

## HOUSE OF REPRESENTATIVES

## Supplementary Order Paper

Friday, the 5th day of November 1982

## LAW REFORM BILL

*Proposed Amendments*

HON. MR MCLAY, in Committee, to move the following amendments:

*Clause 1, subclause (2):* To omit from line 12 on page 2 the word "January", and substitute the word "April".

*Clause 5, subclause (1):* To omit from line 35 on page 4 the expression "\$4,000", and substituting the expression "\$6,000".

*Clause 7, subclause (1):* To omit from line 18 on page 5 the expression "\$4,000", and substituting the expression "\$6,000".

*Clause 16:* To omit from line 17 on page 9 the word "for", and substitute the word "from".

*Clause 3, proposed section 68C, subsection (1):* To omit from line 35 on page 3 the expression "\$4,000", and substitute the expression "\$6,000".

*Proposed clause 18A:* To insert on page 11, after clause 18, the following clause:

**18A. Fees payable on applications—**(1) Section 103 (1) (a) of the principal Act (as amended by section 2 (1) (a) of the Property Law Amendment Act 1967) is hereby amended by omitting the words "A fee of \$10", and substituting the words "The prescribed fee".

(2) Section 103 (1) (b) of the principal Act (as amended by section 2 (1) (b) of the Property Law Amendment Act 1967) is hereby amended by omitting the words "\$10 or more than \$100", and substituting the words "the minimum or more than the maximum prescribed".

(3) Notwithstanding subsections (1) and (2) of this section, the fees that would have been payable under paragraphs (a) and (b) of section 103 (1) of the principal Act had those subsections not been enacted shall continue to be payable until any other fee is payable by virtue of any regulations made under section 104A (aa) of that Act.

*Clause 19:* To insert in the proposed section 104A on page 11, after paragraph (a), the following paragraph:

"(aa) Prescribing the application fee payable under paragraph (a) of section 103 (1) of this Act, and the minimum and maximum fees payable under paragraph (b) of that provision:

*Clause 20:* To omit from line 11 on page 12 the word "received", and substitute the word "delivered".

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#### EXPLANATORY NOTE

*Clause 1 (2):* The amendment extends from 1 January to 1 April 1983 the commencement date of *clause 17 (2)* of the principal Act, relating to the form of the notice that a mortgagee must give where he claims that a mortgagor is in default. This will give more time for an appropriate form to be devised and prescribed.

*Clause 3, proposed section 68C (1):* The amendment increases from \$4,000 to \$6,000 the maximum amount in a bank account in respect of which a testamentary nomination may be made. This is in line with the proposed amendments to sections 64 and 65 of the Administration Act 1969 (relating to the distribution of an estate without a formal grant of administration), contained in the Statutes Amendment Bill presently before Parliament.

The amendments to *clauses 5 (1) and 7 (1)* are consequential upon the amendment.

*Clause 16:* The amendment corrects a drafting error.

*Proposed clause 18A:* Section 103 (1) of the Property Law Act 1952 provides that the applicant for a mortgagee's sale through a Registrar of a High Court must pay an application fee of \$10. In addition, if a sale is completed, he must pay a further fee of  $\frac{1}{4}$  percent of the purchase price subject to a minimum of \$10 and a maximum of \$100. The amendments remove these specified amounts, and provide for them to be fixed by regulations made under the Act.

*Clause 20:* The amendment is in the nature of a drafting correction of the amendment made by the Statutes Revision Committee. It puts the emphasis in the right place: the presumption of service relates to "delivery" rather than "receipt".

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