference to a certificate of title or duplicate certificate issued or capable of being issued to the registered proprietor of an estate or interest in any land must be read as a reference to the appropriate computer register.
- (4) A reference to a certificate of title in section 7 and section 8 of the Unit Titles Act 1972 in relation to a stratum estate must be read as a reference to the appropriate computer register.

### *Easements*

## **21 How easement recorded**

- (1) Whenever any easement or incorporeal right (other than an annuity or rentcharge) in or over any land under this Act or the principal Act is created for the purpose of being annexed to, or used and enjoyed together with, other land under this Act or the principal Act, the Registrar must enter a unique identifier or a memorial of the instrument creating that easement or

incorporeal right on the computer register and any certificate of title for the other land.

- (2) That memorial or unique identifier has, as from the date of its entry, the effect of including the easement or incorporeal right in the computer register and certificate of title (if any).

### *Electronic instruments*

#### **22 Electronic workspace facilities**

- (1) The Registrar may approve 1 or more electronic workspace facilities for use in the preparation of electronic instruments for presentation to the Registrar.
- (2) The Registrar must not approve an electronic workspace facility unless he or she is satisfied that adequate provision is made to ensure that—
  - (a) instruments prepared in the facility comply with the requirements of this Act and the principal Act when lodged; and
  - (b) the Registrar is able to carry out his or her functions under this Act.
- (3) The Registrar may monitor activities in any electronic workspace facility for the purpose of detecting fraud or improper dealings.
- (4) The Registrar may withdraw approval of any electronic workspace facility at any time if the facility fails to meet the requirements referred to in subsection (2).
- (5) The chief executive may (but is not required to) provide an approved electronic workspace facility.
- (6) If the chief executive does provide an electronic workspace facility, he or she may—
  - (a) set conditions for its use, including his or her right to carry out audits to ensure a person's compliance with the conditions, and prevent its use by persons who do not comply with the conditions; and
  - (b) monitor activities in it for the purpose of maintaining its effectiveness and efficiency.

**23 When electronic instruments are in order for registration**

- (1) An electronic instrument is in order for registration if—
  - (a) the instrument has been prepared in an electronic workspace facility approved by the Registrar; and
  - (b) the instrument is in an acceptable form; and
  - (c) the instrument contains or is associated with a certification under section 164A of the principal Act; and
  - (d) in respect of any matter not provided for in this Act, the instrument is in order for registration under the principal Act.
- (2) If an electronic instrument is not in order for registration,—
  - (a) the Registrar must notify the person who submitted the instrument, and that notification constitutes an effective return of the instrument under section 43(1)(a) of the principal Act; and
  - (b) section 43 of the principal Act applies with any necessary modifications.

**24 Electronic lodgement may be made compulsory for conveyancers**

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, apply this section to conveyancers.
- (2) The Minister must not make a recommendation under subsection (1) unless—
  - (a) he or she is satisfied that the organisations that he or she considers are representative of conveyancers have been consulted; and
  - (b) an electronic workspace is available.
- (3) If this section applies, conveyancers may only lodge instruments of a specified class electronically and not otherwise unless—
  - (a) the conveyancer has been barred from giving certifications under section 164B of the principal Act; or
  - (b) the Registrar has determined that it is impractical or inappropriate to present an instrument electronically.
- (4) The Registrar may refuse to accept a paper instrument presented by any person if he or she believes on reasonable

grounds that acceptance of the paper instrument would defeat the purpose of an Order in Council made under subsection (1).

## **25 Electronic transactions land**

- (1) Land is electronic transactions land if it is subject to this Act and—
  - (a) the Registrar makes an entry on a computer register to the effect that the land is electronic transactions land; or
  - (b) the Registrar has, by notice in the *Gazette*, declared the land to be electronic transactions land; or
  - (c) the land forms part of an area of land that the Registrar has, by notice in the *Gazette*, declared to be electronic transactions land.
- (2) Land ceases to be electronic transactions land if—
  - (a) the Registrar makes an entry to that effect on a computer register; or
  - (b) the Registrar has, by notice in the *Gazette*, declared that the land is no longer to be regarded as electronic transactions land; or
  - (c) the land forms part of an area of land that the Registrar has, by notice in the *Gazette*, declared no longer to be electronic transactions land.

## **26 Acceptable forms for electronic instruments**

- (1) An electronic instrument is in an acceptable form only if it is in a form specified by the Registrar.
- (2) Without limiting subsection (1), a specification under that subsection may relate to—
  - (a) the information contained in the form;
  - (b) the electronic format to be used;
  - (c) the way a certification is included in, or associated with, the form.
- (3) Despite any rule of law to the contrary, an electronic instrument need not contain an operative provision that gives effect to the object of the instrument.

*Registration and access to register*

**27 Registrar's copy of instrument to be definitive**

- (1) Whenever, after the commencement of this Act, an instrument or other document is presented to the Registrar under the principal Act, this Act, or any other Act, the Registrar may—
  - (a) produce, as often as the Registrar thinks necessary, a record or copy or image of the instrument or document in any medium determined by the Registrar; and
  - (b) return the instrument or document (and any extra copies presented) to the person who presented it with an indication that it has been copied or imaged under this subsection unless the instrument or document needs to be retained to enable the copy or image to be understood.
- (2) When the Registrar produces, under subsection (1), a record or copy or image of an instrument or other document and accepts the record or copy or image for the purposes of registration under section 30 or the performance of any other statutory function, the record or copy or image must be taken to be the definitive form of the instrument or document on and from the day on which it was presented to the Registrar.
- (3) The Registrar may produce a record or copy or image of—
  - (a) any instrument in respect of which registration has been completed under the principal Act; or
  - (b) any other document that has been deposited under the principal Act.
- (4) When the Registrar produces, under subsection (3), a record or copy or image of an instrument or other document, the record or copy or image must be taken to be the definitive form of the instrument or other document.
- (5) In the absence of proof to the contrary, every matter arising under the principal Act or this Act relating to an instrument or other document recorded or copied or imaged under this section must, for all purposes, be effected and determined as if the instrument or other document had been presented in that form.
- (6) If the Registrar acts under subsection (1), section 38(1) of the principal Act does not apply.

**28 Instrument presented but copying, imaging, or data capture defective**

- (1) In addition to the powers under section 43 of the principal Act, the Registrar may refuse to complete or to proceed with the registration of an instrument, to do any act, or to make any entry if, after the instrument has been presented, for any reason it is impracticable,—
  - (a) in the case of a paper instrument, to properly copy or image it; or
  - (b) in the case of an electronic instrument, to properly capture the data in it.
- (2) If subsection (1) applies, the Registrar must notify the person from whom the instrument was received and arrange for it to be resubmitted.
- (3) If subsection (1) applies,—
  - (a) the priority of the instrument is not affected so long as the instrument is resubmitted within 2 months or any other period that the Registrar may allow; and
  - (b) the Registrar must contribute, to the extent prescribed, to the costs or expenses incurred in resubmitting the instrument; and
  - (c) if any instrument is not resubmitted in accordance with this section within the period applicable under paragraph (a), it must be treated as not having been presented for registration.

**29 Unique identifiers**

The Registrar may assign a unique identifier—

- (a) for every instrument or other document presented to, deposited with, or registered by the Registrar; and
- (b) for every computer register created by the Registrar.

**30 How registration effected**

- (1) The registration of an instrument or other matter under this Act is effected when a unique identifier for the instrument or matter is entered in the relevant computer register.
- (2) Section 34 of the principal Act does not apply if registration is effected under this Act.

**31 Information to become part of register**

- (1) All information at any time registered under this Act is part of the register.
- (2) This section does not affect the limitation imposed by section 155A(5) of the principal Act.
- (3) This section does not apply to any information if any other enactment expressly provides that the information does not form part of the register.

**32 Information to be retained**

All information at any time recorded in a computer register must be retained by the Registrar either in the computer system or elsewhere, even if—

- (a) the information was erroneous and has been corrected; or
- (b) the information is an old description that has been superseded; or
- (c) the information was, but is no longer, current information; or
- (d) the computer system is no longer being maintained.

**33 Rights to search and copy information**

- (1) The right to have access to the register for the purpose of inspection under section 46 of the principal Act does not apply to computer registers.
- (2) The following have effect as provided for in subsections (3) to (6):
  - (a) the power of the Registrar to provide a search copy under section 45A of the principal Act;
  - (b) the power of the Registrar to provide a copy of an instrument under any other enactment;
  - (c) the right of a person to receive a copy of an instrument under any enactment.
- (3) The right and the powers referred to in subsection (2) have effect individually as a right to receive and a power to provide,—
  - (a) in the case of an instrument recorded or registered in the medium of paper, a paper document that is a copy of that instrument; or

- (b) in the case of an instrument recorded in a medium other than paper, a paper document that records the content of the instrument and complies with section 35(a) and (b).
- (4) In addition, the right and the powers referred to in subsection (2) have effect individually as a right to receive and a power to provide information in forms other than in paper document form if the chief executive so determines.
- (5) The chief executive may make a determination under subsection (4) subject to conditions specified by him or her.
- (6) The exercise of the right or of any power referred to in subsection (2) is subject to the payment of any fee or charge prescribed in regulations.

*Evidentiary provisions*

**34 Evidentiary effect of certificates of title and computer registers**

- (1) This section applies to a document or instrument that—
  - (a) either—
    - (i) appears to record the contents of a computer register under this Act; or
    - (ii) if the land is not electronic transactions land, appears to be in the form prescribed for a certificate of title; and
  - (b) does not appear to have been altered in any way.
- (2) The document or instrument—
  - (a) must be received in all courts as evidence of—
    - (i) the information it contains; and
    - (ii) the recording of that information in the register; and
  - (b) is conclusive evidence that, at the time it was issued, the information shown on it identified all of the interests and other matters in the computer register concerned; and
  - (c) unless the contrary is proved by the production of a statement by the Registrar under subsection (3), is conclusive evidence that—
    - (i) the person named in the certificate or computer register (or in any information forming part of it) as holding an estate or interest in land to which it

- relates holds that estate or interest as from the date of the certificate or as from the date from which it is expressed to take effect; and
- (ii) the land to which it relates is subject to the principal Act and this Act.
- (3) In the absence of proof to the contrary, a statement certified by or on behalf of the Registrar as to any matters recorded under this Act is conclusive evidence of those matters.
- (4) In the absence of proof to the contrary, the fact that a statement relating to any matter referred to in subsection (3) purports to be certified by or on behalf of the Registrar is conclusive evidence that it is certified by or on behalf of the Registrar.

**35 Computer printout, etc, admissible in evidence**

If an instrument is recorded or registered in any medium other than paper, a document that records the contents of the instrument is admissible in evidence if the document—

- (a) is generated by or produced from the computer system; and
- (b) is in a readily understandable form; and
- (c) is certified by or on behalf of the Registrar as a true representation of the instrument.

*Sections 65 to 69 of principal Act excluded*

**36 Certain provisions of principal Act not to apply to certificates of title issued under this Act**

Sections 65 to 69 of the principal Act do not apply in relation to any land or interest if a computer register has been created under this Act for the land or interest.

*Administration*

**37 Abolition of offices of Registrar of Deeds and Deputy Registrar of Deeds**

- (1) The offices of Registrar of Deeds and Deputy Registrar of Deeds under the Deeds Registration Act 1908 are abolished.
- (2) No compensation is payable to any holder of the office of Registrar of Deeds or Deputy Registrar of Deeds by reason of the abolition of the offices in subsection (1).

**38 Statutory references to District Land Registrars**

- (1) This section applies to every reference in any enactment other than this Act to—
  - (a) a District Land Registrar generally; or
  - (b) the District Land Registrar of a specified district; or
  - (c) the District Land Registrar of the district in which any land is situated.
- (2) Every reference to which this section applies must be read as a reference to the Registrar.
- (3) The references to a Registrar in sections 225 and 226 of the principal Act include District Land Registrars.

**Part 3**

**Amendments to Land Transfer Act 1952**

**39 Registrar-General of Land**

Section 4 of the principal Act is amended by adding the following subsection:

- “(3) In exercising or performing the powers and duties of the Registrar, the Registrar and every delegate of the Registrar must have regard to the following objectives:
  - “(a) ensuring an efficient and effective system for registering dealings in land:
  - “(b) managing the risk of fraud and improper dealings:
  - “(c) ensuring public confidence in the land titles system:
  - “(d) ensuring the maintenance of the integrity of the register and the right to claim compensation under Part XI.”

**40 Delegation of Registrar’s powers and duties**

- (1) Section 5(1) of the principal Act is amended—
  - (a) by inserting, after the words “any employee of the chief executive of the Department”, the words “or any other suitable person”:
  - (b) by inserting, after the words “powers or duties”, the words “under this Act or any other Act”.
- (2) Section 5 of the principal Act is amended by adding the following subsection:
  - “(8) If any person who is not an employee of the chief executive of the Department is purporting to act under a delegation under

this section, that person is presumed to be acting in accordance with the terms of a delegation in the absence of proof to the contrary but must provide evidence of the delegation if so requested.”

**41 New section 47 inserted**

The principal Act is amended by inserting, after section 46, the following section:

**“47 Presentation of instruments for registration**

“(1) A person claiming under an instrument, or anyone acting on his or her behalf, may present the instrument at a designated land transfer office—

“(a) by hand at the public counter; or

“(b) by depositing the instrument in a secure facility provided for that purpose; or

“(c) by posting it to that office.

“(2) For the purpose of subsection (1), **designated land transfer office** means any land transfer office designated for that purpose by the Registrar.

“(3) Subject to subsections (4), (5), and (6), an instrument presented for registration under this section has priority as provided for in section 37.

“(4) An instrument presented in the manner provided for in subsection (1)(b) or (c) is deemed to have been presented for registration on the business day after the day on which it is received by the Registrar and before any other matter presented on the day of registration in relation to the same land.

“(5) Any caveat of any kind or notice of claim under the Property (Relationships) Act 1976 that is presented to the Registrar in the manner provided for in subsection (1)(b) or (c) is deemed to have been presented for entry after any other instrument presented to the Registrar in the same manner on the same day.

“(6) Except where subsection (5) applies, if 2 or more instruments are received in the manner provided for in subsection (1)(b) or (c), they have priority as between themselves,—

“(a) if section 41(2) applies to the instruments, in accordance with that provision:

“(b) if section 41(2) does not apply to the instruments, in the order in which they were date and time stamped as received by the Registrar.”

**42 New section 70 substituted**

The principal Act is amended by repealing section 70, and substituting the following section:

**“70 Removal of easements and *profits á prendre* from register**

“(1) If any easement or *profit á prendre* has been determined or extinguished, or appears to the Registrar to be redundant, the Registrar must, on proof to his or her satisfaction of the determination or extinguishment or that the easement is redundant, make an entry to that effect in the register.

“(2) For the purposes of subsection (1), an easement may be regarded as redundant if—

“(a) the dominant tenement or any part of it has become separated from the servient tenement as a result of a subdivision or otherwise; and

“(b) the easement no longer benefits the dominant land.

“(3) A person who wishes the Registrar to make an entry to the effect that an easement is redundant must apply to the Registrar, and give the Registrar a statutory declaration or declarations to the effect that specific circumstances exist that meet—

“(a) the criteria set out in subsection (2); or

“(b) any other criteria specified by the Registrar for determining that easements are redundant.

“(4) The Registrar may make an entry that an easement is determined, extinguished, or redundant if he or she—

“(a) has given notice of his or her intention to do so to all persons appearing to him or her to be entitled to any interest under the easement; and

“(b) has given the prescribed period of public notice of his or her intention to do so; and

“(c) no objections have been received.

“(5) The estate or interest of the registered proprietor of the easement or *profit á prendre* and of every person claiming through or under the registered proprietor ceases and determines on the making of the entry in the register, but does not release any

person from any liability to which that person is subject at the time of the entry.

- “(6) The requirement to give notice under subsection (4) does not apply if the *determination or extinguishment* was by *effluxion of time or merger*.”

#### **43 New sections 90 to 90F substituted**

The principal Act is amended by repealing sections 90 to 90F, and substituting the following sections:

##### **“90 Transfers and creation of easements, etc, by registered proprietor**

- “(1) A transfer instrument may be used for the purpose of registering under this Act—

“(a) the transfer of any land or estate or interest in land; or  
“(b) the creation of any easement or *profit á prendre*.

- “(2) A transfer instrument must include the following information:

“(a) the estate or interest to be transferred or created, which must include a reference to the register in the prescribed manner; and  
“(b) the person who is to take the interest.

- “(3) A transfer instrument must be executed by—

“(a) the registered proprietor of the estate or interest; and  
“(b) if an easement or *profit á prendre* is created or the transfer contains covenants binding on that party, the person who is to take the interest; and  
“(c) if an easement is reserved, the transferee.

##### **“90A Creation and surrender of easements by easement instrument**

- “(1) This section does not limit other provisions by which easements may be created or surrendered.

- “(2) An easement that could be created or surrendered by a transfer under section 90 may be created or surrendered by an easement instrument under this section.

- “(3) An easement instrument must include the following information:

“(a) in the case of an easement not in gross, the dominant and servient tenements, which must include a reference to the register in the prescribed manner; and

- “(b) in the case of an easement in gross, the servient tenement, which must include a reference to the register in the prescribed manner, and the person to whom the easement is to be granted; and
  - “(c) the nature and extent of any easement to be created; and
  - “(d) the rights and powers that will apply to any easement to be created; and
  - “(e) any easement to be surrendered, which must include a reference to the register in the prescribed manner.
- “(4) An easement instrument must be executed by,—
- “(a) in the case of an easement not in gross, the registered proprietors of the dominant and servient tenements; and
  - “(b) in the case of an easement in gross, the registered proprietor of the servient tenement and the grantee.
- “(5) Easements are created or surrendered under this section when the easement instrument specifying them is registered.
- “(6) Section 69 of this Act and section 21 of the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002, with any necessary modifications, apply to easements created under this section.

**“90B Creation and surrender of easements on deposit of plan**

- “(1) The provisions of this section do not limit other provisions by which easements may be created or surrendered.
- “(2) An easement that could be created or surrendered by transfer under section 90 may be created or surrendered under this section.
- “(3) An easement may be created under this section by specifying—
- “(a) the dominant or servient tenement or both (as the case requires), which must include a reference to the register in the prescribed manner; and
  - “(b) the nature and extent of the easement; and
  - “(c) the rights and powers that will apply to the easement created under this section by referring without modification to applicable rights and powers—
    - “(i) prescribed in regulations made under this Act; or
    - “(ii) contained in a memorandum registered under section 155A.

- “(4) The matters set out in subsection (3) may be specified either—
  - “(a) in a deposit document specified by the Registrar under section 167A; or
  - “(b) on a plan in a form specified in rules made under the Cadastral Survey Act 2002.
- “(5) The consent of the following persons is required for the creation or surrender of easements under this section:
  - “(a) in the case of an easement not in gross, the registered proprietors of the dominant and servient tenements; and
  - “(b) in the case of an easement in gross, the registered proprietor of the servient tenement and the grantee.
- “(6) Easements are created or surrendered under this section,—
  - “(a) if specified in a deposit document, when the plan to which that document relates is deposited under section 167:
  - “(b) if specified on a plan, when that plan is deposited under section 167.
- “(7) Section 69 of this Act and sections 21 and 30 of the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002, with any necessary modifications, apply to easements created under this section.

**“90C Variation of easements**

- “(1) An easement variation instrument may be registered to effect any of the following changes to any term, covenant, or condition of any easement created or registered under this Act:
  - “(a) varying it:
  - “(b) negating it:
  - “(c) adding to it.
- “(2) An easement variation instrument must specify the easement to be varied by reference to the register in the prescribed manner.
- “(3) An easement instrument must be executed by,—
  - “(a) in the case of an easement not in gross, the registered proprietors of the dominant and servient tenements; and
  - “(b) in the case of an easement in gross, the registered proprietor of the servient tenement and the grantee.

**“90D Rights and powers implied in certain easements**

- “(1) Regulations made under this Act may specify, for the purposes of this section,—
- “(a) different classes of easements; and
  - “(b) the rights and powers that are to be implied in them.
- “(2) Subject to subsection (3), when an easement of a class specified in the regulations is registered, the grantee must be regarded as having the implied rights and powers (as specified for that class of instrument by the regulations).
- “(3) An instrument creating an easement may alter the rights and powers implied under subsection (1) by—
- “(a) varying any implied rights and powers:
  - “(b) negating any implied rights and powers:
  - “(c) providing additional rights and powers:
  - “(d) substituting rights and powers for any implied rights and powers.
- “(4) Subsection (3) does not apply to easements created under section 90B.
- “(5) The rights and powers that apply by virtue of this section become binding on the grantor and the grantee on the registration of the easement.
- “(6) The provisions of this section are in addition to, and not in derogation, of the provisions of sections 26(4), 27(3), and 28(3) of the Housing Act 1955.

**“90E General provisions relating to easements**

- “(1) Despite any rule of law or equity to the contrary, an easement may be created or varied under any of sections 90A, 90B, or 90C even though the same person is the registered proprietor of both the dominant and servient tenements or is both the grantor and grantee.
- “(2) When easements are created under section 90A or section 90B,—
- “(a) the registered proprietor of the servient tenement is the grantor:
  - “(b) the registered proprietor of the dominant tenement is the grantee:
  - “(c) in the case of Crown land, the registered proprietor is Her Majesty the Queen:

- “(d) if the land is land of the Crown for which there is no certificate of title or computer register, the Registrar must constitute a separate folium of the register or computer register for the easement or easements.
- “(3) Consent is needed as follows:
- “(a) the creation or variation of an easement under any of sections 90A, 90B, or 90C needs consent by any mortgagee of the land that is to become the servient tenement:
- “(b) the variation of an easement under section 90C needs consent by any mortgagee of the easement or dominant tenement:
- “(c) the surrender of an easement under section 90A or section 90B needs consent by any mortgagee of the easement or dominant tenement.
- “(4) If a mortgagee gives a consent under subsection (3), the mortgagee and all persons who subsequently derive any interest from the mortgagee are bound by the easement or *profit à prendre*, variation, or surrender.
- “(5) Sections 90A, 90B, 90C, and 90D, and subsections (1) to (4), apply as if—
- “(a) **easement** includes a *profit à prendre*; and
- “(b) **rights and powers** includes terms, covenants, and conditions.

#### “90F **Creating and noting land covenants**

- “(1) Any covenant that could be contained in an instrument to which section 126A of the Property Law Act 1952 applies may be created in the same way as an easement can be created under section 90A or section 90B, but has effect only as a deed *inter partes*.
- “(2) Sections 90A to 90E apply with any necessary modifications to covenants created under subsection (1), subject to the following exceptions:
- “(a) sections 90A(5) and 90B(6) operate only to create covenants with effect only as a deed *inter partes*;
- “(b) sections 90A(6) and 90B(7) do not apply.
- “(3) Sections 63 to 71, 126, 126A, and 126G of the Property Law Act 1952 apply to covenants created under subsection (1).

- “(4) A notification under section 126A of the Property Law Act 1952 does not give a covenant created under subsection (1) any greater force than it would have had if created in some other way.
- “(5) Subsection (4) is for the avoidance of doubt.”

**44 New heading and section 99B inserted**

The principal Act is amended by inserting in Part V, after section 99A, the following heading and section:

*“Instruments for adoption by other enactments*

**“99B Forms for instruments available for adoption by other enactments**

- “(1) Regulations made under this Act may prescribe instruments under this Act that are available for adoption (with or without modification) by any other enactment that provides for the registration or noting of any thing under this Act.
- “(2) Neither this section nor any regulations made for the purposes of it affect the operation of any enactment that—
- “(a) provides for the registration or noting of any thing under this Act; but
- “(b) does not expressly adopt a form specified in regulations referred to in subsection (1).”

**45 New sections 101 to 103 substituted**

The principal Act is amended by repealing sections 101 to 103, and substituting the following sections:

**“101 Forms of mortgage**

- “(1) A mortgage instrument or an encumbrance instrument is required for the purposes of charging any land or estate or interest under this Act or making any such land or estate or interest security for payment of any money.
- “(2) A mortgage instrument must contain the following information:
- “(a) the land or estate or interest to be mortgaged, which must include a reference to the register in the prescribed manner; and
- “(b) the person who is to take the mortgage; and
- “(c) the nature of the debt secured by the mortgage; and
- “(d) the covenants and conditions (if any); and

- “(e) the priority amount under section 80A of the Property Law Act 1952 (if any).
- “(3) A mortgage instrument must be executed by the registered proprietor.
- “(4) An encumbrance instrument must contain the following information:
  - “(a) the land or estate or interest to be encumbered, which must include a reference to the register in the prescribed manner; and
  - “(b) the person for whose benefit the land or estate or interest is to be encumbered; and
  - “(c) the nature of the sum, annuity, or rentcharge secured; and
  - “(d) the events (if any) on which the sum, annuity, or rentcharge becomes or ceases to be payable; and
  - “(e) the covenants and conditions (if any).
- “(5) An encumbrance instrument must be executed by the encumbrancer.
- “(6) In this section, **debt** includes future indebtedness and interest.

“102 **Variation of mortgage terms**

- “(1) A mortgage variation instrument is required for the purpose of varying, in respect of any mortgage registered under this Act,—
  - “(a) the amount secured by the mortgage; or
  - “(b) the rate of interest; or
  - “(c) the term or currency of the mortgage; or
  - “(e) the covenants, conditions, and powers contained or implied in the mortgage.
- “(2) A mortgage variation instrument must contain the following information:
  - “(a) the mortgage, which must include a reference to the register in the prescribed manner; and
  - “(b) the nature of the variation.
- “(3) A mortgage variation instrument must be executed by—
  - “(a) the mortgagor, except where the variation only operates to reduce the amount secured or rate of interest; and
  - “(b) the mortgagee, except where the variation only operates to increase the amount secured or rate of interest.

“(4) If the land is subject to another mortgage, the consent of the mortgagee under that mortgage must be obtained.

“103 **Variation of priority of mortgages**

“(1) Despite anything in section 37 or section 47, the priority between themselves of the mortgages affecting any land may, from time to time, be varied by a mortgage priority instrument.

“(2) A mortgage priority instrument must contain the following information:

“(a) each mortgage that will be affected by the change in priority, which must include a reference to the register in the prescribed manner; and

“(b) the priority of the mortgages intended following registration.

“(3) If any mortgage so postponed is subject to a submortgage, the mortgage priority instrument is not effective unless the sub-mortgagee has consented.

“(4) Upon the registration of the mortgage priority instrument, there is implied in every mortgage so postponed the covenants, conditions, and powers set out in the Third Schedule, except as otherwise expressed in the priority instrument.

“(5) Upon the registration of a mortgage priority instrument, the Registrar must notify it on the register.

“(6) A mortgage priority instrument must be executed by—

“(a) the mortgagor; and

“(b) every mortgagee under every mortgage that, as a result of the mortgage priority instrument, will be ranked after any mortgage over which it previously had priority.

“(7) For the purposes of this section, **mortgage** includes any lien, charge, or other registered security for the payment of money.”

**46 New section 111 substituted**

The principal Act is amended by repealing section 111, and substituting the following section:

“111 **Discharge of mortgage**

“(1) A mortgage discharge instrument is required for the purpose of registering a discharge of any mortgage under this Act.

- “(2) A mortgage discharge instrument must contain the following information:
- “(a) the land to be discharged from the mortgage, which must include a reference to the register in the prescribed manner; and
  - “(b) the mortgage to be discharged, which must include a reference to the register in the prescribed manner; and
  - “(c) the part of the principal sum, annuity, or other sum to be discharged if it is not to be fully discharged.
- “(3) A mortgage discharge instrument must be executed by the mortgagee.
- “(4) Upon the registration of a discharge instrument,—
- “(a) the Registrar must record the discharge in the register and on the certificate of title for the land (if any); and
  - “(b) the land identified in the discharge instrument ceases to be subject to or liable for the debt or annuity secured by the mortgage.”

#### **47 New sections 115 and 116 substituted**

The principal Act is amended by repealing sections 115 and 116, and substituting the following sections:

##### **“115 Form and registration of leases**

- “(1) A lease instrument is required for the purposes of registering under this Act the lease or demise of any land for a life or lives, or for a term of not less than 3 years.
- “(2) A lease instrument must contain the following information:
- “(a) the land or estate or interest to be leased, which must include a reference to the register in the prescribed manner; and
  - “(b) the person who is to acquire the interest as lessee; and
  - “(c) the term of the lease; and
  - “(d) the rent payable; and
  - “(e) the terms and conditions that are to apply to the lease.
- “(3) A lease instrument must be executed by—
- “(a) the registered proprietor; and
  - “(b) the lessee.
- “(4) If the land or estate or interest to be leased is subject to a mortgage, the consent of the mortgagee must be obtained.

“(5) A lease instrument may be registered even though it is for a term of less than 3 years, but no lease or agreement for lease for a period less than 3 years is void merely because no lease instrument has been executed or registered.

**“116 Variation of lease**

“(1) A lease variation instrument is required for the purpose of varying, in respect of any lease registered under this Act,—

“(a) the term of the lease by way of extension; or

“(b) the covenants, conditions, and restrictions contained in the lease.

“(2) A lease variation instrument extending the term of a lease must be registered before the expiry of the then current term of the lease.

“(3) A lease variation instrument must contain the following information:

“(a) the lease to be varied, which must include a reference to the register in the prescribed manner; and

“(b) the nature of the variation.

“(4) A lease variation instrument extending the term of a lease has the same effect as if it were a lease instrument for the extended term subject to the same covenants, conditions, and restrictions, with any necessary modifications, as are contained or implied in the lease.

“(5) Upon the registration of the lease variation instrument, the estate of the lessee under the instrument is deemed to be subject to all encumbrances, liens, and interests to which the lease is subject at the time of the registration. For the purposes of this subsection, all references in any Act or in any agreement, deed, instrument, notice, or other document to the lease or to the estate of the lessee under the instrument must, unless inconsistent with the context or with the provisions of this section, be read as references to the lease as varied by the lease variation instrument or to the estate of the lessee under the instrument, as the case may be.

“(6) A lease variation instrument must be executed by the lessor and lessee.

“(7) If the land subject to the lease is subject to a mortgage, the consent of the mortgagee must be obtained.”

**48 New section 120 substituted**

The principal Act is amended by repealing section 120, and substituting the following section:

**“120 Surrender of lease**

- “(1) A lease surrender instrument is required for the purpose of surrendering any lease registered under this Act.
- “(2) A lease surrender instrument must state the lease to be surrendered, which statement must include a reference to the register in the prescribed manner.
- “(3) A lease surrender instrument must be executed by the lessor and the lessee.
- “(4) Upon the registration of a lease surrender instrument,—
  - “(a) the Registrar must record the surrender in the register and on the certificate of title for the land (if any); and
  - “(b) the estate and interest of the lessee vests in the person entitled to the reversion.
- “(5) A lease subject to mortgage or underlease must not be surrendered without the consent of the mortgagee or sublessee.”

**49 New sections 136 and 137 substituted**

The principal Act is amended by repealing sections 136 to 139, and substituting the following sections:

**“136 Caveat against bringing land under Act**

- “(1) A person who has or claims to have an interest in any land that is the subject of an application seeking to bring the land under this Act may, within the prescribed period set out in a public notice given by the Registrar, lodge with the Registrar a caveat against bringing the land under this Act.
- “(2) A caveat under this section must contain the following information:
  - “(a) the name of the caveator; and
  - “(b) the nature of the land or estate or interest claimed and the ground on which the claim is founded; and
  - “(c) the land subject to the claim; and
  - “(d) the date the public notice required by subsection (1) was given; and
  - “(e) an address for service for the caveator; and
  - “(f) any other information or evidence that may be required by regulations made under this Act.

“(3) Caveats under this section must be executed by the caveator or the caveator’s attorney or agent.

**“137 Caveat against dealings with land under Act**

“(1) Any person may lodge with the Registrar a caveat against dealings in any land or estate or interest under this Act if the person—

“(a) claims to be entitled to, or to be beneficially interested in, the land or estate or interest by virtue of any unregistered agreement or other instrument or transmission, or of any trust expressed or implied, or otherwise; or

“(b) is transferring the land or estate or interest to any other person to be held in trust.

“(2) A caveat under this section must contain the following information:

“(a) the name of the caveator; and

“(b) the nature of the land or estate or interest claimed by the caveator, which must be stated with sufficient certainty; and

“(c) how the land or estate or interest claimed is derived from the registered proprietor; and

“(d) whether or not it is intended to forbid the making of all entries that would be prevented by section 141 or a specified subset of them; and

“(e) the land subject to the claim, which must be stated with sufficient certainty; and

“(f) an address for service for the caveator.

“(3) Caveats under this section must be executed by the caveator or the caveator’s attorney or agent.

“(4) Caveats under this section must be entered on the register as of the day and hour of their receipt by the Registrar.”

**50 Effect of caveat against dealings**

(1) Section 141(3)(d) of the principal Act is repealed.

(2) Section 141 of the principal Act is amended by adding the following subsection:

“(5) Without limiting subsection (3), a caveat under section 137 does not prevent the Registrar making an entry to give effect to—

- “(a) a transmission to an executor, administrator, or trustee in respect of the estate or interest of a deceased registered proprietor; or
- “(b) a transmission to the Official Assignee on bankruptcy of a registered proprietor; or
- “(c) dealings having the effect of discharging or extinguishing secondary interests if the caveat affects the fee simple (such as a discharge of a mortgage or surrender of a lease); or
- “(d) a change in, or a correction to, the name of a proprietor where the ownership remains the same; or
- “(e) a transfer consequent on a rating sale under the Rating Powers Act 1988; or
- “(f) dealings with secondary interests if the caveat affects the fee simple (such as the transfer of a mortgage); or
- “(g) appurtenant easements; or
- “(h) an application for an amalgamated certificate of title or separate certificates of title if there is more than 1 registered proprietor for land or for an estate or interest in land; or
- “(i) further caveats, statutory land charges, or charging orders; or
- “(j) a vesting or dealing effected by an enactment or court order that expressly or by implication requires or permits a recording to be made in the register despite the presence of the caveat.”

**51 New section 142 substituted**

The principal Act is amended by repealing section 142, and substituting the following section:

**“142 Notices to be given to persons affected**

Upon the receipt of any caveat, the Registrar must give notice,—

- “(a) in the case of a caveat under section 136, to the person against whose application to bring land under this Act the caveat has been lodged; or
- “(b) in the case of a caveat under section 137, to the registered proprietor against whose title to deal with land under this Act the caveat has been lodged.”

**52 New section 145A inserted**

The principal Act is amended by inserting, after section 145, the following section:

**“145A Early lapse of caveat against dealings**

- “(1) The registered proprietor of any estate or interest in the land protected by a caveat against dealings (other than a caveat lodged by the Registrar) may apply to the Registrar for the caveat to lapse.
- “(2) The Registrar must give the caveator notice of an application under subsection (1).
- “(3) The caveat lapses with the close of the prescribed period after the date on which the notice under subsection (2) is given unless—
- “(a) the caveator has earlier given to the Registrar notice that an application for an order to the contrary has been made to the High Court; and
- “(b) an order to that effect has been made and served on the Registrar within the prescribed period after the date on which the notice under paragraph (a) is given to the registrar.”

**53 New section 147A inserted**

The principal Act is amended by inserting, after section 147, the following section:

**“147A Electronic registration with caveator’s consent subject to rights of caveator**

If an electronic instrument is registered with the consent of the caveator, the dealing must be regarded as having been made subject to the rights of the caveator for the purposes of section 147.”

**54 New sections 148 to 148B substituted**

The principal Act is amended by repealing section 148, and substituting the following sections:

**“148 No second caveat may be entered**

- “(1) If a caveat has been removed under section 143 or has lapsed, no second caveat may be lodged by or on behalf of the same person in respect of the same interest except by order of the High Court.

“(2) For the purposes of verifying that a caveat does not contravene the prohibition in subsection (1), the Registrar is not obliged to inquire further than the current folium of the register or computer register for the land.

**“148A Registrar not required to verify caveator’s entitlement to estate or interest claimed**

Except to the extent of ensuring that a caveat lodged under any provision of this Act complies on its face with the requirements of this Act and with the requirements of any regulations made for the purposes of this Act, the Registrar is not required to be satisfied that the caveator is in fact or at law entitled to the estate or interest claimed in the caveat.

**“148B Registrar’s powers if caveat does not comply with this Act**

If a caveat does not comply with the requirements of this Act, the Registrar may deal with it under section 43 as if it were an instrument not in order for registration.”

**55 New section 155 substituted**

The principal Act is amended by repealing section 155, and substituting the following section:

**“155 Short forms of covenant**

“(1) In the case of paper instruments, those covenants set out in full in the Fourth Schedule that are intended to be implied in any instrument prepared for the purpose of registration under this Act are, if expressed in the short form of words prescribed in that schedule, to be implied in that instrument as fully and effectually as if set out in full with all the modifications that may be necessary in order to adapt them to the instrument.

“(2) In the case of an electronic instrument, those covenants set out in full in the Fourth Schedule that are intended to be implied in any instrument prepared for the purpose of registration under this Act are to be implied in that instrument as fully and effectually as if set out in full with all the modifications that may be necessary in order to adapt them to the instrument.

“(3) The covenant relating to insurance contained in the Fourth Schedule does not apply to a mortgage under this Act except as otherwise expressed in the mortgage.”

**56 New section 157 substituted**

The principal Act is amended by repealing sections 157 to 162, and substituting the following section:

**“157 Paper instruments to be executed**

“(1) Every paper instrument for the purpose of creating, transferring, or charging any estate or interest under this Act must be executed by the registered proprietor and any party to it specified in regulations made under this Act.

“(2) The regulations may prescribe the manner in which instruments to which subsection (1) applies must be executed, witnessed, or attested.

“(3) Every instrument executed in accordance with this section has the same effect as a deed executed by the parties signing it.

“(4) This section is subject to the provisions of section 3 of the Official Appointments and Documents Act 1919.”

**57 New sections 164A to 164E inserted**

The principal Act is amended by inserting, after section 164, the following sections:

**“164A Certification**

“(1) Every instrument to which this subsection applies must contain a certification that complies with subsection (3).

“(2) Subsection (1) applies to—

“(a) electronic instruments; and

“(b) paper instruments of a class specified for the purpose by regulations made under this Act.

“(3) Certifications must specify that—

“(a) the person giving the certification has authority to act for the party specified in regulations in relation to that class of instrument and that party has legal capacity to give such authority; and

“(b) the person giving the certification has taken reasonable steps to confirm the identity of the person who gave the authority to act; and

- “(c) the instrument complies with any statutory requirements specified by the Registrar for that class of instrument; and
  - “(d) the person giving the certification has evidence showing the truth of the certifications in paragraphs (a) to (c) and that the evidence will be retained for the period prescribed for the purpose by regulations made under this Act.
- “(4) Regulations made under this Act may prescribe the form of certifications under this section.

**“164B Who may give certification**

- “(1) A certification under section 164A may be given only by a conveyancer.
- “(2) The Registrar may revoke a person’s right to give a certification under section 164A at any time if he or she believes on reasonable grounds that the person—
- “(a) has given a fraudulent certification; or
  - “(b) has given a certification that is materially incorrect; or
  - “(c) has failed to comply with any requirement under section 164C.
- “(3) The Registrar must give notice as soon as possible to any person whose ability to give certifications is removed under subsection (2).
- “(4) The Registrar may reinstate the right of a person to give certifications if the Registrar is satisfied that the person will—
- “(a) give certifications that are not of the kinds referred to in subsection (2)(a) and (b); and
  - “(b) comply with requirements under section 164C.

**“164C Retention of evidence and audit of certifications**

- “(1) Any person who gives a certification must retain evidence showing the truth of the certification for the period prescribed for the purpose by regulations made under this Act.
- “(2) Without limiting what may be considered to show the truth of certifications, the Registrar may specify requirements that, if met, must be regarded as satisfying the obligation in subsection (1).

- “(3) The Registrar may require a person who has given a certification to do either or both of the following:
- “(a) produce to him or her the evidence referred to in subsection (1):
  - “(b) provide a statement on oath as to—
    - “(i) any further information required by the Registrar; or
    - “(ii) the circumstances surrounding the preparation and electronic transmission of any instrument.
- “(4) Any requirement by the Registrar under subsection (3) must be complied with within 10 working days of its receipt.

**“164D Requirements about execution do not apply if certification given**

If a certification has been given in relation to an instrument to which section 164A(1) applies, the following provisions do not apply to that instrument:

- “(a) section 164 (which relates to the certification of the correctness of instruments):
- “(b) section 157 (which relates to the execution of paper instruments):
- “(c) any provision in any enactment or rule of law relating to the execution, signing, witnessing, or attestation of instruments.

**“164E Effect of certification**

- “(1) When an instrument certified under section 164A (other than a discharge of mortgage under section 111) is registered, the instrument has the same effect as a deed executed by the parties specified in regulations made under this Act.
- “(2) This section is subject to the provisions of section 3 of the Official Appointments and Documents Act 1919.
- “(3) When an instrument certified under section 164A is registered, the instrument must be regarded for the purposes of every enactment and rule of law as if—
  - “(a) the instrument had been made in writing; and
  - “(b) the instrument had been duly executed by every party specified for the purpose in regulations made under this Act.

- “(4) When an instrument certified under section 164A is registered, the provisions of section 49A of the Property Law Act 1952 must be regarded as having been fully satisfied.
- “(5) Subsection (4) is for the avoidance of doubt.”

**58 New section 167A inserted**

The principal Act is amended by inserting, after section 167, the following section:

**“167A Deposit documents**

- “(1) The Registrar may specify a form for any matter referred to in subsection (2) that is a prerequisite for—
  - “(a) the deposit of a plan under section 167; or
  - “(b) the issue of a certificate of title.
- “(2) The matters referred to are—
  - “(a) any consent, approval, or certification;
  - “(b) any other matter that any enactment provides may be included in a deposit document under this section.
- “(3) A form specified under subsection (1) may differ from any form prescribed in relation to the same matter by regulations made under this Act.
- “(4) If a form is specified under subsection (1) for a consent, approval, certification, or other matter under this Act or the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002, that form must be used on all appropriate occasions.
- “(5) If a form is specified under subsection (1) for a consent, approval, certification, or other matter under an enactment other than this Act or the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002, the consent, approval, certification, or other matter may be given or done—
  - “(a) as provided for in the other enactment; or
  - “(b) in the form or manner specified by the Registrar.
- “(6) A form specified under this section must include a representation or reference—
  - “(a) that links it to the plan that is allowed to be deposited; and

- “(b) gives to the person approving or consenting appropriate information about the effect of the depositing of the plan; and
  - “(c) indicates that person’s approval or consent to the deposit of the plan.
- “(7) For the purposes of regulations made under section 236(1)(d), and for the purposes of sections 20 to 25 of the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002, a form specified under subsection (1)—
- “(a) may take the form of an electronic instrument; but
  - “(b) must not be registered.”

**59 New section 205 substituted**

The principal Act is amended by repealing section 205, and substituting the following section:

**“205 Caveats in respect of applications under this Part**

- “(1) A caveat against bringing land under this Act is not capable of being lodged in respect of an application under this Part, but any person entitled to lodge a caveat against bringing land under this Act that is subject to an application under Part II may register under the Deeds Registration Act 1908 a caveat at any time prior to the issue of a certificate of title in respect of the land to which the application under this Part relates.
- “(2) A caveat under subsection (1) must—
- “(a) specify the name of the caveator; and
  - “(b) specify the land subject to the claim; and
  - “(c) specify the nature of the land or estate or interest claimed by the caveator and the ground on which the claim is founded; and
  - “(d) give an address for service.
- “(3) When the Registrar proceeds with an application in respect of any land against which a caveat under subsection (1) has been registered, he or she must include in the Registrar’s minutes a minute in respect of the claim of the caveator.
- “(4) Any occupier of land that is the subject of an application under the provisions of this Part, and any adjoining occupier or proprietor, may, so long as the land is comprised in a certificate of title limited as to parcels, lodge a caveat under this section at any time after the issue of that certificate of title.

- “(5) The provisions of sections 138(1), 139, 143, and 145 to 148, with any necessary modifications, apply to caveats referred to in subsection (4). However, a caveat under this section does not prevent the registration of any dealing with the land comprised in any certificate of title limited as to title.
- “(6) Notice of the issue of a certificate of title under the provisions of this Part must be given by the Registrar to the caveator of every caveat under subsection (1) that is registered against the land comprised in that certificate of title.
- “(7) Subject to the provisions of this Part, the provisions of this Act relating to caveats under subsection (1), with any necessary modifications, apply to caveats referred to in subsection (4).”

## **60 Fees or charges**

- (1) The heading of section 235 of the principal Act is amended by adding the words “**or charges**”.
- (2) Section 235 of the principal Act is amended by repealing subsection (1), and substituting the following subsection:
- “(1) Without limiting section 236, regulations made under this Act may specify—
- “(a) the fees or charges payable for—
- “(i) the performance or exercise of functions, duties, or powers of the Registrar under this Act or any other enactment:
- “(ii) the performance or exercise of functions, duties, or powers of the chief executive under this Act or the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002:
- “(iii) the performance of functions of the chief executive in relation to the administration or operation of this Act or the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002, including the provision of facilities or services by the chief executive:
- “(b) the amount of those fees or charges, or the method or rates by which they are to be assessed:
- “(c) the persons liable to pay the fees or charges:

- “(d) the circumstances in which the payment of the whole or any part of those fees or charges may be remitted or waived:
- “(e) the manner in which the fees or charges are to be paid.”
- (3) Section 235 of the principal Act is amended by repealing subsections (5) to (7), and substituting the following subsection:
  - “(5) Without limiting subsection (1), fees may be specified by regulations made under this Act having regard to the costs and expenses incurred by the department of State for the time being responsible for the administration of the Cadastral Survey Act 2002 in providing a national survey control system for—
    - “(a) cadastral surveys supporting title to land under this Act; and
    - “(b) the maintenance of cadastral survey data.”

**61 New section 236 substituted**

The principal Act is amended by repealing section 236, and substituting the following section:

**“236 Regulations**

- “(1) The Governor-General may, by Order in Council, make regulations—
  - “(a) regulating the practice and conduct of business under this Act:
  - “(b) prescribing periods of time for the purposes of giving notices and other matters under this Act:
  - “(c) prescribing the manner in which instruments must refer to the register:
  - “(d) specifying the classes of instruments that are capable of being electronic instruments:
  - “(e) specifying procedures by which mortgagees of electronic transactions land may—
    - “(i) prevent electronic instruments affecting electronic transactions land over which they hold a mortgage from being registered without their consent:
    - “(ii) be notified of the registration of electronic instruments:

- “(f) prescribing the form of any memorandum to be registered under section 155A and of any instrument intended for use in conjunction with a memorandum under that section:
  - “(g) specifying different classes of easements, and the rights and powers to be implied in them, for the purposes of section 90D:
  - “(h) specifying, for the purposes of section 99B, instruments under this Act that are available for adoption (with or without modification) by any other enactment:
  - “(i) prescribing the manner in which paper instruments must be executed, witnessed, or attested for the purposes of section 157:
  - “(j) specifying classes of paper instrument that may be certified under section 164A(2)(b):
  - “(k) specifying the parties for the purpose of section 164A(3)(a) (which relates to a certifier’s authority to act):
  - “(l) prescribing time periods for which evidence must be held under section 164A(3)(d):
  - “(m) prescribing the form of certifications under section 164A:
  - “(n) specifying the parties for the purpose of section 164E(1) (which provides that a certified instrument has effect as a deed executed by those parties):
  - “(o) prescribing the physical properties of paper instruments:
  - “(p) prescribing forms of paper instruments for the purpose of section 238(1):
  - “(q) prescribing forms for notices and consents under this Act:
  - “(r) providing for any other matters contemplated by this Act or the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002, necessary for their administration, or necessary for giving them full effect.
- “(2) Without limiting subsection (1)(d), regulations made under that provision may—

- “(a) express a specification in terms of how an instrument is associated with other instruments when presented for registration:
- “(b) specify classes of instrument by reference to—
  - “(i) how instruments are dealt with:
  - “(ii) how shares and interests are dealt with:
  - “(iii) whether all the interests comprised and described in a certificate of title are affected by the instrument:
  - “(iv) the enactment that provides for an instrument:
  - “(v) the purpose for which an interest is held.
- “(3) In subsection (2)(b), **interest** includes land, estates, rights, covenants, and conditions.”

**62 New sections 237 and 238 substituted**

The principal Act is amended by repealing sections 237 and 238, and substituting the following sections:

**“237 When paper instrument is in acceptable form**

- “(1) A paper instrument is in an acceptable form if—
  - “(a) it contains the information required by this Act; and
  - “(b) it meets the requirements for the physical properties of paper instruments that are prescribed by regulations made under this Act.
- “(2) A paper instrument must be regarded as containing the information required by this Act if—
  - “(a) either—
    - “(i) it is in a form prescribed by regulations made under this Act; or
    - “(ii) it is in a form specified by the Registrar prior to its lodgement; and
  - “(b) it is properly completed.
- “(3) However, a paper instrument must be regarded as being in an acceptable form if it does not comply with subsections (1) and (2), but the non-compliance relates to a minor matter that, in the opinion of the Registrar, will not affect the operation or effect of the instrument once it is registered.

**“238 Content of paper forms**

- “(1) Regulations made under this Act may prescribe forms for notices and consents under this Act.
- “(2) If a form for any notice or consent is not for the time being prescribed by regulations, the Registrar may specify one.
- “(3) If a form is for the time being prescribed by regulations or specified under subsection (2), that form must be used on all appropriate occasions.
- “(4) However, a notice or consent is not invalid because it fails to comply with the prescribed or specified form if the non-compliance relates to a minor matter that, in the opinion of the Registrar, will not affect the operation or effect of the notice or consent.”

**63 New sections 239 to 240D substituted**

The principal Act is amended by repealing sections 239 and 240, and substituting the following sections:

**“239 Description of person to include personal representative**

In any form under this Act, the description of any person as proprietor, transferor, transferee, mortgagor, mortgagee, lessor, or lessee, or as trustee, or as seised of, having, or taking any estate or interest in any land, includes the heirs, executors, successors, and assigns of that person.

**“240 How Registrar gives public notice**

If this Act requires that the Registrar give public notice of any matter but does not specify how the notice is to be given, it is sufficient that the Registrar—

- “(a) publishes a notice in the *Gazette* and in 1 or more newspapers published in the area where the land affected by the matter is located; and
- “(b) the notice gives sufficient information about the matter to enable persons who might respond to it to understand its effect.

**“240A Specifications by Registrar**

- “(1) If this Act requires or permits the Registrar to specify any matter, the specification—

- “(a) is made when it is published by notice in the *Gazette*;  
and
  - “(b) takes effect on its publication or on a later date specified  
in the notice.
- “(2) When the Registrar makes any specification under sub-  
section (1), he or she must make copies of it available at every  
land titles office.

**“240B Notice by Registrar to particular persons**

- “(1) If this Act specifies that the Registrar must give a notice to any  
person but does not specify how it is to be given, the notice  
may be given by—
- “(a) delivering it to that person; or
  - “(b) delivering it to that person’s usual or last known place  
of abode or business; or
  - “(c) posting it to that person or that person’s place of abode  
or business or address; or
  - “(d) sending a fax if the person has nominated a fax address;  
or
  - “(e) electronic mail or other similar means of communica-  
tion if the person has nominated an email or similar  
address; or
  - “(f) directing it to the person at an electronic workspace  
facility if the instrument to which the notice relates was  
generated in the facility.
- “(2) In subsection (1), **person** includes a person’s agent.
- “(3) A person is taken to have nominated an address if the person  
has expressly nominated it as an address to which notices for  
the relevant purpose may be sent.

**“240C Notices to Registrar**

If this Act specifies that a person must give a notice to the  
Registrar but does not specify how it is to be given, the notice  
may be given by—

- “(a) delivering it to any Land Registry Office; or
- “(b) posting it to the Registrar at any Land Registry Office;  
or
- “(c) sending a fax if the Registrar has specified a fax address  
for that class of notice; or

- “(d) electronic mail or other similar means of communication if the Registrar has specified an electronic mail or similar address for that class of notice; or
- “(e) directing it to the Registrar from an electronic workspace facility if the Registrar has specified that means as a way of giving that class of notice.

**“240D When notices taken to be delivered**

“(1) In the absence of proof to the contrary, notices are taken to be delivered,—

- “(a) in the case of notices sent by post, at the time when the letter would in the ordinary course of post be delivered; and, in proving the delivery, it is sufficient to prove that the letter was properly addressed and posted:
- “(b) if sent by fax, at the time indicated on a record of its transmission:
- “(c) if sent by electronic mail or similar means or to or from an electronic workspace facility, at the time a record of the transmission indicates it was received in the relevant electronic communications system.

“(2) For the purposes of subsection (1)(c),—

- “(a) **relevant electronic communications system** means,—
  - “(i) in the case of an electronic mail or similar address, the electronic communications system associated with that address; or
  - “(ii) in the case of an electronic workspace facility, the electronic communications system by which users of the facility can receive electronic communications:
- “(b) without limiting what may constitute a record of transmission, it may, in appropriate circumstances be,—
  - “(i) an acknowledgement from the relevant electronic communications system; or
  - “(ii) the absence of a notification that the transmission has not been received into or processed by the relevant electronic communications system.

“(3) Despite subsection (1), a notice delivered to the Registrar at a land titles office is taken to be delivered at 9 am on the next day on which the office is open for business if the time at

which it would be taken to be delivered under subsection (1) is outside the business hours of the office.”

**64 Repeals**

- (1) Sections 49, 124, 127, 134, and 229 to 234, the heading immediately before section 229, the Sixth Schedule, and the Seventh Schedule, of the principal Act are repealed.
- (2) Section 3 of the Land Transfer Amendment Act 1961 is repealed.
- (3) The Land Transfer (Automation) Amendment Act 1998 is repealed.

**65 Other amendments to principal Act and amendments to other Acts**

- (1) The principal Act is amended in the manner set out in Schedule 1.
- (2) The principal Act is amended in the manner set out in Schedule 2.
- (3) The Deeds Registration Act 1908 is amended in the manner set out in Schedule 3.
- (4) The Acts specified in Schedule 4 are amended in the manner set out in that schedule.

**66 Transitional provisions relating to easements**

- (1) Despite the repeal of sections 90A to 90F of the principal Act by section 43, but subject to subsections (2), (3), and (4), those sections of the principal Act (as they read immediately before the commencement of section 43) continue to apply to any easement certificate registered or executed before the commencement of this Act.
- (2) Despite anything contained in sections 90A to 90D of the principal Act (as they read immediately before the commencement of section 43) or any other rule of law to the contrary, on the date of the coming into force of this section, any easement specified in an easement certificate registered under the former section 90A that has not previously been created by registration of an instrument of disposition is deemed to have been created under this subsection as if an instrument of disposition of the land had been registered.

- (3) All covenants and conditions contained or implied in any easement certificate referred to in subsection (2) apply to an easement created under subsection (2) as if an instrument of disposition had created the easement.
- (4) The provisions of section 90E of the principal Act (as substituted by section 43), so far as they are applicable, apply to any easement created under this section.
- (5) Despite section 21 of this Act and section 69 of the principal Act, the recording of an easement certificate specifying any easement to be created under this section must be regarded as complying with those sections (so far as they are applicable).

**67 Transitional provisions relating to landbrokers**

- (1) This section applies to persons who, immediately before the commencement of this section, held a licence as a landbroker under section 229 of the principal Act.
  - (2) Despite the repeal of sections 229 to 234 and the Sixth Schedule of the principal Act by section 64(1), those sections of the principal Act continue to apply to persons to whom this section applies until the close of the appointed date.
  - (3) The Governor-General may, by Order in Council made on the recommendation of the Minister, declare the appointed date for the purposes of subsection (2).
  - (4) The Minister must not make a recommendation under subsection (3) unless he or she is satisfied that persons to whom this section applies are eligible to be licensed under an enactment providing for the licensing of conveyancers.
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s 65(1)

**Schedule 1**  
**Other amendments to principal Act coming into  
force on 1 June 2002**

**Section 2**

Insert, after the definition of **bankruptcy**:

“**computer register** has the same meaning as in the section 4 of Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002”.

Insert, before the definition of **endorsement**:

“**electronic instrument** has the same meaning as in section 4 of the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002”.

Repeal the definition of **instrument** and substitute:

“**instrument**—

- “(a) means any printed or written document, map, or plan relating to the transfer of or other dealing with land, or evidencing title to land; and
- “(b) includes a memorandum within the meaning of section 155A(1) and an electronic instrument”.

Insert, after the definition of **land**:

“**medium** includes—

- “(a) any electronic, electromagnetic, optical, digital, or photographic process or system; and
- “(b) any paper; and
- “(c) any other means of recording or storing information”.

Insert, after the definition of **mortgagor**:

“**paper instrument** means an instrument that is not an electronic instrument”.

Insert, after the definition of **proprietor**:

“**register** includes a computer register”.

Omit from the definition of **the Land Transfer Acts** the words “and the Land Transfer (Automation) Amendment Act 1998” and substitute the words “and the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002”.

**Section 3(3)**

Omit the words “Land Transfer (Automation) Amendment Act 1998” and substitute the words “Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002”.

**Section 12(1)**

Repeal paragraph (b), and substitute:

- “(b) create a computer register for the land and, if the land is not electronic transactions land, issue a certificate of title accordingly.”

**Section 14**

Add the words “or create an appropriate computer register”.

**Section 15**

Insert, after the word “issued”, the words “or computer register created”.

**Section 27(2)**

Repeal paragraph (b) and substitute:

- “(b) create a computer register for the land and, if the land is not electronic transactions land, issue a certificate of title accordingly.”

**Section 32**

Omit the words “any Registrar of Deeds” and substitute the words “the Registrar”.

**Section 36**

Add:

- “(4) The requirement that instruments be presented for registration in duplicate or triplicate does not apply to any instrument registered under the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002.”

**Section 39(1)**

Insert, before the words “the name”, the words “, if appropriate,”.

**Section 41**

Omit from subsection (1) the words “Land Transfer (Automation) Amendment Act 1998” and substitute the words “Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002”.

Add:

- “(3) Subsection (2) does not apply to any electronic instruments intended to be registered against any electronic transactions land.

**Section 41**—continued

- “(4) If the instrument does not contain an operative provision that gives effect to the object of the instrument, then on registration—
- “(a) the estate or interest specified in the instrument passes to the person identified as the party taking the estate or interest; or
  - “(b) in the case of a mortgage, the land specified becomes liable as security; or
  - “(c) in the case of a surrender, discharge, or variation of an instrument, the interest is extinguished or varied accordingly.”
- “(5) The provisions of subsection (4) are subject to—
- “(a) the covenants, conditions, and contingencies specified or otherwise incorporated or implied in the instrument; and
  - “(b) in the case of a discharge of a mortgage, the provisions of section 111 to the extent that the discharge is for the whole or part of the principal sum, annuity, or other sum.”

**Section 43**

Repeal subsection (3) and substitute:

- “(3) If any instrument is returned as provided in subsection (1)(a), the Registrar may determine that either—
- “(a) any fees paid to the Registrar in respect of the instrument are forfeited; or
  - “(b) any fees paid to the Registrar are forfeited unless any matter required to be rectified to enable the instrument to be registered is so rectified and the instrument is again lodged with the Registrar within a period specified by the Registrar.”

**Section 75**

Add, as subsection (2):

- “(2) Nothing in this section applies to electronic transactions land.”

**Section 78**

Omit the words “Land Transfer (Automation) Amendment Act 1998” and substitute the words “Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002”.

**Section 80**

Add, as subsection (2):

“(2) The Registrar may cancel or correct any computer register and, if appropriate, create a new computer register in order to correct any error or supply any omission in any computer register.”

**Section 81**

Add:

“(2) If the Registrar is satisfied as to any matter referred to in this section and there is a computer register involved, the Registrar may cancel or correct any computer register and, if appropriate, create a new computer register.

“(3) The Registrar must not take action under subsection (2) without first giving notice to any person appearing to be affected and giving a reasonable period for any response.”

**Section 109**

Add, as subsection (2):

“(2) This section does not apply if the land to which the estate or interest applies is electronic transactions land.”

**Section 111**

Add:

“(4) Subsection (3) does not apply if the entry on the register is made under the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002.”

**Section 121C(2)**

Omit the words “Land Transfer (Automation) Amendment Act 1998” and substitute the words “Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002”.

**Section 152**

Repeal subsection (1) and substitute:

“(1) The grantor of any revocable power of attorney that has been deposited with the Registrar may, by notice to the Registrar, revoke the power of attorney in whole or in part.”

**Section 155A(7)**

Insert, after the words “contains a provision”, the words “or reference”.

Insert, after the words “set out”, the words “or referred to”.

### **Section 163**

Repeal and substitute:

#### **“163 Instruments as evidence**

Every paper instrument executed and registered under this Act is presumed to have been sufficiently executed in the absence of evidence to the contrary, and is sufficient evidence in any Court of the matters to which it relates.”

### **Section 167**

Repeal subsection (5) and substitute:

“(5) For the purposes of this Act, a plan is deemed to be deposited when the Registrar creates a record to that effect. The date of deposit is the date on which all requirements, statutory or otherwise, precedent or incidental to the deposit of the plan have been complied with to the satisfaction of the Registrar.”

### **Section 169(2)**

Insert, after the word “defined”, the words “or appropriately referred to”.

### **Section 172(a)**

Omit the word “imposed” and substitute words “, function, or power imposed or conferred”.

Insert, after the word “Department”, the words “or person to whom a delegation has been made under section 5”.

### **Section 175**

Omit from subsections (1A) and (1B) the word “solicitor” wherever it appears and substitute in each case the word “conveyancer”.

Omit from subsection (1A) the word “solicitor’s” and substitute the word “conveyancer’s”.

### **Section 183(1)**

Omit the words “Land Transfer (Automation) Amendment Act 1998” in both places where they appear and substitute in each case the words “Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002”.

### **Section 184**

Add to the definition of **ordinary certificate of title** the words “or an equivalent computer register”.

### **Section 191(2)**

Insert, after the words “this Act”, the words “or an equivalent computer register”.

**Section 205(5)**

Omit the words “by registered letter through the post”.

**Section 211**

Omit the words “hereinbefore vested” and substitute the words “otherwise conferred by this or any other Act”.

**Section 212**

Insert, after the words “last preceding section”, the words “confirming any matter entered or intended to be entered on a computer register”.

**Section 215A**

Insert, after the words “his records”, the words “or any computer register”.

**Section 215B**

Insert, after the words “his records”, the words “or any computer register”.

**Section 225(1)**

Repeal paragraph (ab)(i) and substitute:

“(i) the recording, lodgement, presentation, or registration of any information, instrument, matter or thing under the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002; or”.

Add the expression “; or” and add:

“(d) knowingly or recklessly gives a certificate under section 164A that contains an incorrect material particular.”

**Section 226**

Omit from paragraphs (a), (c), and (f) the words “any former Land Transfer Act” and substitute in each case the words “the Land Transfer Acts”.

Omit from paragraphs (fa) and (fb) the words “any information under the Land Transfer (Automation) Amendment Act 1998” and substitute in each case the words “any instrument or other document or information under the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002”.

Omit from paragraph (fc)(i) the words “Land Transfer (Automation) Amendment Act 1998” and substitute the words “Land Transfer

**Section 226**—continued

(Computer Registers and Electronic Lodgement) Amendment Act 2002”.

Add the expression “; or” and add:

“(h) gives a fraudulent certificate under section 164A.”

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s 65(2)

## Schedule 2

### Other amendments to principal Act coming into force on date to be appointed by Order in Council

#### Section 2

Add:

“**working day** means a day on which the Land Registry Office is to be open to the public in accordance with regulations made under this Act.”

#### Section 20(1)

Insert, after the words “Form A in the Second Schedule to this Act”, the words “or other prescribed form”.

#### Section 23

Omit the words “one month from the publication thereof in the *Gazette*” and substitute the words “the prescribed period”.

#### Section 26

Omit the words “by registered letter through the Post Office”.

#### Section 43(2)

Omit the words “by registered letter through the post”.

#### Section 44(2)

Omit from the proviso the expression “14 days” and substitute the words “the prescribed period of”.

#### Section 73

Omit the words “14 days from the time limited in the advertisement” and substitute the words “the prescribed period”.

#### Section 87(4)

Omit the expression “14 days” and substitute the words “the prescribed period of”.

#### Section 89C(2)

Omit the words “one month from the date of the notice” and substitute the words “the prescribed period of notice”.

#### Section 121(1)

Omit from the proviso the words “one calendar month’s” and substitute the words “the prescribed period of”.

#### Section 139

Omit the words “served at the place appointed in the caveat, or forwarded through the Post Office by registered letter addressed as

**Section 139**—continued

aforsaid” and substitute the words “forwarded to the address for service specified in the caveat”.

**Section 145**

Omit the expression “14 days” in both places where it appears and substitute in each case the words “the first prescribed period”.

Omit the words “a further period of 28 days” and substitute the words “the second prescribed period”.

**Section 150**

Omit the words “in Form O in the Second Schedule to this Act or”.

**Section 155A(2)**

Add the words “and is approved by the Registrar”.

**Section 192**

Omit the words “through the post by registered letter”.

**Section 193(2)**

Omit the words “by registered letter” and the words “through the post”.

**Section 204**

Omit from subsection (1)(a) the words “in Form Q in the Second Schedule to this Act” and substitute the words “under section 205”.

**Section 208**

Insert, after the word “upon” in the second place where it appears, the words “or relating to”.

**Second Schedule**

Repeal forms B to U.

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s 65(3)

## **Schedule 3**

### **Amendments to Deeds Registration Act 1908**

#### **Section 5**

Omit the word “In” and substitute the word “For”.

Add:

“(2) A Deeds Register Office may be the office for more than 1 district.”

#### **Section 6**

Repeal and substitute:

##### **“6 Registrar of Deeds**

“(1) The Registrar-General of Land appointed under section 4 of the Land Transfer Act 1952 is the Registrar for every Deeds Register Office.

“(2) The Registrar may delegate any of the Registrar’s powers and duties under this Act in accordance with section 5 of the Land Transfer Act 1952.”

#### **Section 7**

Omit the words “any Registrar or Deputy Registrar” and substitute the words “the Registrar”.

Omit the words “such Registrar or Deputy Registrar” and substitute the words “the Registrar”.

#### **Section 45**

Repeal and substitute:

##### **“45 Instruments to be kept**

The Registrar must ensure that all deposited instruments are indexed, marked with the date of deposit, and reasonably available for reference or copying within the custody of the Registrar.”

#### **Section 47(1)**

Omit the words “of the first-mentioned district with the Registrar of such other district” and substitute “in the register for that other district”.

#### **Section 48**

Omit the words “Every Registrar of Deeds” and substitute the words “The Registrar”.

**Section 49**

Omit the words “no Registrar of Deeds shall be” and substitute the words “the Registrar is not”.

Omit the words “custody as such Registrar” and substitute the words “custody as Registrar for the purposes of this Act”.

**Section 52(1)**

Omit the word “Every” and substitute the word “The”.

**Section 53**

Omit the words “Registrar-General of Land” and substitute the word “Registrar”.

**Section 54**

Repeal and substitute:

**“54 Practice of Deeds Register Offices**

The Registrar may make rules regulating the practice of Deeds Register Offices, but the rules must not be inconsistent with the provisions of this Act.”

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s 65(4)

## Schedule 4 Amendments to other Acts

### **Land Transfer Amendment Act 1963** (1963 No 61)

Omit from section 7(3) the words “being not less than one month nor more than 12 months from the date of the first publication of the notice under paragraph (a) of subsection (1) of this section” and substitute the words “within the limits prescribed”.

Omit from section 10(1) the words “3 months after the giving of the notice” and substitute the words “the prescribed period”.

Omit from section 12(1) the words “3 months after the giving of the notice” and substitute the words “the prescribed period”.

### **Land Transfer (Hawke’s Bay) Act 1931** (1931 No 27)

Omit from section 11(4) the words “one month from the date of the last publication thereof” and substitute the words “the prescribed period”.

Omit from section 17(5) the words “6 calendar months from the date of such notice” and substitute the words “the prescribed period”.

### **Property Law Act 1952** (1952 No 51)

Insert, in section 126A(1)(a) after the words “burden of the covenant”, the words “and the land with the benefit of the covenant”.

### **Property (Relationships) Act 1976** (1976 No 166)

Omit from section 42(3) the words “in Form N in the Second Schedule to the Land Transfer Act 1952”.

Insert in section 42(3)(a), after the expression “section 145”, the words “or section 145A”.

### **Resource Management Act 1991** (1991 No 69)

Repeal section 223(3) and (4) and substitute:

“(3) The principal officer or an authorised officer of the territorial authority must certify that a survey plan has been approved under this section.

“(4) A certification under subsection (3) may be made either—

“(a) by signing the plan or a copy of it; or

“(b) by any other means that—

“(i) identifies the person giving the certification and links the certificate to the survey plan; and

**Resource Management Act 1991** (1991 No 69)—continued

“(ii) is as reliable as is appropriate to the purposes of this section.

“(5) A certificate under subsection (3) is conclusive evidence that all roads, private roads, reserves, land vested in the authority in lieu of reserves, and private ways shown on the survey plan have been authorised and accepted by the territorial authority under this Act and under the Local Government Act 1974.

“(6) Nothing in subsection (3) affects any obligation of the subdividing owner under any condition of a subdivision consent or bond entered into relating to the subdivision.”

Repeal section 224(a).

Insert in section 224(c), after the words “stating that”, the words “, it has approved the survey plan under section 223 (which approval states the date of the approval), and”.

Add to section 224(g) the expression “; and” and add:

“(h) less than 3 years has elapsed since the territorial authority approved the plan under section 223.”

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**Legislative history**

2 May 2002

Divided from Land Transfer and Cadastral Survey  
Legislation Bill (Bill 169–2) as Bill 169–3A

14 May 2002

Third reading

16 May 2002

Royal assent

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This Act is administered in Land Information New Zealand.

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