

(d) signed and gave, in relation to the death, the certificate referred to in section thirty-four, that medical practitioner shall, within twenty-one days after the death, or his examination of the body, or his signing and giving of that certificate, as the case may be, sign free of charge and give to the Government Statistician a certificate in relation to the death on a printed form provided by the Government Statistician for the purposes of this section (being a form approved by the Minister for Health).

“(2) A medical practitioner to whom subsection (1) of this section relates who fails to sign and give the certificate mentioned in that subsection is guilty of an offence.

Penalty: Four dollars.

“(3) A printed form for the purposes of subsection (1) of this section may have endorsed on or attached to it such information and instructions for the guidance of medical practitioners as the Minister for Health may approve or direct.

“(4) Nothing in this section affects—

- (a) the powers, functions, or duties conferred or imposed by or under the *Coroners Act* 1957 on coroners or medical practitioners; or
- (b) any duty imposed on a person by any other provision of this Act to give or deliver to a registrar or to any other person any information, particulars, or certificate relating to the birth or death of a person.

“(5) In this section, ‘Minister for Health’ means the Minister of the Crown to whom for the time being the administration of the *Public Health Act* 1962 is committed.”.

Formal
amendments.

7 Section thirty-six of the Principal Act is amended—

- (a) by transposing the word “and” (occurring at the end of sub-paragraph (iii) of paragraph (b) of subsection (2) thereof) to follow sub-paragraph (iv) of that paragraph; and
- (b) by omitting from sub-paragraph (v) of that paragraph the word “division” and substituting therefor the word “sub-paragraph”.

CONVEYANCING AND LAW OF PROPERTY.

No. 47 of 1966.

AN ACT to amend the *Conveyancing and Law of Property Act* 1884. [12 December 1966.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—(1) This Act may be cited as the *Conveyancing and Law of Property Act 1966*. Short title, citation, and commencement.

(2) The *Conveyancing and Law of Property Act 1884*, as subsequently amended, is in this Act referred to as the Principal Act.

(3) This Act shall commence on the first day of February 1967.

2 Section thirty-five of the Principal Act is amended by omitting the word “forty”, wherever occurring, and substituting therefor, in each case, the word “thirty”. Root of title.

3 Section seventy-five D of the Principal Act is amended— Interpretation.

- (a) by omitting from the definition of “person concerned” the words “the Register of Deeds or” and the words “, as the case may be,”; and
- (b) by omitting the definition of “registered mortgage”.

4 Section seventy-five E of the Principal Act is amended— Division of strata.

- (a) by inserting in subsection (1) thereof, after the word “Land”, the words “that is under the provisions of the *Real Property Act 1862*”;
- (b) by omitting from subsection (2) thereof all the words after the word “flat” (last occurring) to the end of that subsection;
- (c) by omitting from subsection (4) thereof the words “When the site is under the *Real Property Act 1862*,” and by omitting from that subsection the words “that Act” (first occurring) and substituting therefor the words “the *Real Property Act 1862*”;
- (d) by omitting subsection (5) thereof; and
- (e) by omitting from subsection (6) thereof the words “or without registration under the *Registration of Deeds Act 1934*, as the case may be,”.

5 Section seventy-five M of the Principal Act is amended— Disposition of common property.

- (a) by omitting from subsection (5) thereof the words “in the case of land under the *Real Property Act 1862*,”; and
- (b) by inserting in subsection (6) thereof, after the word “property”, the word “is”, and by omitting from that subsection the words “is under the provisions of the *Real Property Act 1862*”.

6 Section seventy-five N of the Principal Act is amended— Disposition of site.

- (a) by omitting from subsection (3) thereof the words “the Registrar of Deeds before registering the conveyance or, as the case requires,”; and
- (b) by omitting from subsection (4) thereof the words “under the *Real Property Act 1862*”.

7 After section seventy-five N of the Principal Act the following section is inserted:—

Power to purchase land.

“75NA—(1) All the owners, by unanimous resolution at a meeting convened by the company, may direct the company to purchase land to be added to the site.

“(2) A purchase of land under subsection (1) of this section shall not be completed until the land, if not already under the provisions of the *Real Property Act 1862*, is brought under those provisions.

“(3) A transfer of land purchased by the company pursuant to a direction under subsection (1) of this section shall be expressed to be made to the company.

“(4) When a transfer to the company under this section is lodged for registration, the Recorder of Titles is not bound to inquire whether the resolution mentioned in subsection (1) of this section was duly passed.

“(5) When a transfer under this section is registered, the Recorder of Titles —

(a) shall amend the stratum plan to show the land mentioned in the transfer as added to the site, and thereupon that land becomes common property; and

(b) shall cancel the certificate of title (if any) made out to the company for that land.”

Amendment of stratum plans.

8 Section seventy-five PA of the Principal Act is amended—

(a) by omitting from subsection (1) thereof the words “Registrar of Deeds or the”; and

(b) by omitting from subsection (4) thereof the words “the Registrar or” and the words “, as the case requires,”.

Incorporation of tenants of freehold flats.

9 Section seventy-five Q of the Principal Act is amended—

(a) by omitting from paragraph (b) of subsection (2) thereof the words “the Registrar of Deeds or”, and the words “as the case requires,”;

(b) by omitting from subsection (10) thereof the words “Registrar of Deeds or the”, and the words “, as the case requires,”; and

(c) by omitting from subsection (11) thereof the words “the Registrar of Deeds or”, and the words “, as the case requires,”.

By-laws.

10 Section seventy-five R of the Principal Act is amended—

(a) by omitting from subsection (4) thereof the words “the Registrar of Deeds or” and the words “, as the case may require”; and

(b) by omitting from subsection (5) thereof the word “to”.

11 Section seventy-five T of the Principal Act is amended— Insurance.

- (a) by omitting from subsection (7) thereof the word “lot” and substituting therefor the word “flat”; and
- (b) by omitting subsection (9) thereof.

12 Section seventy-five V of the Principal Act is amended— Destruction, &c., of the building.

- (a) by omitting from subsection (2) thereof the words “the Registrar of Deeds or” and the words “, as the case requires,”; and
- (b) by omitting from that subsection the words “and either” and substituting therefor the word “who”.

13 Section seventy-five Y of the Principal Act is amended Voting. by omitting subsection (8) thereof.

14 Section seventy-five ZA of the Principal Act is amended— Bringing previously divided buildings under this Part.

- (a) by omitting subsection (2) thereof; and
- (b) by omitting from paragraph (b) of subsection (3) thereof the words “, and the Registrar of Deeds may,” and by omitting from that paragraph the word “their” (second occurring) and substituting therefor the word “his”.

15 After section seventy-five ZB of the Principal Act the following section is inserted:—

“75ZBA—(1) The Recorder of Titles shall, as soon as possible after the commencement of the *Conveyancing and Law of Property Act 1966*, bring under the provisions of the *Real Property Act 1862*, in accordance with this section, any land which, before that commencement, was divided into strata by a stratum plan registered under the *Registration of Deeds Act 1935*. Land previously divided under the general law to be brought under the *Real Property Act 1862*.”

“(2) In bringing land under the provisions of the *Real Property Act 1862* pursuant to subsection (1) of this section, the Recorder shall—

- (a) as far as possible proceed as if an application to bring the site under the provisions of that Act had been made under section fifteen of that Act, with all necessary consents, by a person competent to make an application for that purpose;
- (b) register, in the name of the company, a certificate of title to the site, which certificate shall, in his discretion, be either an ordinary certificate or a qualified certificate as defined in section nineteen of that Act; and
- (c) on the same day as he registers a certificate of title to the site—
 - (i) register, under that Act, a copy to be made by him of the relevant stratum plan, which shall have effect as a duplicate original;

- (ii) register a certificate of title to each flat shown on the stratum plan, in the name of the person appearing to him to be entitled thereto, which certificate shall, in the Recorder's discretion, be either an ordinary certificate or a qualified certificate; and
- (iii) cancel the certificate of title to the site by reference to the stratum plan and the certificates of title to the flats.

“(3) The Recorder, upon registering pursuant to this section a copy of a stratum plan, shall certify thereon whether or not he accepts the position and dimensions of the boundaries of the site as stated or referred to in the plan, and, if he does not—

- (a) neither that copy of the stratum plan nor any certificate of title relating to the site or to the flats shall be taken for any purpose to guarantee the area of the site or the position or dimensions of the boundaries thereof; and
- (b) the certificates of title to the site and to the flats shall bear a note that they are subject to the provisions of paragraph (a) of this subsection.

“(4) Upon such evidence of boundaries as he deems sufficient, the Recorder, in any case where he has not already done so, may certify upon a registered copy of a stratum plan that he accepts the position and dimensions of the boundaries of the site, and before doing so may suitably amend the stratum plan in accordance with the evidence of boundaries supplied to him.

“(5) Where he acts in accordance with subsection (4) of this section, the Recorder shall cancel the note under subsection (3) of this section upon the certificates of title to the flats when they are next produced to him, and also (if necessary) amend those certificates to accord with amendments made to the stratum plan.

“(6) The Recorder shall not register a transfer by the company pursuant to section seventy-five M or section seventy-five N unless he is first prepared to accept the position and dimensions of the boundaries of the site.”.

16 After section ninety D of the Principal Act the following section is inserted:—

“90DA—(1) The Recorder of Titles may, on proof to his satisfaction—

- (a) that all moneys secured by a mortgage, rent charge, or other incumbrance have been paid; or
- (b) that an estate or interest in land has been determined, varied, or defeated (either wholly or partially),

cause to be registered under the *Registration of Deeds Act 1935* such memorial as may, in his opinion, be appropriate to the case.

Determina-
tion or varia-
tion of leases,
incum-
brances, &c.
Cf. 15 Geo. 5,
c. 21 (Imp.)
s. 46, No.
380 of 1886
(S.A.), s.
148, No. 6,
1919
(N.S.W.), s.
98.

“(2) A memorial under this section may be expressed—

- (a) to discharge any mortgage, rent charge, or other incumbrance to which it relates;
- (b) to determine, vary, or defeat (either wholly or partially) the estate or interest to which it relates; and
- (c) to convey an estate or interest specified therein to a person named therein,

or to do any one or more of those things and, when registered, is as valid and effectual to accomplish the objects expressed therein as if it were the most effectual instrument to do so executed by all proper parties.

“(3) In any of the cases mentioned in subsection (4) of this section the Recorder may, if he considers that there is sufficient cause for so doing—

- (a) upon proof to his satisfaction of the amount of the debt owing under any mortgage, direct that amount to be paid to the Treasurer; and
- (b) upon production to him of the receipt of the Treasurer for that amount,

proceed as if he had been satisfied, under paragraph (a) of subsection (1) of this section, that all moneys secured by that mortgage had been paid.

“(4) The cases in which the Recorder may act under the authority of subsection (3) of this section are—

- (a) when a person who is entitled to receive payment of any money secured by a mortgage—
 - (i) is out of the State;
 - (ii) cannot be found; or
 - (iii) is unknown,or it is uncertain who is so entitled; and
- (b) when the mortgagee or one of several mortgagees is dead, and there is no person within the State who is presently entitled to reconvey the mortgage.

“(5) Between the person who is liable to pay money by reason of a mortgage or other interest affected by the registration of a memorial pursuant to this section and the person who is entitled to be paid it, any amount in fact outstanding at the time of the registration under this section of a memorial relating to that mortgage or other interest shall be deemed to be a specialty debt created by the instrument under which, but for the operation of this section, it would be payable.

“(6) The Recorder may, if he thinks fit, hold an inquiry in order to satisfy himself as to any fact or matter of which he may require proof for the purposes of this section, and may make such order as to the costs of any person attending such an inquiry as he thinks fit.

“(7) An order as to costs made under subsection (6) of this section may be registered in the Court and thereupon is enforceable as if it were a judgment of the Court.”.

The fourth
schedule.

- 17** The fourth schedule to the Principal Act is amended—
- (a) by omitting therefrom the word “and” (second occurring); and
 - (b) by adding at the end thereof the words “, and 90DA”.

Transitory
provisions.

18 Notwithstanding the amendments of the Principal Act that are effected by this Act, until any land that, before the commencement of this Act, was divided into strata by a stratum plan registered under the *Registration of Deeds Act 1935* is brought under the provisions of the *Real Property Act 1862* pursuant to section seventy-five ZBA of the Principal Act, the provisions of Part XIA of the Principal Act (as in force immediately before the commencement of this Act) continue to apply to and in relation to that land and that stratum plan and to all dealings and proceedings relating thereto as if this Act had not commenced.

**LOCAL GOVERNMENT (REGISTERED
TITLES).**

No. 48 of 1966.

AN ACT to amend the *Local Government Act*
1962. [12 December 1966.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

Short title,
citation, and
commence-
ment.

1—(1) This Act may be cited as the *Local Government (Registered Titles) Act 1966*.

(2) The *Local Government Act 1962*, as subsequently amended, is in this Act referred to as the Principal Act.

(3) This Act (other than sections eight and nine) shall commence on a day to be fixed by proclamation.

(4) Sections eight and nine of this Act shall commence on the first day of February 1967.