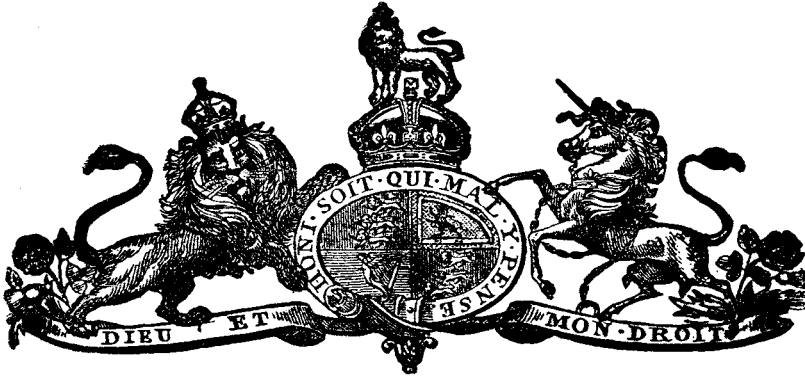


TASMANIA.



1934.

ANNO VICESIMO QUINTO
 GEORGI V. REGIS.
 No. 52.

ANALYSIS.

1. Short title.
2. Repeal.
3. Amendment of 25 Vict. No. 16.
4. Amendment of 26 Vict., Sess. 2, No. 1.
 Section 6.
 New section 6a.
 If application refused applicant may apply to Supreme Court.
5. Amendment of 42 Vict. No. 9.
6. Amendment of 50 Vict. No. 8.
7. Amendment of 57 Vict. No. 5.

AN ACT to amend the *Real Property Act*.
 [13 December, 1934.]

A.D.
 1934.

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 This Act may be cited as the *Real Property Act* 1934.

Short title.

2—(1) The enactments enumerated in the first schedule are hereby repealed to the extent therein indicated.

Repeal.

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(2) The repeal by this Act of the enactments set forth in the third column of Part II. of the first schedule shall not affect the operation of the amendments inserted or effected in the Principal Act by such repealed enactments, and the Principal Act shall continue to be read and construed as altered by such repealed enactments as if the same had not been repealed, subject, however, to any amendments or alterations therein made by any subsequent enactments.

Amend-
ment of 25
Vict. No.
16.

3—(1) The Principal Act is hereby amended by inserting the figure “(1)” at the beginning of section fifty-one thereof and by adding at the end of that section the following new subsection (2):—

“(2) Where it is proved to the satisfaction of the Recorder that the lessor has re-entered upon the leased premises in strict conformity with the power of re-entry contained in the lease or implied therein under section fifty, or that the lessee has abandoned the leased premises, and that the lessor has thereupon re-entered and occupied the said premises by himself or tenants undisturbed by the lessee, the provisions of subsection (1) hereof shall apply to such lease as if such re-entry had been effected by a proceeding in law.”

(2) The Principal Act is also hereby amended in the manner and to the extent indicated in the second schedule.

Amend-
ment of 26
Vict., Sess.
2, No. 1.

4 The *Real Property Act* No. 2 is hereby amended—

I. By expunging the preamble thereto and the word “therefore” in the enacting clause :

II. By deleting therefrom the words—

(a) “of titles” wherever occurring after the word “Recorder” :

(b) “Lands Titles” wherever occurring before the word “Commissioners” :

(c) “or conveyancer” in section two ; and by inserting the word “or” before the word “Solicitor” in the same line :

(d) “hereto” to “effect” in the sixth line of section four :

(e) “Hobart Town” ; and “Provided” to “land” (lastly occurring) in section six :

(f) “Her” to “successors” in section seven and inserting “His Majesty” :

(g) “of such” in section ten : and

(h) “and take effect” and “and after” in section fourteen :

III. By substituting therein the words—

(a) “Principal Act” for “Real Property Act” wherever occurring except in the title and section thirteen :

(b) “the” for “such” before “Commissioners” wherever occurring in sections five and six ; and before “Governor” in section six—

and the figures “1863” for “No. 2” in section thirteen :

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IV. By inserting after the word "Crown" in the third line of section six the words:—"or by or through any location order or other authority from any Governor of New South Wales or any Governor or Lieutenant-Governor of Tasmania.": and

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V. By inserting after the said section six the following new section 6A:—

New section 6A.

"6A—(1) If the Commissioners shall, after consideration of any such application as is mentioned in section six, be of opinion that the applicant is not entitled in equity and good conscience to a grant of the land comprised in the application, they shall refuse the application, and the Recorder shall forthwith give notice of such refusal to the applicant, such notice to be sent by registered post.

If application refused applicant may apply to Supreme Court.

"(2) If the applicant is dissatisfied with the decision of the Commissioners, he may, within twenty-one days after the date on which such notice as aforesaid was sent to him, notify the Recorder in writing that he requires the application to be reheard by a judge.

"(3) Upon receipt of such notification as last aforesaid, the Recorder shall forthwith transmit a copy thereof, together with the application, to the Registrar of the Supreme Court, who shall set down the application for hearing before a judge and shall give notice to the applicant and to the Recorder of the time and place at which the same is to be heard.

"(4) Upon the hearing of the application the judge shall have the like powers and jurisdiction in relation thereto as are conferred by this Act on the Commissioners, and his decision thereon shall be final and conclusive.

"(5) The Attorney-General shall be entitled, if he thinks fit, to appear or be represented at any such hearing as aforesaid and to show cause against the granting of the application."

5 The *Real Property Act* No. 4 is hereby amended—

I. By deleting therefrom the words—

(a) "Further" in the title:

(b) "of Titles" wherever occurring after "Recorder":
and

(c) "Lands Titles" before "Commissioners" in section one:

II. By substituting the words "Principal Act" for "*Real Property Act*" wherever occurring in sections one and two and the figures "1878" for "No. 4" in section four: and

Amendment of 42 Vict. No. 9.

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III. By inserting the figures "1862" after the word "Act" in the title; and the figures—

- (a) "(1)" before "in" at the beginning:
- (b) "(2)" before "upon" in the nineteenth line: and
- (c) "(3)" before "subject" in the twenty-ninth line—
of section one.

Amend-
ment of
50 Vict.
No. 8.

6 The *Real Property Act* No. 5 is hereby amended—

I. By deleting therefrom the words—

- (a) "further" in the title:
- (b) "of Titles" wherever occurring after "Recorder":
- (c) "Lands Titles" and the word "said" wherever occurring, respectively, before "Commissioners":
- (d) "hereto" wherever occurring after "schedule":
- (e) "of the Colony" in section eleven:
- (f) "the last foregoing" in section fourteen:
- (g) "to" to "Commissioners" in the last two lines of section eighteen:
- (h) "The Supreme" to "Act" (lastly occurring) in section twenty-one:
- (i) "holding" in the second line of section twenty-two and substituting therefor the words "registered as the proprietor of":
- (j) "Her" to "Queen" and "Her" to "Majesty" in section twenty-three and substituting therefor in each case the words "His Majesty":
- (k) "of Tasmania" in sections nine and thirty-one:
- (l) "from" to "Act" in the second and third lines of section thirty-three: and

II. By substituting the figures and words—

- (a) "1886" for "No. 5" in section one:
- (b) "His" for "Her" in section eleven:
- (c) "Crown" for "Queen" in the heading before section twenty-three:
- (d) "1920" for "1869" in section thirty-one:
- (e) "1926" for "No. 3" in section thirty-five:
- (f) "Principal" for "Real Property" in section thirty: and

III. By inserting—

- (a) The figures "1862" after the word "Act" lastly occurring in the title:

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- (b) The word "Principal" before the word "Act" wherever the expression "under the Act" occurs :
- (c) The word "thirteen" after the word "section" in section fourteen :
- (d) "eighty-three" after the word "twenty-four" in section twenty-one : and
- (e) "(or subject to, *as the case may be*)" after the word "with"—
- (i) in the second line of section twenty-seven ; and
 - (ii) in the first line of the schedule marked "B."

7 The Real Property Act (No. 7) is hereby amended—Amendment of
57 Vict.
No. 5.

I. By deleting the words—

- (a) "further" in the title :
- (b) "Whereas" to "Act" in the preamble ; and "therefore" in the enacting clause :
- (c) "of Titles" wherever occurring after "Recorder" :
- (d) "Hobart" wherever occurring before "Gazette" :
- (e) "the last preceding" and "last preceding" respectively in the first and ninth lines of section seventeen and inserting after the word "section" next thereafter the words "ninety-four of the Principal Act" and "ninety-four" respectively :

II. By substituting respectively the figures and words—

- (a) "1893" for "No. 7" in section one :
- (b) "Principal" for the words "Real Property" wherever occurring in sections five, ten, fourteen, and twenty-one : and

III. By inserting respectively the figures and words—

- (a) "1862" after the word "Act" lastly occurring in the title :
- (b) "Principal" before the word "Act" in—
 - i. The second and third lines respectively of section three :
 - ii. The second line of section four : and
 - iii. The first line of section twenty.

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THE FIRST SCHEDULE.

PART I.

Regnal Year and Number of Act.	Title of Act.	Extent of Repeal.
6 Wm. IV. No. 11	<i>The Claims to Grants of Land Act (No. 1)</i>	The whole Act
3 Vict. No. 6	<i>The Claims to Grants of Land Act (No. 2.)</i>	The whole Act
22 Vict. No. 10	<i>The Claims to Grants of Land Act (No. 3)</i>	The whole Act
25 Vict. No. 16	<i>The Real Property Act 1862</i>	Sections 119, 120, and 142
26 Vict., Sess. 2, No. 1	<i>The Real Property Act 1863</i>	Sections 1 and 12
42 Vict. No. 9	<i>The Real Property Act 1878</i>	Section 3
50 Vict. No. 8	<i>The Real Property Act 1886</i>	Sections 2, 34, 36, 37, and 38
57 Vict. No. 5	<i>The Real Property Act 1893</i>	Sections 2, 6, 8, 9, 13, 15, 16, 22, and 23
23 Geo. V. No. 58	<i>The Supreme Court Civil Procedure Act 1932</i>	Paragraph IV. of subsection (1) of section 9

PART II.

Regnal Year and Number of Act.	Title of Act.	Sections the Effect of which is Preserved Notwithstanding Repeal.
26 Vict., Sess. 2, No. 1	<i>The Real Property Act 1863</i>	Section 1
50 Vict. No. 8	<i>The Real Property Act 1886</i>	Sections 36 and 37
57 Vict. No. 5	<i>The Real Property Act 1893</i>	Sections 6, 8, 9, 13, 15, and 16

Real Property.

THE SECOND SCHEDULE.

A. D. 1934.

Sections of the Principal Act Amended.	How Amended.
As to—	By deleting the words—
The preamble	“Whereas” to “Tasmania”
The enacting clause	“therefore”
Section 2	“for all purposes”
Section 3	I. “proprietor” to “encumbrance” (in the definitions of encumbrancer and encumbrance) and inserting (after “mean”) “person entitled to the payment secured by an encumbrance” II. “Person” to “corporate” (being the definition of “Person”) and substituting the following:— “‘The Commissioners’ means the Land Titles Commissioners appointed under this Act: ‘The Recorder’ means the Recorder of Titles appointed under this Act: ‘The Solicitor’ means the solicitor to the Commissioners”— III. “Encumbrancee” (in the penultimate paragraph) and “unless” to “female and” (in the concluding paragraph of the section)
Section 7	“Colony” and substituting “State”
Section 8	“in the said Colony”
Section 11	I. “He may” at the beginning of the first, second, third, fourth, and fifth paragraphs respectively and inserting “He may” after “say” in the second line: and II. “Her” to “successors” in the fifth paragraph and substituting “His Majesty”
Section 12	“in the said Colony” in the first and second lines and “Land Title” in the last line
Section 17	I. “said” in the second line: and II. “No lands” to “satisfied” at the end
Section 18	“said” wherever occurring before “Commissioners”; “such” before “Commissioners” in the seventh and fifteenth lines and substituting “the” in each case; and deleting “such Commissioner” in the eighteenth line and substituting “the Commissioners”

Real Property.

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Sections of the Principal Act Amended.

How Amended.

As to—

By deleting the words—

Section 21	“Lands” before “Commissioners” in the eighth line
Section 23	“Having” to “matter” in the last line and inserting “Supreme” before “Court” in the preceding line
Section 24	“any” to “jurisdiction” in the fourth line and inserting “the Supreme Court”
Section 29	I. “of the said Colony”: II. “from time to time”:
Section 30	“or under” to “them” in the fourth and fifth lines
Section 48	“with” in the penultimate line and substituting “without”
Section 69	“Government” before “Gazette”
Section 73	“Registrar-General” and substituting “Recorder”
Section 80	“tenant by the curtesy” in the first line
Section 81	“solicitors” in the first line and substituting “solicitor”
Section 88	“when” to “curtesy or”
Section 89	“solicitors” in the fifth line and substituting “solicitor” therefor
Section 92	I. “of the said Colony from time to time”: II. “stamped” to “to be” in the fourth and fifth lines: III. “the General Registry” and substituting “his”: IV. “or may” to “same” in the sixth and seventh lines: V. “as aforesaid” and substituting “by the Recorder”
Section 104	“at the Registry Office” and substituting “with the Recorder”
Section 109	I. “Public” in the third line: II. “of the said Colony” after “Treasury”: III. “directed” to “be” in the fifth and sixth lines: IV. “By the” to “thereof” in the sixth and seventh lines V. “directed by” to “colony” in the twelfth and thirteenth lines and substituting “prescribed”:

Real Property.

Sections of the Principal Act Amended.	How Amended.	A.D. 1934.
As to—	By deleting the words—	
Section 109— <i>con.</i>	VI. “countersigned” to “thereof”; VII. “said” before “Treasurer” wherever occurring; VIII. “Lands Titles Commissioner” and substituting “Commissioners”; and IX. “carried” to “General” and substituting “paid into the Consolidated”	
Section 118	I. “of the said Colony” (after “Treasurer”); II. “said” (before “Treasurer”); and III. “Colony” (at end) and substituting “State”	
Section 130	“coverture” in the tenth line	
Section 132	I. “of the said Colony” wherever occurring after “Treasurer”; II. “Within the said province” and “within the said Colony” and substituting in each case “in this State”	
Section 139	“Registrar-General” and substituting “Recorder”	
Section 143	“from time to time” (after power) and “and from” to “orders” (at end)	
Section 144	“in the said Colony”	
Section 145	“and take” to “July” and substituting “on the thirtieth day of June”	
Wherever occurring	I. “of Titles” after “Recorder” (except in sections 3 and 4 and where secondly occurring in section 7) II. “Lands Titles” before “Commissioners” (except in sections 3 and 5) III. “hereto” after “schedule” IV. “Hobart Town” before “Gazette” V. “calendar” before “month” or “months” VI. “Encumbrancer” (except in section 3) and substituting “Proprietor” VII. “Encumbrancee” and substituting (except in section 3) “Encumbrancer”	
	By inserting the figures and words—	
Sections 2 and 7	“1862” after “Act”	
Section 35	“and as from the” after the words “order of” in the fourth line	
Section 53	“or has notified the Recorder that he does not intend to claim” after “disclaimed” in the third line of subsection (2) (inserted by the <i>Real Property Act 1932</i>)	

*Real Property.***A.D. 1934.**

Sections of the Principal Act Amended.	How Amended.
As to—	By inserting the figures and words—
Section 85	“ 85 ” at the beginning of the section inserted by the <i>Real Property Act 1893</i>
Section 93	“ person ” before “ dealing ” secondly occurring in the proviso
Section 94	“ 94 ” at the beginning of the section (inserted by the <i>Real Property Act 1893</i>) and substituting “ <i>Local Courts Act 1896</i> ” for “ <i>Small Debts Act 1887</i> ” in that section
Section 121	“ or of any payment secured by a memorandum of encumbrance ” after the word “ mortgage ” in the second line
Section 122	“ or proprietor ” after “ mortgagor ” wherever occurring
Section 124	“ or ” after “ two ” in the fourth line of the sixth paragraph; and “ the ” before “ provisions ” in the penultimate line of that paragraph
Section 137	“ a ” before “ summons ” in the eighth line
Schedules	“ 1862 ” after “ <i>Real Property Act</i> ” wherever occurring