

THE TERRITORY FOR THE SEAT OF GOVERNMENT.

No. 26 of 1933.

AN ORDINANCE

To amend the Real Property Ordinance 1925-1930.

BE it ordained by the Governor-General in and over the Commonwealth of Australia, with the advice of the Federal Executive Council, pursuant to the powers conferred by the *Seat of Government Acceptance Act* 1909 and the *Seat of Government (Administration) Act* 1910-1933, as follows:—

1.—(1.) This Ordinance may be cited as the *Real Property Ordinance* 1933. Short title and citation.

(2.) The *Real Property Ordinance* 1925-1930 is in this Ordinance referred to as the Principal Ordinance.

(3.) The Principal Ordinance, as amended by this Ordinance, may be cited as the *Real Property Ordinance* 1925-1933.

2.—(1.) Section three of the Principal Ordinance is amended Repeal. by inserting, after the word “Act,” (last occurring), the words “or which is deemed to be under the provisions of that Act,”.

(2.) This section shall be deemed to have commenced on the date of the commencement of the *Real Property Ordinance* 1925.

3. Section thirty-eight of the Principal Ordinance is amended by inserting, after the word “is” the words “or is deemed to be”. Land registered under Real Property Act 1906 of New South Wales brought under Ordinance.

4. Section one hundred and twenty-eight of the Principal Ordinance is amended by omitting the word “Act” and inserting in its stead the word “law”. Registrar to carry out order of Court vesting trust estate.

5. After section one hundred and thirty-eight of the Principal Ordinance the following section is inserted in Part XIV.:—

“138A.—(1.) Where any land, estate or interest under the provisions of this Ordinance is held by a trustee, either solely or jointly with other trustees, and— Appointment of new or additional trustees.

(a) the trustee vacates his office and a new trustee is appointed in his place or the vacancy is not filled; or

(b) an additional trustee is appointed to hold the land, estate or interest jointly with the existing trustees,

the Registrar, upon receipt of the instrument effecting the vacancy or appointing the new or additional trustee, or of an office copy thereof, or of a copy thereof verified by affidavit, or upon production of such other evidence as the Registrar thinks sufficient, and upon being satisfied that the vacation of office or the new or additional appointment, as the case may be, is in accordance with law, shall, subject to this Ordinance, enter in the Register Book upon the folium constituted by the grant or certificate of title of the land effected and on such instruments as he thinks fit, a memorandum setting forth the fact of the vacation of the office or of the new or additional appointment, as the case may require.

“(2.) Upon the entry being made the continuing trustees, or the continuing trustees and the new or additional trustee, as the case may be, shall be deemed to be the registered proprietors of the land, estate or interest, and as such to be subject to the provisions of this Ordinance as if they were the trustees originally registered as proprietors of the land, estate or interest.

“(3.) For the purposes of this section ‘trustee’ includes an assignee or trustee of a bankrupt or insolvent registered proprietor, and an executor or administrator of the estate of a deceased proprietor.”.

Percentage to
be levied
for the
registration of
a transfer.

6. Section one hundred and forty-one of the Principal Ordinance is amended by adding at the end of sub-section (1.) the following proviso:—

“Provided that in the case of—

- (a) a transfer not made for valuable consideration and made to a beneficiary by a trustee in conformity with the trusts contained in a memorandum of transfer, or a declaration of trust executed in conjunction with a memorandum of transfer, in respect of which such fees have been paid as would have been payable if the transfer had been made direct to the beneficiary;
- (b) a transfer made or executed *bona fide* by way of completion or confirmation of title whereby no greater benefit, legal or equitable, accrues to the person in whose favour the transfer is made or executed than he originally had or was entitled to have by virtue of some other instrument in respect to which the fees payable under this Ordinance have been paid;
- (c) an instrument of appointment made in favour of persons specially named or described as the objects of a power of appointment contained in a memorandum of transfer in respect of which the fees payable under this Ordinance have been paid; or
- (d) a transfer whereby the apparent purchaser of property that is vested in him upon trust for the person who was the real purchaser, and who has actually paid the purchase money therefor, transfers the same to the real purchaser,

the fee payable for the registration of the memorandum of transfer or instrument of appointment shall be One pound”.

Eighteenth
Schedule.

7. The Eighteenth Schedule to the Principal Ordinance is amended by adding at the end thereof the words—

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“For entering memorandum of fact of vacation of office of trustee or appointment of new or additional trustee	1	0	0”.

Dated the tenth day of November, 1933.

ISAAC A. ISAACS

Governor-General.

By His Excellency's Command,

A. J. McLACHLAN

for Minister of State for the Interior.

By Authority: L. F. JOHNSTON, Commonwealth Government Printer, Canberra.