

Transfer of Land (Computer Register) Bill

EXPLANATORY MEMORANDUM

Clause 1 states the purpose of the Bill.

Clause 2 is the commencement provision.

Clause 3 identifies the *Transfer of Land Act 1958* as the Principal Act.

Clause 4 provides that certain of the amendments to the Principal Act made by this Bill apply to all matters existing before or after its commencement.

Clause 5 inserts, substitutes, amends and removes definitions in the Principal Act.

Clause 6. This is the substantive provision dealing with the Register under the Principal Act. It substitutes a new section for the existing section 27 of the Principal Act. The new section requires the keeping of a Register for all land under the operation of the Principal Act. The Register may be in any medium or format. The Register consists of folios and the information recorded therein. Each folio relates to a parcel or multiple parcels of land. The new section obliges and enables the Registrar of Titles to create and substitute folios of the Register in particular circumstances.

Secondly clause 6 inserts a new section 27A. This provides for registration of instruments by the making or altering of records in the Register. It empowers the Registrar of Titles to make recordings in any suitable form or manner and provides that the Register can only contain current information.

Thirdly clause 6 inserts a new section 27B. This provides for the production of a certificate of title upon the creation of a folio of the Register. This certificate of title replaces the duplicate certificate of title under the provisions of the Principal Act.

Fourthly clause 6 inserts a new section 27C. This provides for the keeping of a record of all dealings that have affected a folio.

Fifthly clause 6 inserts a new section 27D. This provides for the proof of present and past recordings in a folio of the Register by the use of a document signed by the Registrar of Titles or by a certificate of title. However the detail of a recording in the Register prevails over an inconsistent recording appearing on a certificate of title.

Sixthly clause 6 inserts a new section 27E. This provides that the Registrar of Titles shall not register an instrument unless the certificate of title and any relevant duplicate instrument is produced. This section provides that the Registrar of Titles may waive production in an appropriate case.

Seventhly clause 6 inserts a new section 27F. This provides that the references to recordings in the Register in the new section 27 includes all the methods of updating the paper Register under the present provisions of the Principal Act. This section ensures the continuity and validity of endorsements and entries made in the Register prior to this Act.

Clause 7 inserts a new section 34 (3). This provides that where instruments are not lodged in an order that gives effect to the apparent intentions of the parties the Registrar of Titles may register those instruments in the order that accords with the parties' intentions.

Clause 8 inserts a new section 34A. This empowers the Registrar of Titles to give effect, where appropriate, to two or more instruments by the making of a single recording in the Register.

Clause 9 inserts a new section 103 (1A). This empowers the Registrar of Titles to correct patent errors in documents lodged for registration.

Clause 10 inserts a new section 122. It provides for the lodging of particulars of disposition or acquisition of land with the Registrar of Titles on the lodging of instruments or applications that affect proprietorship. When proclaimed, this section will facilitate the administrative requirements to be imposed under the *Land (Transaction Information) Bill* 1988.

Clause 11 specifies the amendments to the Principal Act that are necessary consequences of the deletion of specific references to the paper-based Register.

Clause 12 specifies the amendments to other Acts that are necessary consequences of the substantive provisions of this Bill.

Clause 13 amends sections 32, 36, 39 and 44 of the *Rural Development Bank Act* 1988.

Clause 14 amends section 207 of the *Local Government Act* 1988.

Clause 15 provides for particular construction of the references set out in column 1 of Schedule 3.