

Real Property Act 1886 – Summary of Proposed Amendments

Clause	Section	Proposed Amendment	What this means?
5	Section 42	Current section removed and substituted. Amendment to allow public access to historical records pertaining to bringing land under the provisions of the <i>Real Property Act 1886</i> .	This amendment expands access to these records at the discretion of the Registrar-General, or where the record has been held by the Registrar-General for more than 80 years.,
9	Section 96	Deletion of section 96(2)(c)	In July 2016 Section 96 was amended as part of the e-conveyancing reform to require both the transferor and transferee to execute the transfer. This removed the need for the provision of an acceptance statement by the transferee or transferee's guardian or administrator. This change rectifies the oversight of not removing 96(2)(c) at that time.
11	Section 143	Amendment of section 143 to add subsection (3)	To ensure consistency with Section 128(4)
13	Section 150	Amendment of section 150 to add subsection (2)	To ensure consistency with Section 128(4).
14	Section 153	Amendment of section 153 after subsection (2)	This change supports current practice whereby the Registrar-General, if an extension of lease has not been lodged within one month after the lease has expired, removes the lease notation from the certificate of title. The lease is still noted on the Historical Search of the title.
15	Section 154A	Removal of subsection 154A(4)	This has been removed to ensure national consistency.
16	Section 154B	Amendment of subsection 154B(2)(a) to remove the wording "(providing the instruments identified in the notice are lodged in accordance with section 154A(4))"	This has been removed to ensure national consistency.
17	Section 154G	Amendment of subsections 154G(2) and 154A(3) to remove the wording "in accordance with section 154(A)(4)"	This has been removed to ensure national consistency.

19	Section 162	Amendment of subsection 162	This amendment clarifies that trust instruments can only be deposited in the General Registry Office.
20(1)	Section 191	Amendment of Section 191(1)(ac)(iii) to include an email address and an address within Australia.	This amendment requires both an email address and a physical address within Australia. The requirement for both has been included as this will align with court rules and other jurisdiction requirements.
20(2)	Section 191	Current section 191(1)(e) substituted.	This amendment removes the exception regarding when a caveat is lodged by a settlor, or by a beneficiary under a will or settlement to avoid the Registrar-General adjudicating on this matter in any way. In need the registered proprietor has the option to go to Court.
21	Section 210	Current section substituted.	This change will mitigate red tape related to processing assurance fund claims and provide greater flexibility when it comes to updating processes and amounts to reflect the current environment, such as significant market value changes that occur over time.
22	Section 220	Amendment of section 220(1) to remove obsolete reference to section 32 of the <i>Libraries Act 1982</i> .	Substituted reference to section 32 of the <i>Libraries Act 1982</i> with Part 7 of the <i>State Records Act 1997</i>
23(1)	Section 223LA	Amendment of section 223LA(1)	This amendment -updates the definition of <i>public map</i> and substitutes <i>Crown Lands Act 1929</i> to <i>Crown Lands Management Act 2009</i>
23(2)	Section 223LA	Amendment of section 223LA (1) to add new clause (da)	To include an environment performance agreement entered into under the <i>Environment Protection Act 1993</i> as a statutory encumbrance
23(3)	Section 223LA	Section 223LA(7) deleted	To enable division applications and instruments to be lodged electronically pursuant to a client authorisation if the applicant is represented by a legal practitioner or registered conveyancer.
24(1)	Section 223LD	Amendment of section 223LD(1) to add (a) and (b)	Ensures that where a division is done pursuant to an order of court, a Part19AB application and relevant provisions can be utilised.
26	Section 223LE	Amendment of section 223LE(4)	This amendment caters for a variation of easement and gives effect to a process that is already occurring in practice.

27	Section 223LF	Amendment of section 223LF to insert subsection (2a) after subsection (2)	This amendment provides for the automatic extinguishment of a right of way over land vested as a public road, without the requirement to obtain the consent of the dominant registered proprietor and anyone with a registered interest.
32	Section 266 to 268 and Schedule 17	Repeal of sections 266 to 268 (inclusive) and schedule 17	<p>These sections and schedule are now obsolete and can be repealed.</p> <p>Section 266 and Schedule 17 were used when land grants were issued excepting mines and minerals which were reserved to the Crown. Land Grants issued since 3 July 1972 no longer contain any reservation of mines and minerals in favour of the Crown as section 8 of the <i>Crown Lands Act 1929</i> which provided the authority to do so was repealed.</p> <p>All mineral rights are now vested in Crown by section 16 of the <i>Mining Act 1971</i>.</p> <p>Sections 267 and 268 are now obsolete.</p>
	Various Sections	In Sections that have been amended, changes have also been made to update “signed” to “executed”, and to modernise language where appropriate.	