

# LAND TRANSFER AMENDMENT BILL

## EXPLANATORY NOTE

THIS Bill amends the Land Transfer Act 1952.

*Clause 1* relates to the Short Title.

## PART I

### TITLE TO ACCESS STRIPS

The purpose of this Part is to provide a convenient procedure whereby owners of allotments in a subdivision that are contiguous to land in the subdivision that was laid off for the sole purpose of providing access to an existing road or street, but which has never been dedicated as a road or street, may obtain title to the access strip.

The principal examples where this position exists occurred before the commencement of the Public Works Amendment Act 1900. Before the commencement of that Act, there was no provision in force requiring subdividers of land to provide and dedicate roads or streets to provide legal access for allotments in the subdivision. In many cases, plans of subdivision prepared before the commencement of that Act showed proposed roads or streets as providing access to allotments in the subdivision, but they have never been dedicated as roads or streets and the fee simple remains vested in the original subdividing owners. In many cases, they cannot now be traced or they have since died and it is now difficult after such a lapse of time to trace the persons who would have a beneficial interest in the land shown on the plans as proposed roads or streets.

*Clause 2* inserts a new Part IVA in the principal Act for this purpose, comprising *sections 89A to 89E*.

*Section 89A* provides that where on the subdivision of land any part was laid off as an access strip to provide access from any of the allotments in the subdivision to an existing road or street and that strip has not become a road or street or service lane or an access way, all the registered proprietors of the allotments in the subdivision that are contiguous to the strip may apply to the Registrar to have the strip vested in them as tenants in common. For this purpose, where any such allotment has subsequently been itself subdivided into two or more allotments, each of those allotments is to be considered as an allotment of the original subdivision.

This provision will not apply unless no owner of the strip can be found after reasonable inquiries have been made, or unless every owner of the strip who can be found consents to the application.

*Section 89B* enables an application to be made under *section 89A*, notwithstanding that the registered proprietor of any of the allotments contiguous to the access strip does not join in an application, provided he consents to the application, which consent may not be unreasonably withheld. The Registrar may dispense with the consent of any such owner who cannot be found after reasonable inquiries.

*Section 89C* prescribes the procedure for dealing with applications. Notice of an application must be given to the local or controlling authority which would have jurisdiction over the strip if it were a road or street or service lane or an access way, and that authority will be entitled to lodge a caveat against the granting of the application.

*Section 89D* provides that where the Registrar is satisfied that the provisions of this Part of this Act have been complied with, that all notices required to be given have been given, that all times required to expire have expired, that every caveat lodged has lapsed or been withdrawn, and that no sufficient reason to the contrary otherwise appears, he is to issue a certificate of title for the access strip to the applicant or applicants.

*Section 89E* defines the conditions that apply when the Registrar issues a certificate of title for an access strip in the names of the owners of the contiguous allotments.

If the owner of any such allotment subsequently disposes of the allotment or creates any charge over it, he must also dispose of or create a charge over his share in the access strip, proportionate to that allotment. Provision is also made for the cancelling of any existing titles to the access strip and for the cessation of any fee simple estate that any other persons may have in the strip. Where any of the contiguous allotments is owned by two or more persons as joint tenants or as tenants in common, the relative share in the access strip will be vested in them in the same manner.

Provision is also made that if any of the allotments contiguous to the access strip is subject to a mortgage (which term is defined as including a lien, charge, or other security for the payment of money), the power of sale exercisable by the mortgagee on default will include a power to sell the share in the access strip attributable to the mortgaged allotment.

Provision is also made that persons having an interest in an access strip vested in the owners of the contiguous allotments will not have a right of action against the Crown or the Registrar, except in the circumstances mentioned in *paragraph (i)* of the section.

## PART II

### MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT

*Clause 3:* Section 39 of the principal Act prescribes the contents of every memorial entered in the register, and provides that the memorial must be signed by the Registrar.

This clause empowers the Registrar to authorise other officers of the Land Registry Office to authenticate memorials and to prescribe the manner in which those officers so authorised are to authenticate the memorials.

*Subclause (3)* provides that the date and hour to be endorsed, pursuant to section 40 (2) of the principal Act, on an instrument registered is to be the date and hour of the production of the instrument for registration as specified in the memorial entered in the register pursuant to section 39 of the principal Act and authenticated under that section.

*Clause 4:* Section 42 of the principal Act prohibits the registration of any instrument except in the manner provided in that Act and unless the instrument is in accordance with the provisions of that Act.

The effect of this clause is to allow the registration of any instrument in accordance with the provisions of any other Act authorising the registration of the instrument under the principal Act, provided the instrument is in accordance with the provisions of that other Act.

*Clause 5* re-enacts in an amended form section 43 of the principal Act relating to the procedure where any requisition made by the Registrar in respect of any instrument presented for registration is not complied with.

The new section 43 is intended to enable a new procedure to be instituted for the registration of instruments. Instead of instruments presented for registration being checked at the time when they are presented and before being accepted for registration, the new section will make it possible to institute a procedure whereby the instruments are lodged for registration and are checked by the Registrar subsequently. In such a case, if the Registrar finds an instrument to be not in order for registration, he may return it to the person who lodged it for registration or retain it pending the rectification of any matter required by the Registrar to be rectified.

*Subsection (6)* of the new section 43 provides that where any instrument is returned pursuant to that section, it shall be deemed not to have been presented for registration.

The remaining provisions of the new section 43 relating to Registrar's requisitions are substantially the same as at present.

*Clause 6:* Section 48 of the principal Act contains provisions applying where, by reason of the alteration of the boundaries of any land registration district or the constitution of a new district, land formerly included in one district becomes included in another district. In such a case appropriate certificates, documents, and other records or certified copies thereof are to be sent to the Registrar of that other district, who is required to bind them in his register.

The effect of this clause is to enable those records or copies to be included in the register in any convenient form, not necessarily by binding them in the register.

*Clause 7:* Section 50 of the principal Act provides for the registration of dealings in a provisional register until a folium of the register has been duly constituted for the land concerned, and requires the provisional register to be kept in the form of a book.

The effect of this clause is to permit the Registrar to keep the provisional register by any other means of filing.

*Clause 8:* Section 86 (1) of the principal Act provides that on the application of the registered proprietor the Registrar may issue a single certificate of title in place of several or several certificates of title in place of one. The effect of this amendment is to extend this provision and enable the Registrar to do so with the consent of the registered proprietor and without the necessity of a formal application.

*Clause 9* contains minor drafting amendments of sections 90A and 90C of the principal Act, relating to the alternative procedure for creating easements over allotments shown on a deposited plan. Under that procedure, an easement certificate may be registered indicating the easements affecting

the several allotments on the plan, and those easements automatically come into being on the registration of instruments of disposition of the allotments concerned.

The sections refer to intended easements shown on the plan, but under current practice, although the servient tenements are always shown on the plan, the easements themselves are not always shown on the plan but are specified in the easement certificate itself. It is sufficient if only the servient tenements are shown on the plan, and this clause makes the necessary formal amendments to sections 90A and 90c.

*Clause 10:* Section 96 of the principal Act provides that in every transfer of land subject to a mortgage there shall be implied a covenant on the part of the transferee with the transferor to pay the principal sum and interest under the mortgage and perform the covenants of mortgage, and to indemnify the transferor in respect of those payments and the performance of those covenants.

This clause provides that where the transferee is an executor or administrator or a trustee his liability under such an implied covenant will be limited to the assets of the estate or trust under his control, provided he or some person acting on his behalf notified the transferor in writing before the execution of the transfer of the capacity in which he was acquiring the land.

*Clause 11* provides that where any estate or interest in land subject to the principal Act is vested in any person by any enactment, the Registrar, on application made by that person and the deposit of such plans and documents as the Registrar requires, is to make such entries in the register and generally do all things necessary to give effect to that enactment. This provision will make it unnecessary to register a formal transmission in cases where the enactment contains a sufficient description of the land or makes other provision.

*Clause 12:* Section 167 of the principal Act requires plans to be deposited in certain cases. Those plans must be in accordance with regulations for the time being in force in that behalf, and must be verified by the statutory declaration of a registered surveyor.

This clause provides that where the Registrar is of the opinion that a plan complying with the regulations and so verified is not warranted in the circumstances of a particular case, he may allow the deposit of such plan as he considers sufficient to define the land in relationship to existing surveys.

*Clause 13:* Section 168 (1) of the principal Act provides that on the deposit of a plan of subdivision a right of way over roads shown on the plan shall be appurtenant to every portion of the land in the subdivision, unless expressly excepted. The effect of this clause is to create a further exception in cases where the registered proprietor of the land or any part thereof has disclaimed such a right of way by instrument in writing duly attested and lodged with the Registrar.

*Clause 14* inserts a new section 215A in the principal Act authorising the Registrar to prepare certified copies where any book, plan, office copy of any certificate or other instrument of title, or any other instrument has become or is becoming obliterated or unfit for use, or where he considers the preparation of a certified copy to be desirable in the interests of convenience of reference or administration.

Such a certified copy will have all the effect of the original, and will be prima facie evidence of the original and of all entries and memorials thereon.

*Subclause (2)* is a savings provision validating such copies already made.

*Clause 15* extends the provisions of section 226 of the principal Act, and makes it an offence if any person—

- (a) Fraudulently stamps or procures to be stamped or assists in stamping any document with the seal of any Registrar; or
- (b) Fraudulently enters or authenticates any memorial in the register or does or omits any act for that purpose.

*Clause 16* inserts a new section 228A in the principal Act providing that if any person fraudulently removes from any Land Registry Office any property of a Land Registry Office (including in the term “property” any certificate or instrument of title, plan, record, index to records, document, or instrument), or destroys, conceals, obliterates, or damages any such property, he will be guilty of theft and will be liable to the penalty prescribed by section 227 (b) of the Crimes Act 1961. That paragraph prescribes a maximum penalty of seven years’ imprisonment for the theft of the kinds of property specified in that paragraph.

*Clause 17* re-enacts in an amended form section 235 of the principal Act, which prescribes fees in relation to applications to bring land under the principal Act. The present section provides that the fee for advertising an application is to be fixed by regulations, and prescribes a fee of 25s. for the first certificate of title, which is not payable until the delivery or cancellation of the title or the registration of the first dealing.

The new section provides that all fees are to be fixed by regulations. Where the first certificate of title has already been issued, the outstanding fee will continue to be payable at the same time as at present.

*Subsection (3)* of the new section provides that where any existing Act or regulations fix a fee of 10s. or less for the registration or deposit of any instrument under the principal Act, that instrument may in the future be registered or deposited free of charge. Where any existing Act or regulations fixes a fee exceeding 10s. but less than £1 for the registration or deposit of any instrument, the fee for that registration or deposit is to be £1.

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*Hon. Mr Hanan*

## LAND TRANSFER AMENDMENT

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### A BILL INTITULED

#### An Act to amend the Land Transfer Act 1952

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

No. 91—1

**1. Short Title**—This Act may be cited as the Land Transfer Amendment Act 1966, and shall be read together with and deemed part of the Land Transfer Act 1952\* (hereinafter referred to as the principal Act).

## PART I

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## TITLE TO ACCESS STRIPS

**2. New Part IVA inserted in principal Act**—The principal Act is hereby amended by inserting, after section 89, the following new Part:

## “PART IVA

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## “TITLE TO ACCESS STRIPS

“89A. **Application by adjoining owners for title to access strip**—(1) Where on the subdivision of any land any separate part thereof (in this Part of this Act referred to as an access strip) was, in the opinion of the Registrar, laid off for the sole purpose of providing access from any of the allotments comprising the subdivision to an existing road or street, the registered proprietor or, if more than one, the registered proprietors of the fee simple estate in all the allotments of the subdivision that are contiguous to the access strip may, subject to the provisions of this Part of this Act, make application to the Registrar to have the access strip brought under the provisions of this Act in the name of the applicant, or, if more than one, in the names of the applicants as tenants in common (subject to the provisions of section 89E of this Act) in shares proportionate to the number of the allotments of the subdivision that are contiguous to the access strip of which they are so registered as proprietors, or, as the case may require, for the issue of a certificate of title for an estate in fee simple in the access strip in the name of the applicant, or, if more than one, in the names of the applicants as tenants in common (subject to the provisions of section 89E of this Act) in the shares aforesaid.

“(2) For the purposes of this Part of this Act, where before the making of an application under subsection (1) of this section any allotment of a subdivision has been further subdivided into two or more allotments, each of those last-mentioned allotments that is contiguous to the access strip shall be deemed to be an allotment of the original subdivision.

\*1957 Reprint, Vol. 7, p. 615

Amendments: 1958, No. 75; 1959, No. 29; 1960, No. 69; 1961, No. 9; 1963, No. 61

“(3) Nothing in subsection (1) of this section shall apply, unless—

5 “(a) None of the proprietors of the fee simple estate in the access strip can be found after such inquiries as the Registrar considers reasonable have been made; or

“(b) Every proprietor of an estate in fee simple in the access strip who can be found consents to the granting of the application.

10 “(4) In subsection (3) of this section the term ‘proprietor’, in relation to the fee simple of an access strip, means—

15 “(a) Where the access strip is subject to this Act, the registered proprietor; and includes any person entitled to be registered as proprietor through or under the registered proprietor:

20 “(b) Where the access strip is not subject to this Act, the person in whom the fee simple is vested pursuant to an instrument registered under the Deeds Registration Act 1908; and includes any person entitled to the fee simple estate through or under the first-mentioned person.

“(5) Nothing in subsection (1) of this section shall apply where the access strip is acknowledged or accepted or declared to be a road or street or service lane or an access way in accordance with law by any local or controlling authority having jurisdiction over roads, streets, service lanes, or access ways in the district within which the access strip is situated.

30 “89B. Where proprietor of any contiguous allotment not a party to application—Notwithstanding anything in section 89A of this Act, an application may be made under that section, notwithstanding that any one or more of the registered proprietors of the fee simple estate in any allotments of the subdivision that are contiguous to the access strip are not parties to the application, if that registered proprietor or 35 those registered proprietors consent to the application in writing duly attested by a witness, which consent shall not be unreasonably withheld:

40 “Provided that if any such registered proprietor cannot be found after such inquiries as the Registrar considers reasonable have been made, the consent of that registered proprietor shall not be necessary; but no rights, express or implied, over the access strip or any part thereof in favour of his allotment shall be prejudiced by the granting of the application.



“89c. **How application dealt with**—(1) Every application made under section 89A of this Act shall, except as otherwise expressly provided in this Part of this Act, be dealt with, as to notices, plans, caveats, fees, and all other matters, in accordance with the provisions of this Act relating to applications to bring land under this Act, as far as those provisions are applicable and with all necessary modifications. 5

“(2) In addition to those provisions, the Registrar shall cause notice in writing of the application to be given to the local or controlling authority which, if the access strip were a road or street or service lane or an access way, would have jurisdiction in respect thereof, and the notice shall appoint a time, being not less than one month from the date of the notice, during which that authority may lodge a caveat in form M in the Second Schedule to this Act, modified where necessary to suit the circumstances. Where pursuant to this subsection a caveat in form M as aforesaid is lodged in respect of an access strip already under the provisions of this Act, the reference in section 144 of this Act to an order on injunction shall be deemed to extend to an order or injunction restraining the Registrar from issuing a certificate of title pursuant to the application. 10 15 20

“89d. **Issue of title to access strip**—(1) Notwithstanding anything in any other Act, where the Registrar is satisfied, in respect of any application lodged under this Part of this Act, that— 25

“(a) The provisions of this Part of this Act have been duly complied with; and

“(b) All notices required to be given have been given; and

“(c) All times required to expire have expired; and 30

“(d) Every caveat lodged has lapsed as provided in this Act or been withdrawn; and

“(e) No sufficient reason to the contrary otherwise appears,—

the Registrar shall issue to the applicant, or, as the case may be, to the applicants as tenants in common in the appropriate shares (subject to the provisions of section 89E of this Act), a certificate of title in Form 2 in the First Schedule to this Act for an estate in fee simple in the access strip to which the application relates, subject to any outstanding interests to which it remains subject. 35 40

“(2) Without limiting the provisions of paragraph (e) of subsection (1) of this section, the Registrar may, in his discretion, refuse the application if the access strip is not being used solely for the purpose of providing access to a road or street from the allotments of the subdivision in respect of which the application is made.

“89E. **Conditions applying when certificate of title issued for access strip**—Where the Registrar issues a certificate of title for any access strip under section 89D of this Act, the following provisions shall apply:

“(a) No registered proprietor of the fee simple estate in the access strip may dispose of or create any charge over any allotment of the subdivision that is contiguous to the access strip to or in favour of any person, unless he simultaneously in like manner and to or in favour of the same person disposes of or creates a charge over his share in the access strip, or, as the case may be, in so much thereof as is attributable under subsection (1) of section 89A of this Act to his ownership of the contiguous allotment being so disposed of or over which he is creating a charge as aforesaid. For the purposes of this paragraph, the settlement of any such allotment as a joint family home under the provisions of the Joint Family Homes Act 1964 shall be deemed not to be a disposal of the allotment:

“(b) The Registrar shall make an entry upon the certificate of title so issued for the access strip, and on the register copy of the certificate of title for the fee simple estate in every allotment of the subdivision that is contiguous thereto and the registered proprietor of which is the registered proprietor or one of the registered proprietors named in the certificate of title so issued as aforesaid, to the effect that the contiguous land is subject to the provisions of paragraph (a) of this section:

“(c) Where any other certificate of title under this Act is in existence for the fee simple estate in the access strip, the Registrar shall cancel that other certificate of title so far as it relates to the access strip, and the memorial of cancellation shall state that the cancellation is made under the authority of this section:

- “(d) Any fee simple estate in the access strip previously held by any person other than the persons named in the certificate of title so issued as being seised of that estate in fee simple shall cease and determine: 5
- “(e) Where any allotment of the subdivision to which any share in the access strip is attributable under subsection (1) of section 89A of this Act is owned in fee simple by two or more persons as joint tenants or as tenants in common, that share shall also vest in them as joint tenants or, as the case may be, as tenants in common in the shares in which that allotment is vested in them: 10
- “(f) Where any allotment of the subdivision contiguous to the access strip is at the time of the issue of the certificate of title subject to a registered mortgage, and the mortgagor thereunder is registered as the proprietor or one of the proprietors of an estate in fee simple in the access strip by virtue of his ownership of that allotment, any power expressed or implied in the mortgage whereby the mortgagee may sell the allotment or any part thereof on default being made under the provisions of the mortgage shall be deemed to extend to and include power to sell so much of the mortgagor’s estate or interest in the access strip as is attributable to his ownership of the allotment (or, as the case may be, a proportionate part thereof where the power of sale relates to part only of the allotment), as if that estate or interest were included in the mortgage as part of the security; and the Registrar shall make an entry on the register copy of the mortgage, and also on the mortgagee’s copy when it is produced to him, to the effect that this paragraph applies to the mortgage: 15 20 25 30
- “(g) Where any allotment to which paragraph (f) of this section applies is, after the issue of the certificate of title, settled as a joint family home under the Joint Family Homes Act 1964, the provisions of that paragraph shall apply whether the share in the access strip is owned by the husband and wife or by either of them: 35 40

- 5 “(h) For the purposes of paragraph (f) of this section, the term ‘mortgage’ includes any lien, charge, or other security for the payment of money; and the terms ‘mortgagor’ and ‘mortgagee’ have corresponding meanings; and the provisions of that paragraph, as far as they are applicable and with any necessary modifications, shall apply with respect to such liens, charges, or securities accordingly:
- 10 “(i) Notwithstanding anything in section 172 of this Act, no action shall lie against the Crown or the Registrar-General by any person whose estate in fee simple in the land in the certificate of title so issued has ceased or been determined under paragraph (d) of this section by reason of that cessation or determination, except where that registered proprietor—
- 15 “(i) Has been deprived of that estate by fraud on the part of any applicant or applicants under any application under this Part of this Act or by the error, omission, or misfeasance of the Registrar or any of his officers or clerks in dealing with any application; and
- 20 “(ii) Is by this Act barred from bringing an action for possession or other action for recovery of the land or the said estate therein.”
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## PART II

### MISCELLANEOUS AMENDMENTS TO PRINCIPAL ACT

- 30 **3. Contents of memorial**—(1) Section 39 of the principal Act is hereby amended by adding the words “or otherwise authenticated in a manner and by an officer of the Land Registry Office approved by the Registrar”.
- (2) Section 39 of the principal Act is hereby further amended by adding, as subsection (2), the following subsection:
- 35 “(2) The fact that any memorial is authenticated by any officer other than the Registrar shall be conclusive evidence of his authority to do so and of the approval of the Registrar to the manner in which the memorial is authenticated by that officer.”

(3) Section 40 of the principal Act is hereby amended by inserting in subsection (2), after the words “the register”, the words “(being the day and hour of the production of the instrument for registration as specified in the memorial entered in the register pursuant to section 39 of this Act and duly authenticated in accordance with that section)”. 5

**4. Informal instruments not to be registered**—Section 42 of the principal Act is hereby amended by omitting the words “nor unless the instrument is in accordance with the provisions hereof”, and substituting the words “or as provided in any other Act authorising the registration of the instrument under this Act, nor unless the instrument is in accordance with the provisions of this Act or of that other Act, as the case may be”. 10

**5. Where instrument lodged not in order for registration**— 15  
The principal Act is hereby further amended by repealing section 43, and substituting the following section:

“43. (1) Subject to any regulations under this Act, where any instrument lodged for registration with the Registrar is found not to be in order for registration, he may— 20

“(a) Return the instrument and all other instruments lodged in connection therewith, or such of them as he thinks fit, to the person by whom they were lodged or, where that person is not available, to such other person as may in the opinion of the Registrar be entitled to receive them; or 25

“(b) Retain the instrument in his office pending rectification of any matter required by the Registrar to be rectified.

“(2) If any requisition made by the Registrar in respect of any instrument retained for rectification as aforesaid is not complied with within such time as the Registrar may specify in that behalf in a notice forwarded by registered letter through the post to the person who lodged the instrument, or to the person entitled under the instrument, the Registrar— 35

“(a) May refuse to complete or proceed with the registration of the instrument or to do any act or make any entry in relation thereto; and

“(b) May thereupon return the instrument and all other instruments lodged in connection therewith, or such of those instruments as he thinks fit, to the person 40

by whom they were lodged or, where that person is not available, to such other person as may, in the opinion of the Registrar, be entitled to receive them.

5 “(3) Where any instrument is returned as provided in paragraph (a) of subsection (1) of this section, any fees paid to the Registrar in respect thereof shall be forfeited, unless any matter required to be rectified to enable the instrument to be registered is so rectified and the instrument  
10 is again lodged with the Registrar within a period of two months from the date of its return by the Registrar under that paragraph:

“Provided that in any case where the Registrar is satisfied that it would not be reasonably practicable for the instrument  
15 to be rectified within the said period of two months, he may extend that period to suit the circumstances.

“(4) Where any instrument is returned as provided in paragraph (b) of subsection (2) of this section, any fees paid to the Registrar in respect of that instrument shall be forfeited.

20 “(5) Before returning any instrument as hereinbefore provided, the Registrar shall make a précis of its contents, containing the number and nature of the transaction, the names of the parties and a description of the land intended to be affected, and shall attach thereto a copy of the requisition  
25 specifying the matters required to be rectified as aforesaid, and, where applicable, of the notice aforesaid, and shall file the same in the manner in which the instrument would have been filed if it had been registered.

“(6) Where any instrument is returned pursuant to this  
30 section, it shall be deemed not to have been presented for registration.

“(7) The right of appeal from decisions of the Registrar provided for in this Act shall apply in respect of the exercise of the powers given to the Registrar by this section.”

35 **6. Copies of original registers where boundaries of district altered**—Section 48 of the principal Act is hereby amended by inserting in subsection (1), after the words “thereupon be bound”, the words “or otherwise included”.

40 **7. Provisional registration**—Section 50 of the principal Act is hereby amended by inserting in paragraph (c), after the word “book”, the words “or other means of filing”.

**8. Single certificates in place of several or several in place of one**—Section 86 of the principal Act is hereby amended by inserting in subsection (1) (as substituted by section 2 of the Land Transfer Amendment Act 1959), after the words “Upon the application”, the words “or with the consent”. 5

**9. Creation of easements shown on deposited plan**—(1) Section 90A of the principal Act (as substituted by section 3 of the Land Transfer Amendment Act 1961) is hereby amended by omitting from subsection (1) the words “which are shown”, and substituting the words “in relation 10 to which the servient tenements are shown”.

(2) Section 90C of the principal Act (as inserted by section 3 of the Land Transfer Amendment Act 1961) is hereby amended by omitting from subsection (3) the words “the intended easements shown on”. 15

**10. Implied covenant in transfer of equity of redemption**—Section 96 of the principal Act is hereby amended by adding, as subsection (2), the following subsection:

“(2) Nothing in this section shall render an executor or administrator or trustee personally liable in respect of the estate of a deceased person or in respect of the property subject to a trust, as the case may be, except to the extent of the property under his control as such executor or administrator or trustee: 20

“Provided that this subsection shall not apply unless, before the execution of the transfer, or, in the case of a transfer executed for the purpose of carrying into effect a contract of sale and purchase between the parties, before the execution of the contract by the transferor, the transferor receives from the transferee or some person acting in his behalf notice in writing of the capacity in which the transferee is acquiring the land.” 25 30

**11. Vesting by statute**—The principal Act is hereby further amended by inserting, after section 99, the following section: 35  
 “99A. Where by any enactment any estate or interest under this Act is vested in any person, then, subject to the provisions of that enactment, the Registrar, on application made to him by that person and on the registration or deposit of such

documents and plans as the Registrar may require, shall make such entries in the register and generally do all such things as may be necessary to give full effect to the provisions of the enactment:

- 5 “Provided that where the enactment specifies the estate or interest vested by a description sufficient to identify it in the records of the Registrar, no such application shall be necessary.”

**12. Registrar may modify requirements as to plan in certain cases**—Section 167 of the principal Act is hereby amended by adding to subsection (1) the following proviso:

- 10 “Provided that, notwithstanding anything in this subsection, where the Registrar is of the opinion that a plan complying with the regulations and verified as aforesaid is  
15 not warranted in the circumstances of any particular case, he may require the applicant to deposit as aforesaid such other plan as the Registrar, after consultation with the Chief Surveyor under the Land Act 1948 for the land district in which the land is situated, considers is sufficient to define the  
20 land in relationship to existing surveys made in accordance with the regulations aforesaid.”

**13. Right of way over roads on deposited plan**—Section 168 of the principal Act is hereby amended by adding to subsection (1) the words “and except to the extent to which  
25 the registered proprietor of any estate in fee simple in the land or any part thereof, with the consent of every person having a registered interest in the land or part, has disclaimed such a right of way by instrument in writing duly signed in the presence of a witness and lodged with the  
30 Registrar. Upon receipt of any such disclaimer, the Registrar shall record on the relevant plan and on the register copy of the relevant certificate of title that this subsection has ceased to apply to the land therein to the extent specified in the disclaimer”.

35 **14. Records becoming obliterated, etc.**—(1) The principal Act is hereby further amended by inserting, after section 215, the following section:

- 40 “215A. Where any book, plan, register copy of any certificate or instrument of title or of any other instrument of any kind whatsoever forming part of the register or his records (hereinafter in this section severally referred to as the



record) has become or is becoming obliterated or unfit for use, or where in the opinion of the Registrar it is desirable in the interests of convenience of reference or administration, the Registrar may cause the record to be copied in the same or some other convenient form, and—

“(a) That copy, if certified by the Registrar to be a true copy of the record for the purposes of this section, shall for all purposes have the same effect as and be accepted and received as the record itself and as prima facie evidence that the entries thereon at the time of certification comprise all the entries made upon the record and are true copies of those entries, and all memorials or entries entered or made on the copy so certified subsequent to the time of certification shall be deemed to be memorials or entries duly entered or made in the record: 5 10 15

“(b) Where any record is copied and certified as aforesaid, a copy of that certified copy, if certified by the Registrar to be a true copy for the purposes of this section, shall, for the purposes of sections 45, 48, 63, 75, and 241 of this Act, be deemed to be a duly certified copy of the record.” 20

(2) The provisions of section 215A of the principal Act (as inserted by subsection (1) of this section) shall apply and be deemed always to have applied with respect to every copy of a record (as defined in that section) which, before the passing of this Act, has been made by the Registrar and certified by him to be a true copy of the original record, where that copy has been made and so certified for use in place of the original record; and all memorials or entries entered or made on that copy subsequent to the time of its certification by the Registrar shall be deemed accordingly to be memorials or entries duly entered or made in the original record. 25 30 35

**15. Offences—**(1) Section 226 of the principal Act is hereby amended by inserting in paragraph (b), after the word “Registrar”, the words “or fraudulently stamps or procures to be stamped or assists in stamping any document with the seal of any Registrar”.

(2) Section 226 of the principal Act is hereby further amended by adding to paragraph (f) the word “or”, and by adding the following paragraph: 40

5 “(g) Fraudulently enters or authenticates in the register any memorial or any part of any memorial, or fraudulently does or omits to do any act for the purpose of entering or authenticating, or procuring the entry or authentication, on the register of any memorial or any part of any memorial.”

**16. Fraudulent removal, destruction, etc., of records**—The principal Act is hereby further amended by inserting, after section 228, the following section:

10 “228A. Where any person fraudulently—

15 “(a) Removes from any Land Registry Office any property of a Land Registry Office, including, but without limiting the meaning of the term ‘property’, any certificate or other instrument of title, plan, record, index to records, document, or instrument of any kind whatsoever; or

“ (b) Destroys, conceals, cancels, obliterates, or damages any such property,—

20 he shall be deemed for the purposes of the Crimes Act 1961 to have stolen that property, and shall be liable to the penalty prescribed by paragraph (b) of section 227 of that Act as if the property were an object to which that paragraph applies.”

**17. Fees**—The principal Act is hereby further amended by repealing section 235, and substituting the following section:

25 “235. (1) Except as otherwise provided in this section, the fee payable in respect of any application to bring land under this Act shall be such fee as may be prescribed by regulations under this Act.

30 “(2) Any fee which became payable before the commencement of this section for the first certificate of title to land brought under this Act but which has not been paid before the commencement of this section shall continue to be payable, but need not be paid until the certificate of title is required to be delivered by the Registrar to the person  
35 entitled thereto, or to be cancelled, or until a dealing with the land or with any estate or interest in the land comprised in that certificate of title is presented for registration. The provisions of section 55 of this Act, except the proviso thereto, shall apply in respect of every such fee.

“(3) Where at the commencement of this section any other Act or regulations under any other Act prescribe a fee for the registration or deposit under this Act of any instrument, then, notwithstanding anything in that Act or those regulations,— 5

“(a) Where the fee so prescribed is ten shillings or less such an instrument may be registered or deposited under this Act without payment of any fee:

“(b) Where the fee so prescribed exceeds ten shillings but is less than one pound, such an instrument may be registered or deposited under this Act on payment of a fee of one pound.” 10