

South Australia

## Registration of Deeds Act 1935

An Act to consolidate certain Acts providing for the registration, deposit, and enrolment of deeds, wills, judgments, conveyances, and other instruments and documents.

---

### Contents

#### Part 1—Preliminary and administrative provisions

- 1 Short title
- 3 Repeal
- 4 Savings
- 5 Interpretation
- 6 Registrar-General and Deputy Registrars-General
- 7 Validation of certain acts etc
- 8 Neglect of duty by registrar

#### Part 2—Registration

- 9 Application of this Part
- 10 Instruments to be registered and the effect of registration
- 10A Registration of memorandum of appointment of new trustees
- 11 Mode of registration
- 12 Proof or acknowledgment of execution
- 13 Persons entitled to attest and take acknowledgments
- 14 Contents of memorials
- 15 Inaccurate memorials
- 16 Registration of two or more writings affecting same land
- 17 Time for registering instruments executed outside the State
- 18 Time for registering wills
- 19 Time for registering wills where party disabled
- 20 Time for registering wills in case of concealment or suppression
- 21 Registration of judgments
- 22 Certificate of judgment
- 23 Discharge of mortgages and judgments
- 24 Particulars of certificates
- 25 Effect of certificate of discharge
- 26 Provisions as to keeping memorials
- 27 Index of memorials
- 28 Proof of lost instrument by memorial
- 29 Registration of warrants of attorney
- 30 Registration not to affect construction of instrument

#### Part 3—Deposit

- 31 Deposit of documents affecting land

- 32 Production of deposited documents
- 33 Inspection of deposited documents
- 34 Certified copies and duplicates of deposited deeds
- 35 Protection to persons acting under registered and deposited power of attorney

#### Part 4—Enrolment

- 36 Enrolment of instruments for proof
- 37 Production of enrolled instruments
- 38 Enrolment of wills

#### Part 5—General provisions

- 39 Effect of enrolment and deposit
- 40 Amendment of errors
- 41 Searches
- 43 Forgery etc
- 44 Evidentiary effect of registrar's certificate
- 45 Regulations

#### Schedule 1—Acts repealed

Schedule 2—Form of certificate to be endorsed on the instrument registered

Schedule 3

Schedule 4—Certificate of acknowledgment by conveying parties

Schedule 5—Memorial of instrument not being judgment

Schedule 6—Memorial of warrant of attorney, *cognovit actionem* or judgment

Schedule 7—Memorandum of deposit

Legislative history

---

**The Parliament of South Australia enacts as follows:**

### **Part 1—Preliminary and administrative provisions**

#### **1—Short title**

This Act may be cited as the *Registration of Deeds Act 1935*.

#### **3—Repeal**

This Act is a consolidation of the Acts mentioned in Schedule 1 to this Act and the said Acts are hereby repealed.

#### 4—Savings

Notwithstanding such repeal the following provisions shall have effect:

- (a) Every instrument of any kind registered, deposited, or enrolled under any of the repealed Acts shall be deemed to have been registered, deposited, or enrolled under this Act, and this Act shall be deemed to have been in force when it was so registered, deposited, or enrolled:
- (b) Every person holding office as Registrar-General or a Deputy Registrar under the repealed Acts shall continue in office as such under this Act under the title of Registrar-General of Deeds or Deputy Registrar-General of Deeds respectively. Every reference in any Act to the Registrar-General or a Deputy Registrar holding office under any of the repealed Acts shall be deemed to be a reference to the Registrar-General of Deeds or a Deputy Registrar-General of Deeds, as the case may be:
- (c) All rules and regulations made under the repealed Acts and in force at the commencement of this Act shall remain in force as if they were regulations made under this Act, and as if this Act had been in force when they were made:
- (d) The public office at Adelaide established under the Acts repealed by this Act for the purpose of the registration, deposit, and enrolment of instruments shall continue to exist under the name of the General Registry Office:
- (e) All other acts, matters, and things commenced, done, made, or executed under the repealed Acts and pending or in force at the commencement of this Act shall continue and be completed or remain in force under this Act as if they had been commenced, done, made, or executed under this Act and this Act had been in force when they were so commenced, done, made, or executed.

#### 5—Interpretation

- (1) In this Act, unless the context otherwise requires—

*duplicate original*, in relation to an instrument, means a copy of the instrument signed by the parties to the instrument;

*instrument* includes any deed, conveyance, contract in writing, will, probate, letters of administration with the will annexed, judgment, map, plan, or other document affecting, or which may affect, land in the State;

*registrar* means the Registrar-General of Deeds holding office under this Act and any Deputy Registrar-General of Deeds;

*registry office* means the public office for the registration of instruments, continued in existence by this Act under the name of the *General Registry Office*.

- (2) This Act shall be construed subject to the provisions of the *Real Property Act 1886*.

#### 6—Registrar-General and Deputy Registrars-General

- (1) The Governor may for the purposes of this Act appoint a Registrar-General of Deeds and such Deputy Registrars-General of Deeds as he deems necessary.

- (2) The registrar shall have power to administer oaths and all other powers specified in this Act.
- (3) A deputy registrar may exercise any power conferred by this Act on the registrar.
- (4) Every reference in the other sections to this Act to the registrar shall be deemed to include a reference to every deputy registrar.

### **7—Validation of certain acts etc**

Any act, matter or thing, commenced, done, made or executed by any registrar or deputy registrar in the execution or purported execution of his powers or functions under this Act, shall for all purposes be deemed to be and always to have been as validly, effectually and lawfully commenced, done, made or executed as it would have been had that registrar or deputy registrar, before he entered upon the execution of his office, been sworn before a Judge of the Supreme Court under and in accordance with section 7 of this Act as in force before the commencement of the *Registration of Deeds Act Amendment Act 1973*.

### **8—Neglect of duty by registrar**

If the registrar wilfully neglects his duty in the execution of his office according to the provisions of this Act or wilfully commits or suffers to be committed any undue or fraudulent practice in the execution of his office, he shall pay treble damages with full costs of suit to every person injured thereby, to be recovered by action of debt in the Supreme Court.

## **Part 2—Registration**

### **9—Application of this Part**

This Part does not apply to any instrument so far as that instrument relates to land which is subject to the *Real Property Act 1886*.

### **10—Instruments to be registered and the effect of registration**

- (1) Every deed, conveyance, or contract in writing, other than a lease for a term not exceeding three years, and every will and every judgment (other than a judgment or recognizance entered into in the name and on account of His Majesty) whereby land may be in any way affected in law or equity may be registered under this Act.
- (2) Every such deed, conveyance, contract, or judgment shall, if executed, made, or obtained after the first of March, 1842, be fraudulent and void at law and in equity against any subsequent registered purchaser, mortgagee, or party for or upon valuable consideration unless a memorial thereof is registered under this Act before the registration of the memorial of the deed or conveyance, contract, or judgment under which the subsequent purchaser, mortgagee, or party claims.
- (3) Every devise by will shall, if the testator died or dies after the first of March, 1842, be fraudulent and void against any subsequent registered purchaser or mortgagee for or upon valuable consideration and against any *bona fide* registered party having subsequent judgment unless a memorial of the will is registered in accordance with this Part.

- (4) This section applies notwithstanding that before or at the time of the making of the subsequent deed, conveyance, or contract or of the entering or acknowledging of the subsequent judgment, the subsequent purchaser or mortgagee had notice of the prior deed, conveyance, contract, judgment, or devise.

### **10A—Registration of memorandum of appointment of new trustees**

Any memorandum of appointment of new trustees under Part 5 of the *Trustee Act 1936* may be registered under this Act notwithstanding that the same relates to or affects only personal property and the provisions of sections 11, 12, 13, 14, 15 and 28 of this Act so far as the same are applicable shall apply with respect to any such registration.

### **11—Mode of registration**

- (1) Registration of an instrument under this Part shall be effected by a memorial brought to the registry office, together with the instrument.
- (2) The registrar shall examine and compare the memorial with the instrument and if he finds the memorial correct shall endorse a certificate on the instrument that he has examined the memorial thereof and finds it correct.
- (3) The certificate may be in the form or to the effect of Schedule 2 to this Act, and shall mention the day and hour when the memorial was received by the registrar which shall be deemed to be the time of registration.
- (4) When registering a will it shall be sufficient to produce in lieu of the will the probate of the will or letters of administration with the will annexed or any exemplification of the probate or letters of administration.
- (5) A land grant shall be deemed to be duly registered under this Part if a duplicate thereof is deposited under Part 3 of this Act.

### **12—Proof or acknowledgment of execution**

- (1) If an attesting witness to the execution of any instrument permitted or required by this Act to be registered attends before the registrar or any other person authorised under this Act for the purpose, and by his oath or solemn affirmation proves the due execution of the instrument, or if the granting, conveying, or contracting party to any such instrument attends before the registrar or other authorised person and acknowledges his execution thereof, the registrar or the authorised person shall endorse on the instrument a certificate of such proof being given or acknowledgment being made.
- (2) The certificate may be in such of the forms in Schedules 3 and 4 as is applicable.

### **13—Persons entitled to attest and take acknowledgments**

- (1) The execution of any instrument executed within the United Kingdom may be proved or acknowledged before the mayor or chief officer of any corporate town or before a judge of any of the superior courts of record thereof.
- (2) The execution of any instrument executed in any other part of the British Empire out of the State may be proved or acknowledged before a judge of any superior court of record within that part.

- (3) The execution of any instrument executed within the State, either at a greater distance than 30 kilometres from the registry office or by persons or in the presence of witnesses who are unable from sickness or any other infirmity to attend at the registry office, may be proved or acknowledged before any commissioner appointed under this section.
- (4) A certificate on an instrument of the proof or acknowledgment or the due execution thereof signed by such mayor, chief officer, judge, or commissioner, shall have the same effect to all intents and purposes as the certificate of the registrar.
- (5) For the purpose aforesaid the Governor may appoint by instrument under his hand and seal as many commissioners as he thinks necessary to administer oaths to witnesses and take acknowledgments of parties under this Act.
- (6) The execution of instruments to be registered under this Act may also be proved or acknowledged in accordance with the *Evidence Act 1929*.

#### **14—Contents of memorials**

- (1) The memorial of every instrument not being a judgment shall—
  - (a) be as nearly as may be in the form of Schedule 5 to this Act; and
  - (b) contain the date of the instrument and the names, addresses, and occupations of all the parties thereto, or if the instrument be a will, the name of the devisor and devisees, and the names of all the witnesses to such instrument; and
  - (c) mention the nature of the instrument, and the lands (if any) contained in the instrument and the names of all the districts or places within the State where any of such lands are situated, in such manner as they are mentioned in the instrument, or to the same effect.
- (2) The registrar shall duly file all memorials in order of time in which they are brought to him; and every memorial shall be numbered, and the day of the month and year, and the hour or time of the day when it is registered shall be entered in the margin of the memorial.

#### **15—Inaccurate memorials**

If the registrar finds any inaccuracy in a memorial brought to him to be registered which he deems to be material, he may refuse to certify the memorial as correct; but he shall notwithstanding, if the party requiring the memorial to be registered so requests, file the memorial and do all matters required to be done by him relating thereto in the same manner as with respect to other memorials except certifying that it is correct; and the registration of the memorial shall have such effect only as the Supreme Court determines in any proceedings relevant thereto.

#### **16—Registration of two or more writings affecting same land**

If there are more instruments than one for making and perfecting any conveyance or security affecting the same land, it shall be a sufficient memorial and registration thereof if all the land and the districts or places wherein it lies are named or mentioned once only in the memorial of any one of those instruments, and a reference is made in the other memorials to the registered memorial that contains or expresses the parcels with directions how to find the registration of the same.

### **17—Time for registering instruments executed outside the State**

Any deed, conveyance, or contract affecting land in South Australia but executed outside South Australia shall be deemed to have been registered on the day of the date thereof and shall have effect under this Part accordingly, if it is registered within the following period:

- (a) in the case of an instrument executed in a State of the Commonwealth outside South Australia—three months from the date of the instrument;
- (b) in the case of an instrument executed outside any State of the Commonwealth—twelve months from the date of the instrument:

Provided that this section shall not alter the effect of the registration of any such instrument after the said period.

### **18—Time for registering wills**

A will registered within six months after the death of a deviser dying within the State or within two years after the death of a deviser dying outside the State shall be as valid and effectual against subsequent purchasers, assurances, or judgments as if it had been registered immediately after the death of the deviser.

### **19—Time for registering wills where party disabled**

If the devisee or person interested in the land devised by a will, is by reason of the contesting of the will or other inevitable difficulty without his wilful neglect or default disabled from registering it within the time prescribed by this Act, and a memorial is entered in the registry office stating such contest or impediment, within six months after the death of the deviser, if he died within the State, or within two years after the death of the deviser if he died outside the State, the registration of the will within six months next after his attainment of such will or probate thereof or removal of the impediment whereby he is disabled from registering it shall be a sufficient registration within the meaning of this Act.

### **20—Time for registering wills in case of concealment or suppression**

Where any will or devise is concealed or suppressed no purchaser for valuable consideration shall be defeated or disturbed in his or their purchase or of his or their debts by any title made or devised by such will unless the will is actually registered within three years after the death of the deviser.

### **21—Registration of judgments**

- (1) Every memorial of a judgment to be registered shall be in writing and shall contain the name of the plaintiff and the name, address, and occupation of the defendant, the sum thereby recovered, and time of the signing thereof, and shall be signed by the proper officer of the court where the judgment was entered or his deputy.
- (2) Such signature shall be a sufficient warrant to the registrar to register the memorial and give the certificate mentioned in the next section.

## 22—Certificate of judgment

The registrar shall (if required) give a certificate in writing under his hand of the memorial of any judgment brought to him to be registered; and in such memorial and also in such certificate shall mention the day and hour when the memorial was registered; and such certificate shall mention the number and reference of the memorial.

## 23—Discharge of mortgages and judgments

If—

- (a) a certificate is brought to the registrar signed by the mortgagee under any registered mortgage or by his executors, administrators, or assigns or by the plaintiff named in any registered judgment, his executors, administrators, or assigns or by his attorney, or by the creditor mentioned in any registered warrant of attorney, or *cognovit actionem*, or his executors, administrators, or assigns or his attorney, and in every case attested by two witnesses, whereby it appears that all moneys due upon the mortgage, judgment, warrant of attorney, or *cognovit actionem* have been paid or satisfied; and
- (b) one of the witnesses upon his oath or solemn affirmation before the registrar (who is hereby empowered to administer such oath or affirmation) proves such moneys to be satisfied or paid accordingly, and the signature of the certificate in the presence of both of the witnesses, or the mortgagee, plaintiff, or creditor, or his executors, administrators, or assigns attends before the registrar and (his identity being known to or proved upon oath or affirmation to the satisfaction of the registrar) acknowledges such moneys to be satisfied or paid and such certificate to be signed by him,

the registrar shall make an entry in the margin of the memorial of such mortgage, judgments, warrant of attorney, or *cognovit actionem* that it is satisfied according to such certificate, and in the entry shall refer to the certificate and shall afterwards number and file the certificate as a memorial in due order of time to remain upon record in the registry office.

## 24—Particulars of certificates

- (1) Every such certificate shall contain the following particulars:
  - (a) In case of a judgment the names, addresses, and occupations of the plaintiff and defendant, the time of the entering up or signing thereof, the sum thereby recovered and the date or dates of payment or other satisfaction of the amount *bona fide* due thereon; and
  - (b) In case of a mortgage the names, addresses, and occupations of the original parties, the date of the instrument, the sum thereby secured, and the time or times of payment or other satisfaction thereof.
- (2) On the back of the verified certificate the registrar shall immediately endorse the date when it was received by him and the name and place of abode of the person proving it.

**25—Effect of certificate of discharge**

- (1) The entry, on the memorial of a mortgage, that that mortgage is satisfied, shall be sufficient evidence that the estate of the mortgagee in the land comprised in the mortgage is vested in the person entitled to the equity of redemption thereof, as from the day of the date of such entry, freed and discharged from the mortgage, and from the sum of money thereby secured: Provided that it shall nevertheless be lawful to impeach such entry by showing that the certificate to which the same refers has been obtained by fraud.
- (2) The entry on the memorial of a warrant of attorney or *cognovit actionem* of the satisfaction of the amount due thereunder shall be accepted in all courts as sufficient evidence of the payment of the sum mentioned in the entry.

**26—Provisions as to keeping memorials**

- (1) All memorials shall be bound up in the form of a book or books, or otherwise sufficiently secured in such manner and in such numbers as the registrar thinks fit, but in all cases according to the order of the numbers marked on the memorials.
- (2) Every memorial shall be written on heavy quality hand made paper, as directed by regulations made under this Act, which paper shall be 540 millimetres long and 420 millimetres wide and shall have a margin of not less than 100 millimetres.
- (3) No memorial shall be written upon (except as to any oath, certificate, or endorsement appointed by this Act) on more than one side thereof or nearer to the edge than 20 millimetres in any part, and no memorial written otherwise than in accordance with the preceding directions or having thereon any erasure or interlineation shall be received by the registrar into his office.
- (4) Nothing in this section shall prevent a memorial from extending over more than one piece of parchment, vellum, or paper.
- (5) The directions in this section with respect to the dimensions of memorials may be altered by any regulation made under this Act.

**27—Index of memorials**

- (1) The registrar shall keep an index of all memorials, in which there shall be inserted, as regards wills the names of the devisors and devisees, and as regards other instruments the names of the parties thereto and an accurate reference to the appropriate number of the memorial to which each entry relates.
- (2) Where the name of any party to an instrument is distinguished in the memorial thereof as a bare trustee only and not otherwise interested the words "trustee only" shall in the index relating to that memorial be written opposite to that party's name.
- (3) In the index there shall be inserted the number and description of the section of land or town acre affected in part or whole by the instrument to which each memorial relates.

**28—Proof of lost instrument by memorial**

If any instrument is lost or destroyed by fire or accident the production of an office copy of the memorial thereof under the hand of the registrar shall on proof of the loss or destruction be accepted by the court wherein the copy is produced as evidence that such instrument contained the matters mentioned in the memorial and all covenants and provisos necessarily implied in an instrument of the like description.

## 29—Registration of warrants of attorney

- (1) No judgment entered on a warrant of attorney or *cognovit actionem* shall be available against any assignee or creditor having a subsequent judgment against the party giving such warrant of attorney or *cognovit actionem* unless the warrant of attorney or *cognovit actionem* or the judgment thereon is registered or execution thereof is actually executed within fourteen days after it was given.
- (2) For the purposes of such registration a memorial shall be brought to the registry office containing the particulars indicated in Schedule 6 and signed by one of the parties to such security.

## 30—Registration not to affect construction of instrument

Except as provided in this Act nothing in this Act shall give any greater effect or other construction to any instrument registered in pursuance of this Act than would have been given to it if this Act had not been passed.

## Part 3—Deposit

### 31—Deposit of documents affecting land

- (1) Any person may deposit in the registry office and the registrar shall receive, for safe and perpetual custody and reference, any original or duplicate original deed, agreement, writing, assurance, map, or plan which relates to or affects or may affect land within the State or by which any legal or equitable title to such land may be manifested.
- (2) The registrar shall immediately after the receipt of any such instrument number it with a distinguishing number and the year in which it is deposited, as, for example, "No. 1 of 1935", and shall give to the person depositing the instrument a memorandum of deposit in writing signed by the registrar, and in the form in Schedule 7.
- (3) The registrar shall carefully and securely keep every instrument deposited under this section in the registry office placed in numerical progressive order according to the year in which it was received.
- (4) The registrar shall produce, at the registry office, any instrument deposited under this section to any person requiring such production, and allow him to inspect such instrument.
- (5) The registrar shall, when required, give to any person an attested or unattested copy of or extract from any instrument deposited under this section.
- (6) Nothing in this Act shall interfere with or prevent the registrar or any special agent of the registrar from producing in any court any instrument deposited under this section, when required by law to do so.

### 32—Production of deposited documents

It shall not be necessary for any person deriving or manifesting title under or by virtue of any instrument deposited under this Part, to furnish any attested or other copy thereof to any purchaser, mortgagee, or other person whomsoever, nor to enter into any covenant to produce such instrument for any purpose whatsoever.

### **33—Inspection of deposited documents**

Any person desirous of manifesting his title to any land in relation to which any instrument has been deposited, may, but at his expense, require the person to whom or for whose satisfaction the title is to be manifested, or the solicitor or counsel of that person, to attend at the registry office, and there inspect any such instrument in verification of such title, or the abstract thereof.

### **34—Certified copies and duplicates of deposited deeds**

- (1) Any person may bring or send to the registry office any duplicate original instrument or any copy or copies of any instrument which has been deposited in the registry office, in order that it may be compared with the deposited originals.
- (2) Thereupon the registrar shall compare the instrument so brought or sent; and in case of variance, the instrument shall be corrected, so that it may be a true copy of the deposited original thereof in all respects, and the registrar shall, in every such case, write on the instrument and sign a certificate stating that such instrument is a true and correct copy of the original thereof deposited, and if the duplicate original or copy is written on more than one sheet of parchment or of paper, the registrar shall sign each sheet with his name prescribing the word "correct".
- (3) Every instrument so certified shall, in all cases, be evidence that another part or the original instrument has been deposited in the registry office, and contains the number and year of deposit specified in the instrument certified.

### **35—Protection to persons acting under registered and deposited power of attorney**

- (1) Where any power of attorney has been registered under Part 2 of this Act, and also deposited under this Part, no act done in the execution of the power thereby given shall be invalid by reason only of the revocation of that power by the death of the donor thereof or otherwise, unless notice of such revocation has been given to the satisfaction of the registrar, and a memorandum of the notice has been entered by him in the memorial of such power of attorney.
- (2) The registrar is hereby required to receive such notice and to enter a memorandum of it in the margin of the index of the registration of the power of attorney to which the same refers.

## **Part 4—Enrolment**

### **36—Enrolment of instruments for proof**

- (1) Any instrument registered under this Act may be enrolled in the manner prescribed by this section.
- (2) The party desiring to enrol any instrument shall produce at the registry office the original instrument with a full and correct copy thereof.

- (3) If the due execution of the instrument is proved to the satisfaction of the registrar by an attesting witness, or is acknowledged before the registrar by the granting, conveying, or contracting parties, the registrar shall examine and compare the copy with the original instrument; and if he finds the copy correct shall endorse on the instrument and the copy a certificate of enrolment specifying—
  - (a) the time when the copy was delivered to be enrolled;
  - (b) the name and place of abode of the person proving or acknowledging the execution of the instrument,and shall sign those certificates.
- (4) The registrar shall thereupon cause the copy to be enrolled in his office and bound up in the form of a book or otherwise filed and sufficiently secured in such manner and in such numbers as is directed by regulations made under this Act.
- (5) The registrar shall mark the reference number and the time of enrolment on the margin of the memorial of the instrument enrolled.
- (6) Every copy enrolled under this section shall be on parchment or paper of such quality and such dimensions as is directed by regulations made under this Act.
- (7) The enrolment of a land grant executed on behalf of the Crown shall be valid although there is no proof by an attesting witness, or acknowledgment by the granting party, of the execution of that land grant.

### **37—Production of enrolled instruments**

When any copy of any original instrument is enrolled under this Act it shall not be necessary upon the sale or other disposition of any part of the property therein named for any party to enter into any covenant for the production of the original instrument or to furnish any attested or other copy thereof.

### **38—Enrolment of wills**

A will shall be deemed to be duly enrolled if the probate of the will or letters of administration with the will annexed or any exemplification of such probate or letters is produced for enrolment and a copy thereof is duly enrolled under this Part.

## **Part 5—General provisions**

### **39—Effect of enrolment and deposit**

Whenever any person has entered into a covenant for the production of any instrument, and such instrument has been enrolled or deposited, such subsequent enrolment or deposit shall release the person so having covenanted as aforesaid from all liability to produce the instrument so enrolled or deposited.

### **40—Amendment of errors**

- (1) If the registrar is satisfied that a description of land contained in an instrument deposited or enrolled under this Act is erroneous or inadequate, the registrar may amend the instrument to correct the error or inadequacy.
- (2) If the registrar amends an instrument under this section, a note of the amendment, and of the date on which it was made, will be made on the instrument.

- (3) A reference in this section to a description of land extends to a delineation of land by map or plan.

#### **41—Searches**

The registrar shall, at such hours as may by regulations in that behalf be prescribed, make and permit to be made searches in the registry office and give such office copies and certificates as may be necessary.

#### **43—Forgery etc**

- (1) If any person forges, counterfeits, erases, alters, or defaces any memorial, certificate, or instrument deposited or enrolled under this Act with intent to injure or defraud any other person, he shall be guilty of an offence, and be sentenced to be imprisoned for any period not exceeding four years.
- (2) If any person at any time wilfully makes a false oath or affirmation before the registrar or before any commissioner or other person appointed under this Act in any of the cases herein mentioned he shall be guilty of perjury, and be liable to be imprisoned for any term not exceeding three years.

#### **44—Evidentiary effect of registrar's certificate**

- (1) Subject to subsection (2)—
  - (a) the mere production of a certificate on any instrument required to be registered under this Act shall, if the certificate appears to be signed by the registrar and certifies the proof of the due execution of the instrument, be conclusive evidence in every court of the due execution of the instrument;
  - (b) the mere production of a certificate on any memorial of any such instrument shall, if the certificate appears to be signed by the registrar and certifies the correctness of any matters which are specified in such memorial and are required by this Act to be so specified, be conclusive evidence of the correctness of the memorial of that instrument;
  - (c) when an instrument has been enrolled under this Act an office copy certified by the registrar to be a true copy examined with the enrolled copy shall be in all courts sufficient evidence of that instrument and of matters endorsed thereon.
- (2) When any instrument, memorial, or office copy is produced under subsection (1) of this section the party against whom it is produced may give notice by his pleading or otherwise to the satisfaction of the court that he intends to dispute the execution of the instrument or the truth of the memorial, copy, or certificate on the ground of fraud, forgery, or other cause of a like nature, for example, insanity, imbecility, or duress of the person whose execution of or signature to a document is disputed; and the onus of proving such fraud, forgery, or other cause shall in the first instance lie on the party giving the notice.

#### **45—Regulations**

- (1) The Governor may make such regulations as are contemplated by this Act, or as are necessary or expedient for the purposes of this Act.
- (2) Without limiting the generality of subsection (1), fees (including differential fees varying according to factors stated in the regulation) may be prescribed by regulation.

## Schedule 1—Acts repealed

No and year of Act	Title of Act
No. 8 of 1841-2	An Act to provide for the Registration of Deeds, Wills, Judgments, Conveyances, and other Instruments.
No. 12 of 1842-3	An Act to amend an Act for the Registration of Deeds, Wills, Judgments, Conveyances and other instruments.
No. 19 of 1852	An Act to amend an Act to provide for the Registration of Deeds, Wills, Conveyances, and other Instruments.
No. 22 of 1853	An Act to provide for the deposit of Deeds, Agreements, Writings, and Assurances, Maps, and Plans, relating to Hereditaments in the Province of South Australia, and for other purposes therein mentioned.
No. 19 of 1854	An Act to amend the Law relating to Registration, Enrolment, and Deposit of Wills, and other Deeds and Instruments.
No. 23 of 1855-6	An Act to amend the Law relating to the Registration of Land Grants, and to provide for the prepayment of Registration Fees chargeable thereon.
No. 15 of 1858	An Act to establish the validity of certain Registrations under the Act No. 23 of 1855-6.
No. 2 of 1865	An Act to repeal "The Registration and Deposit of Assurances Acts", and for other purposes.
No. 1336 of 1918	<i>Registration of Deeds Act Amendment Act 1918.</i>

## Schedule 2—Form of certificate to be endorsed on the instrument registered

Received into the General Registry Office for the State of South Australia  
this                      day of                      at                      o'clock in the                      a  
memorial of the within instrument which memorial has been examined by me and found to be  
correct and is registered [*here state the reference*].

AB Registrar-General of Deeds

### Note—

If the registrar thinks the memorial incorrect the part that states it to be correct must be omitted.

## Schedule 3

I certify that                      of                      did this                      day  
of                      make oath before me that he was present with                      whose name  
appears on this deed as an attesting witness thereof and did see                      within  
mentioned sign seal and deliver the same in the presence of the said                      and of  
him the said                      .

Signed

AB Registrar-General of Deeds or CD Commissioner

## **Schedule 4—Certificate of acknowledgment by conveying parties**

I certify that the above-named \_\_\_\_\_ came before me this \_\_\_\_\_ day of \_\_\_\_\_ and acknowledged that the within deed of bargain and sale and release (as the case may be) was duly executed by him.

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_ .

AB Registrar-General of Deeds or CD Commissioner

## **Schedule 5—Memorial of instrument not being judgment**

**Registration of Deeds Act 1935—24.11.2003 to 3.7.2016**  
 Schedule 5—Memorial of instrument not being judgment

	Date of instrument	Names of parties	Names of witnesses	Nature of instrument	Description of the property conveyed	(If a conveyance or mortgage) consideration and how paid Or if a lease the amount of rent	Any other particulars the case may require
<p>This memorial was received into the General Registry Office this sixth day of Dec., 1972, at eleven o'clock in the forenoon and is entered</p> <p>No. ....</p> <p>Book .....</p>	<p>First day of Dec. in the year of our Lord one thousand nine hundred and seventy-two</p>	<p>Henry George Jones of Currie Street, in city of Adelaide, baker of the first part, Thomas Smith, of Grenfell Street, in Adelaide, aforesaid grocer of the second part and James May, of Sturt Street, in Adelaide aforesaid, gentleman of the third part</p>	<p>William Tripp and James Wise, clerks to Messrs. Smart &amp; Wilson</p>	<p>Mortgage in fee to the said Thomas Smith with power of sale or conveyance in fee or lease for 21 years commencing on the first day of Dec., 1972</p>	<p>All that piece of land containing 10 hectares (be the same more or less) being parcel of section 80, district C in the Provincial Survey bounded</p> <p>on the north by</p> <p>on the south by</p> <p>on the east by</p> <p>on the west by</p>	<p>Ten thousand dollars whereof five thousand due from George Jones to Thomas Smith for money lent (or goods sold before the date of the deed) and five thousand dollars were paid in cash (or if a lease) five hundred dollars</p>	<p>The parcels mentioned in this memorial are the same as are mentioned in a deed purporting to be made between George Jones of the first part, Thos. Smith of the second and the said James May of the third part a memorial whereof is registered No. (refer to the register) which deed has been cancelled because the said Henry George Jones is therein called Geo. Jones by mistake</p>

## Schedule 6—Memorial of warrant of attorney, *cognovit actionem* or judgment

<b>Nature of instrument</b>	<b>By whom given</b>	<b>To whom given</b>	<b>Amount for which the security is given and the consideration thereof</b>
Warrant of Attorney	James Williamson of Sturt Street Adelaide optician	William Wise of Islington Village plasterer	\$400 for principal and interest due on a bill of exchange drawn by the said William Wise upon and accepted by the said James Williamson and now overdue

## Schedule 7—Memorandum of deposit

Memorandum—A deed (or an agreement, or writing, as the case may be), dated [*here insert date*], between or under the hand and seal of, or purporting to be \_\_\_\_\_ (as the nature of the case may require), or a map or plan of [*here shortly specify the subject represented*], is this \_\_\_\_\_ day of \_\_\_\_\_ [*here insert date of deposit*], received into the General Registry Office for the State of South Australia for deposit, and the same is deposited accordingly, and marked "No. \_\_\_\_\_ of \_\_\_\_\_, " [*here insert number and year*].

Signed

Registrar-General or Deputy-Registrar General of Deeds

## Legislative history

### Notes

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of this Act (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

### Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
1935	2221	<i>Registration of Deeds Act 1935</i>	21.11.1935	21.11.1935
1962	18	<i>Registration of Deeds Act Amendment Act 1962</i>	25.10.1962	25.10.1962
1973	47	<i>Registration of Deeds Act Amendment Act 1973</i>	8.11.1973	8.11.1973
1973	77	<i>Statute Law Revision Act 1973</i>	6.12.1973	6.12.1973
1980	69	<i>Statutes Amendment (Change of Name) Act 1980</i>	13.11.1980	1.7.1981 ( <i>Gazette 25.6.1981 p1896</i> )
1982	61	<i>Registration of Deeds Act Amendment Act 1982</i>	1.7.1982	18.10.1982 ( <i>Gazette 16.9.1982 p800</i> )
1987	24	<i>Registration of Deeds Act Amendment Act 1987</i>	16.4.1987	16.4.1987
1994	59	<i>Criminal Law Consolidation (Felonies and Misdemeanours) Amendment Act 1994</i>	27.10.1994	1.1.1995 ( <i>Gazette 8.12.1994 p1942</i> )
2003	44	<i>Statute Law Revision Act 2003</i>	23.10.2003	Sch 1—24.11.2003 ( <i>Gazette 13.11.2003 p4048</i> )
2016	29	<i>Real Property (Electronic Conveyancing) Amendment Act 2016</i>	16.6.2016	Sch 1 (cl 2)—4.7.2016 ( <i>Gazette 30.6.2016 p2761</i> )

### Provisions amended since 3 February 1976

- Legislative history prior to 3 February 1976 appears in marginal notes and footnotes included in the consolidation of this Act contained in Volume 9 of The Public General Acts of South Australia 1837-1975 at page 347.

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
Pt 1		

s 2	<i>omitted under Legislation Revision and Publication 2002</i>	24.11.2003
Pt 2		
s 5		
s 5(1)		
duplicate original	inserted by 24/1987 s 2	16.4.1987
s 21		
s 21(1)	amended by 61/1982 s 3	18.10.1982
Pt 3		
<i>heading preceding s 31</i>	<i>deleted by 44/2003 s 3(1) (Sch 1)</i>	24.11.2003
s 31		
s 31(4)	amended by 61/1982 s 4(a)	18.10.1982
s 31(5)	amended by 61/1982 s 4(b)	18.10.1982
s 35A	<i>deleted by 69/1980 s 38</i>	1.7.1981
Pt 5		
s 40	amended by 61/1982 s 5 substituted by 24/1987 s 3	18.10.1982 16.4.1987
s 42	<i>deleted by 61/1982 s 6</i>	18.10.1982
s 43		
s 43(1)	amended by 59/1994 Sch 2	1.1.1995
s 45	inserted by 24/1987 s 4	16.4.1987
Sch 3	heading substituted by 44/2003 s 3(1) (Sch 1)	24.11.2003
Sch 5	heading substituted by 44/2003 s 3(1) (Sch 1)	24.11.2003
Sch 6	heading substituted by 44/2003 s 3(1) (Sch 1)	24.11.2003
Sch 7	heading substituted by 44/2003 s 3(1) (Sch 1)	24.11.2003
Sch 8	<i>deleted by 61/1982 s 7</i>	18.10.1982

## Historical versions

Reprint No 1—15.11.1991

Reprint No 2—1.1.1995