

# AUSTRALIAN CAPITAL TERRITORY.

No. 16 of 1956.

## AN ORDINANCE

### To amend the *Real Property Ordinance 1925-1951*.

I, THE GOVERNOR-GENERAL in and over the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910-1955*.

Dated this twenty-first day of December, 1956.

W. J. SLIM  
Governor-General.

By His Excellency's Command,

NEIL O'SULLIVAN  
for and on behalf of the Minister of State  
for the Interior.

#### REAL PROPERTY ORDINANCE 1956.

1.—(1.) This Ordinance may be cited as the *Real Property Ordinance 1956*.<sup>\* Short title and citation.</sup>

(2.) The *Real Property Ordinance 1925-1951*† 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 1925-1956*.

2. Section two of the Principal Ordinance is amended by omitting sub-section (2.) and inserting in its stead the following sub-section:— Commencement.

“(2.) Part VII. of this Ordinance shall come into operation on the first day of January, One thousand nine hundred and fifty-seven.”

3. Section three of the Principal Ordinance is amended by omitting the words “the commencement of Part VII. of this Ordinance” and inserting in their stead the words “the land is under the provisions of this Ordinance”. Repeal.

\* Notified in the *Commonwealth Gazette* on 24th December, 1956.  
† Ordinance No. 1, 1925 as amended by No. 12, 1925; No. 8, 1926; Nos. 15 and 21, 1927; No. 19, 1930; Nos. 26 and 34, 1933; No. 14, 1934; No. 15, 1936; No. 27, 1937; Nos. 15, 25 and 35, 1938; No. 16, 1940; No. 15, 1942; and No. 9, 1951.

Crown grants and certain Crown leases to be subject to the provisions of this Ordinance.

4. Section seventeen of the Principal Ordinance is amended by omitting from sub-section (2.) the words "and the sum payable upon first bringing land under this Ordinance".

When evidence of title is imperfect.

5. Section twenty-three of the Principal Ordinance is amended by omitting the words "notwithstanding the provisions of section one hundred and forty of this Ordinance,".

6. Section thirty-eight of the Principal Ordinance is repealed and the following section inserted in its stead:—

Bringing of land registered under the Real Property Act, 1900 of New South Wales under this Ordinance.

"38.—(1.) The Registrar may, by notice published in the *Gazette*, declare that land in the Territory described in the notice, being land which, at the date of commencement of this Part, is, or is deemed to be, under the provisions of the Real Property Act, 1900, of the State of New South Wales, is, by force of the notice, brought under the provisions of this Ordinance.

"(2.) For the purposes of the last preceding sub-section, a description of land as the land comprised in a specified Crown grant or in a specified certificate of title under the Real Property Act, 1900, of the State of New South Wales, is a sufficient description of the land.

"(3.) After the publication of the notice, the land specified in the notice shall be under the provisions of this Ordinance.

"(4.) The Registrar may specify in the notice the folium of the Register Book in which each grant or certificate of title, as the case may be, is to be registered."

Registration of transfers of mortgages, sub-leases, &c.

7. Section forty-seven A of the Principal Ordinance is amended by inserting after the word "sub-lessee" the words "or of variation of mortgage".

8. After section one hundred and one of the Principal Ordinance the following section is inserted:—

Variation of mortgages and encumbrances.

"101A.—(1.) Where it is intended—

- (a) to increase or reduce the rate of interest payable under a mortgage;
- (b) to increase or reduce the amount secured by a mortgage; or
- (c) to shorten, extend or renew the term or currency of a mortgage;

the mortgage may be varied by a memorandum endorsed on, or annexed to, the mortgage.

"(2.) The memorandum shall be signed in the presence of a witness by each of the parties to the mortgage and shall be in accordance with the form contained in the Twenty-second Schedule to this Ordinance, or so much of the form as is applicable to the circumstances of the case.

“ (3.) Upon production of a memorandum referred to in the last preceding sub-section, the Registrar shall make such entries in the Register Book and upon the memorandum of mortgage as are necessary.

“ (4.) The memorandum shall, when registered under this Ordinance, operate so as to vary the mortgage in the manner specified in the memorandum.

“ (5.) This section applies to a mortgage made before or after the commencement of this section.”

**9.** Section one hundred and thirty of the Principal Ordinance is repealed and the following section inserted in its stead:—

“ **130.**—(1.) The registered proprietor of any land, estate or interest under the provisions of this Ordinance may, by executing a power of attorney, authorize and appoint a person to act for and on his behalf in respect of the transfer or other dealing with the land, estate or interest in accordance with the provisions of this Ordinance. Powers of attorney.

“ (2.) An instrument executed, after the date of commencement of this sub-section, under a power of attorney shall not be registered under this Ordinance unless the power of attorney has been registered under the *Powers of Attorney Ordinance 1956*.”

**10.** Section one hundred and thirty-one of the Principal Ordinance is amended— Revocation of power of attorney.

- (a) by omitting from sub-section (1.) the words “, and may register the revocation by depositing it or a notice thereof with the Registrar”; and
- (b) by omitting sub-section (2.).

**11.** Section one hundred and thirty-nine of the Principal Ordinance is repealed and the following section inserted in its stead:—

“ **139.**—(1.) The fees specified in the third column of the Eighteenth Schedule are, subject to this Ordinance, payable in respect of the respective matters specified in the second column of that Schedule opposite to which they are so specified. Fees.

“ (2.) The fees specified in items 1, 6 and 7 of the Eighteenth Schedule shall be paid at the time of lodgment and the other fees shall be paid in advance.”

**12.** Section one hundred and forty of the Principal Ordinance is repealed. Repeal of Section 140.

**13.** The First Schedule to the Principal Ordinance is amended by omitting the words and figures “ $\frac{1}{2}$ d. in the £1 on value.” First Schedule.

The Schedules.

14. The Twelfth and Thirteenth Schedules to the Principal Ordinance are repealed.

Eighteenth Schedule.

15. The Eighteenth Schedule to the Principal Ordinance is repealed and the following Schedule inserted in its stead:—

## THE EIGHTEENTH SCHEDULE.

Ss. 17, 23, 65, 66, 139, 141.

## FEES PAYABLE TO THE REGISTRAR.

Item No.	Matter.	Fee.
		£ s. d.
1	On lodging a grant .. .. .	1 0 0
2	For the issue of a certificate of title .. .. .	1 0 0
3	For a general search .. .. .	0 10 0
4	For a search .. .. .	0 5 0
5	For every certified copy, per folio of seventy-two words .. and, if a plan or diagram is included in the certified copy, such fee, not being less than 10s. 0d. nor more than £5 0s. 0d. as the Registrar directs to be paid	0 2 0
6	On lodging, for registration, a memorandum of transfer of an estate in fee simple or Crown Lease, for each £100 or part of £100 of the value of the land transferred ..	1 0 0
7	On lodging, for registration, entry or notation, any other instrument, notice document or matter .. .. . or, if the instrument, notice, document or matter purports to deal with or affect land contained in more than one grant, certificate of title or other instrument— (a) for the first memorial, entry or notation .. (b) for each memorial, entry or notation after the first .. .. .	1 0 0 0 5 0

Twenty-second Schedule.

16. After the Twenty-first Schedule to the Principal Ordinance, the following Schedule is added:—

## THE TWENTY-SECOND SCHEDULE.

Section 101A.

AUSTRALIAN CAPITAL TERRITORY.

*Real Property Ordinance 1925-1956.*

## MEMORANDUM VARYING MORTGAGE.

Mortgage No.

Dated

From

To

The rate of interest payable under the mortgage above referred to is hereby increased to \_\_\_\_\_ per centum per annum (subject to reduction to \_\_\_\_\_ per centum per annum upon payment within \_\_\_\_\_ days of the dates provided for payment of interest by the mortgage).

The principal sum secured by the mortgage above referred to is hereby increased to (£ : : ) reduced to \_\_\_\_\_.

The term or currency of the mortgage above referred to is hereby shortened renewed to the day of 19 extended

Dated this day of 19 . We hereby certify that this instrument is correct for the purposes of the *Real Property Ordinance 1925-1956*.

Signed at in my presence by the said who is personally known to me } Mortgagor.

Witness.

Signed at in my presence by the said who is personally known to me } Mortgagee.

Witness.