



Queensland

Land and Other Legislation Amendment Bill 2016



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2016

A Bill

for

An Act to amend the *Land Act 1994*, the *Land Title Act 1994* and the *Planning (Consequential) and Other Legislation Amendment Act 2016* for particular purposes

[s 1]

The Parliament of Queensland enacts— 1

Part 1 Preliminary 2

Clause 1 Short title 3

This Act may be cited as the *Land and Other Legislation
Amendment Act 2016*. 4
5

Clause 2 Commencement 6

The following provisions of this Act commence on a day to be
fixed by proclamation— 7
8

(a) part 2, division 3; 9

(b) part 3, division 3; 10

(c) schedule 1, part 2. 11

Part 2 Amendment of Land Act 1994 12

Division 1 Preliminary 13

Clause 3 Act amended 14

This part amends the *Land Act 1994*. 15

Note— 16

See also the amendments in schedule 1. 17

Division 2	Amendments commencing on assent	1 2
Clause 4	Amendment of s 13A (Land adjacent to non-tidal boundary (watercourse) or non-tidal boundary (lake) owned by State)	3 4 5
	(1) Section 13A(4), ‘section 20(3)’—	6
	<i>omit, insert—</i>	7
	section 96	8
	(2) Section 13A(6)—	9
	<i>omit, insert—</i>	10
	(6) If the adjacent area is part of a reserve or the subject of a lease—	11 12
	(a) subsection (4)(a) and (b) applies only to the extent exercising the right does not interfere with—	13 14 15
	(i) a trustee of the reserve performing the trustee’s functions, and fulfilling the trustee’s duty of care for the land in the reserve; or	16 17 18 19
	(ii) the lessee’s rights and interests under the lease; and	20 21
	(b) subsection (4)(c) does not allow the owner to bring an action against—	22 23
	(i) a trustee of the reserve, a person acting for a trustee, or a person with a registered interest in the land in the reserve; or	24 25 26 27
	(ii) the lessee, a person acting for the lessee, or a person with a registered interest in the lease.	28 29 30

[s 5]

Clause 5	Amendment of s 13AA (Power to deal with non-tidal watercourse land and non-tidal lake land)	1 2
	(1) Section 13AA(2), after ‘leased’—	3
	<i>insert</i> —	4
	, or dedicated as a reserve,	5
	(2) Section 13AA(3), ‘section 13AB’—	6
	<i>omit, insert</i> —	7
	sections 13AB and 13AC	8
Clause 6	Insertion of new s 13AC	9
	After section 13AB—	10
	<i>insert</i> —	11
	13AC Dedicating non-tidal watercourse land or non-tidal lake land as reserve	12 13
	(1) Non-tidal watercourse land or non-tidal lake land may be dedicated as a reserve only if—	14 15
	(a) each person who is an adjacent owner for the land consents to the dedication; and	16 17
	(b) the chief executive (water) consents to the dedication; and	18 19
	(c) each condition of the consent of the chief executive (water) imposed under subsection (3)—	20 21 22
	(i) has been satisfied; or	23
	(ii) is imposed as a condition of the appointment of a trustee of the reserve.	24 25
	(2) In deciding whether to consent to the dedication, the chief executive (water) must consider whether, and to what extent, the dedication will interfere with—	26 27 28 29
	(a) the State’s control or use of any part of the non-tidal watercourse land or non-tidal lake	30 31

	land for a purpose under the <i>Water Act 2000</i> ; or	1 2
	(b) a right of the State or a person to take or use water under the <i>Water Act 2000</i> .	3 4
	(3) The consent of the chief executive (water) may be given on conditions.	5 6
Clause 7	Amendment of s 17 (Granting land to the State)	7
	(1) Section 17, heading, after ‘to the State’—	8
	<i>insert—</i>	9
	and the Commonwealth	10
	(2) Section 17(2), after ‘to the State’—	11
	<i>insert—</i>	12
	or the Commonwealth	13
	(3) Section 17(2)—	14
	<i>renumber</i> as section 17(3).	15
	(4) Section 17—	16
	<i>insert—</i>	17
	(2) The Governor in Council may grant unallocated State land in fee simple to the Commonwealth.	18 19
Clause 8	Amendment of s 103 (Issue of road licence)	20
	(1) Section 103(1)(b), from ‘structural’—	21
	<i>omit, insert—</i>	22
	structural improvements—	23
	(i) mentioned in section 104(b)(ii) or (iii); and	24
	(ii) for the benefit of land of which the person is the registered owner (other than a trustee of a deed of grant in trust), lessee or trustee.	25 26 27

[s 9]

- (2) Section 103— 1
insert— 2
- (3) If the Minister issues a road licence under 3
subsection (1), the chief executive must register a 4
covenant of a type mentioned in section 5
373A(5)(c) over— 6
- (a) for a road licence issued to an adjoining 7
owner—the licence land and the adjoining 8
owner’s land; or 9
- (b) otherwise—the licence land and the land for 10
the benefit of which the road licence is 11
issued. 12

Clause 9 Amendment of s 164 (What is a *rolling term lease*) 13

- (1) Section 164(1)(a), after ‘island’— 14
insert— 15
- (a *tourism lease*)** 16
- (2) Section 164(1)(c), example, ‘paragraph (c)’— 17
omit, insert— 18
- paragraph (d)* 19
- (3) Section 164(1)(b) and (c)— 20
renumber as section 164(1)(c) and (d). 21
- (4) Section 164(1)— 22
insert— 23
- (b) it is a lease that— 24
- (i) includes tidal water land the subject of 25
a covenant ensuring the lease may only 26
be transferred to a person if a tourism 27
lease is also transferred to the person; 28
and 29

	(ii) the Minister has approved as a rolling term lease;	1 2
(5) Section 164—		3
<i>insert—</i>		4
(3) In this section—		5
	<i>tidal water land</i> means land that, under section 9(1), is the property of the State and may be dealt with as unallocated State land.	6 7 8
Clause 10	Amendment of s 164A (Approval of lease as a rolling term lease)	9 10
(1) Section 164A, ‘section 164(1)(b)(ii)’—		11
<i>omit, insert—</i>		12
	section 164(1)(c)(ii)	13
(2) Section 164A—		14
<i>number</i> as section 164A(2).		15
(3) Section 164A—		16
<i>insert—</i>		17
(1) The Minister may approve a lease as a rolling term lease under section 164(1)(b) only if improvements on the lease land—		18 19 20
(a) are a part of a significant development; and		21
(b) facilitate the tourism purposes of the tourism lease mentioned in section 164(1)(b)(i).		22 23 24
Clause 11	Amendment of s 164C (Making extension application or giving expiry advice)	25 26
(1) Section 164C(5), after ‘may be made’—		27
<i>insert—</i>		28
	once during each term of the lease	29

[s 12]

(2) Section 164C—	1
<i>insert</i> —	2
(8) In this section—	3
<i>original term</i> , of a lease, see section 164E(3).	4
<i>term</i> , of a rolling term lease, means each of the	5
following—	6
(a) the original term of the lease;	7
(b) the term of each extension of the lease under	8
this subdivision.	9
<i>Note</i> —	10
Section 164F(1) provides for when an extension of a	11
lease under this subdivision commences and ends.	12

Clause 12	Amendment of s 164E (Length of extension)	13
(1) Section 164E(2)(a), before ‘lease’—		14
<i>insert</i> —		15
a		16
(2) Section 164E(2)(a), after ‘the term’—		17
<i>insert</i> —		18
, not longer than the original term of the lease,		19
Clause 13	Amendment of s 288 (Certain documents must be signed)	20
Section 288(1)(b), ‘lawyer’—		21
<i>omit, insert</i> —		22
legal practitioner		23
Clause 14	Amendment of s 308 (Withdrawing lodged document before registration)	24
(1) Section 308(1)(b), after ‘lodged’—		25
		26

insert—

, including, for example, because the document
can not be given legal effect

(2) Section 308(1)(b)—

insert—

Example of a document that can not be given legal effect—

a power of attorney that names the same person as
principal and attorney

Clause 15 Amendment of s 322 (Requirements for transfers)

(1) Section 322(1)(b)—

omit, insert—

(b) only if—

(i) the Minister has given written approval
to the transfer; and

(ii) the transfer is not prohibited by a
provision of this Act or a condition of
the lease, licence or sublease.

(2) Section 322(1A)—

omit, insert—

(1A) However, subsection (1)(b)(i) does not apply to
the transfer of a road licence over a temporarily
closed road to a person if—

(a) the licence is held by the registered owner of
freehold land; and

(b) the licence land and the freehold land are
both the subject of a covenant mentioned in
section 373A(5)(c); and

(c) the freehold land is also being transferred to
the person; and

(d) for a person who is an individual, the person
is an adult; and

[s 16]

	<i>Note—</i>	1
	Freehold land can be held under the <i>Land Title Act 1994</i> by an individual who is a child. See section 28 of that Act. Land, including a road licence, can be held under this Act by an individual only if the individual is an adult. See section 142.	2 3 4 5 6
	(e) all charges owing to the State on the licence are paid before the transfer is lodged; and	7 8
	(f) when the transfer is lodged, it is accompanied by a statutory declaration signed by the person stating—	9 10 11
	(i) the person is aware of the conditions of the licence; and	12 13
	(ii) any other matters prescribed by regulation for this paragraph.	14 15
(3)	Section 322(3), ‘(2)’— <i>omit, insert—</i>	16 17
	(4)	18
(4)	Section 322(4)(b)(v), ‘section 325(4) and (5) would apply’— <i>omit, insert—</i>	19 20
	the land would be subject to an indigenous cultural interest	21 22
(5)	Section 322(1A) to (9)— <i>renumber</i> as section 322(2) to (11).	23 24
Clause 16	Amendment of s 372 (End and continuation of easements)	25 26
	(1) Section 372— <i>insert—</i>	27 28
	(2A) Also, with the Minister’s written approval, a public utility easement that burdens a State lease over a reserve may continue over the reserve when the State lease ends.	29 30 31 32

-
- (2) Section 372(5), after ‘unallocated State land’— 1
insert— 2
or a reserve 3
(3) Section 372(2A) to (6)— 4
renumber as section 372(3) to (7). 5

Clause 17 Amendment of s 373A (Covenant by registration) 6

- (1) Section 373A— 7
insert— 8
(1A) However, non-freehold land the subject of a trust, 9
lease or sublease may be made the subject of a 10
covenant only with the consent of— 11
(a) for trust land—the trustee; or 12
(b) for lease land—the lessee; or 13
(c) for land the subject of a sublease—the 14
sublessee. 15
(2) Section 373A(3)— 16
omit. 17
(3) Section 373A(4), from ‘If non-freehold’ to ‘subject may’— 18
omit, insert— 19
The covenant must 20
(4) Section 373A(4)— 21
insert— 22
(c) be for ensuring the land may be transferred 23
to a person only if there is also transferred to 24
the person— 25
(i) other non-freehold land that is also the 26
subject of the covenant; or 27
(ii) a lot that, under the *Land Title Act* 28
1994, is the subject of the covenant; or 29

[s 18]

	(iii) non-freehold land mentioned in subparagraph (i) together with a lot mentioned in subparagraph (ii).	1 2 3
(5)	Section 373A— <i>insert</i> —	4 5
	(4A) Non-freehold land may be the subject of a covenant under subsection (5)(c) only if the land is lease land or land the subject of a road licence or occupation licence.	6 7 8 9
(6)	Section 373A(5), ‘A covenant under this division’— <i>omit, insert</i> — The covenant	10 11 12
(7)	Section 373A(8) and (9), ‘subsection (4)(a)’— <i>omit, insert</i> — subsection (5)(a)	13 14 15
(8)	Section 373A(1A) to (10)— <i>renumber</i> as section 373A(2) to (12).	16 17
Clause 18	Amendment of s 374A (Interests held in trust must be registered)	18 19
	Section 374A— <i>insert</i> —	20 21
	(2) For subsection (1)(b), a request to vest an interest in a lease or sublease in a person as trustee includes a request to give effect to an order of a court appointing the person as trustee for the sale of the lease or sublease.	22 23 24 25 26
Clause 19	Amendment of s 375A (Document to vest in trustee)	27
	Section 375A(1)(b), ‘made under the <i>Trusts Act 1973</i> or another Act’—	28 29

	<i>omit, insert—</i>	1
	of a court	2
Clause 20	Amendment of s 379 (Registering beneficiary)	3
	Section 379(2)(a)—	4
	<i>omit, insert—</i>	5
	(a) written consent is given by—	6
	(i) the person who is or is entitled to be the deceased’s personal representative; or	7 8
	(ii) a person the chief executive considers would succeed in an application for a grant of representation; or	9 10 11
	(iii) a person who has obtained a grant of representation other than in Queensland and the chief executive considers would succeed in an application for the resealing of the grant in Queensland; and	12 13 14 15 16 17
Clause 21	Amendment of s 420C (Requirements for making an application)	18 19
	Section 420C(5), ‘lawyer’—	20
	<i>omit, insert—</i>	21
	legal practitioner	22
Clause 22	Amendment of sch 6 (Dictionary)	23
	(1) Schedule 6, definition <i>designated officer—</i>	24
	<i>omit.</i>	25
	(2) Schedule 6—	26
	<i>insert—</i>	27
	<i>designated officer</i> , for a provision about a	28

[s 23]

	document, means—	1
	(a) to the extent the provision is about a lease or licence—the Minister; or	2 3
	(b) to the extent the provision is about a permit or other document—the chief executive.	4 5
	legal practitioner means—	6
	(a) an Australian legal practitioner as defined under the <i>Legal Profession Act 2007</i> , section 6(1); or	7 8 9
	(b) a government legal officer engaged in government work as defined under the <i>Legal Profession Act 2007</i> , section 12(1) and (2).	10 11 12
(3)	Schedule 6, definition <i>conservation covenant</i> , ‘section 373A(4)(b)’—	13 14
	<i>omit, insert—</i>	15
	section 373A(5)(b)	16
Division 3	Amendments commencing on proclamation	17 18
Clause 23	Amendment of s 34P (Subdivision of DOGIT land)	19
(1)	Section 34P(1), after ‘subdivided by’—	20
	<i>insert—</i>	21
	registration of	22
(2)	Section 34P(3) to (5)—	23
	<i>renumber</i> as section 34P(4) to (6).	24
(3)	Section 34P(2)—	25
	<i>omit, insert—</i>	26
	(2) The plan of subdivision may be registered only with the approval of the Minister.	27 28

[s 25]

Clause 25	Omission of s 318A (Minister may lodge mandatory standard terms document)	1 2
	Section 318A—	3
	<i>omit.</i>	4
Clause 26	Omission of s 320A (Conflict with mandatory standard terms document)	5 6
	Section 320A—	7
	<i>omit.</i>	8
Clause 27	Insertion of new ch 6, pt 3, div 3	9
	Chapter 6, part 3—	10
	<i>insert—</i>	11
	Division 3 Prescribed terms for registered documents	12 13
	Subdivision 1 Prescribed terms	14
	321A Regulation may prescribe terms	15
	A regulation may prescribe a term (a <i>prescribed term</i>) to be a term of a registered document—	16 17
	(a) of a type stated in the regulation; and	18
	(b) for lease land, licence land, permit land or trust land.	19 20
	321B Effect of prescribed terms	21
	(1) A prescribed term for a stated type of registered document—	22 23
	(a) becomes a term of the document when the document is registered; and	24 25

-
- (b) is binding on— 1
- (i) each person who holds an interest in 2
land created by the document's 3
registration and any successor in title 4
of the person; and 5
 - (ii) each person who is otherwise a party to 6
the transaction to which the document 7
relates. 8
- (2) If a term of a document is inconsistent with a 9
prescribed term of the document, the prescribed 10
term prevails to the extent of the inconsistency. 11
- (3) To remove any doubt, it is declared that a 12
prescribed term has effect even though it is not 13
registered. 14

321C Obligations relating to prescribed terms 15

- (1) A person who is bound by a prescribed term for a 16
registered document must comply with the 17
prescribed term to the satisfaction of the 18
designated officer for the document. 19
- (2) If a prescribed term becomes a term of a 20
document when the document is registered, the 21
document must state the prescribed term is a term 22
of the document. 23
- (3) Failure to comply with subsection (2) does not 24
invalidate or otherwise affect the prescribed term, 25
the document or the document's registration. 26
- (4) To remove any doubt, it is declared that if no 27
action is taken for noncompliance with a 28
prescribed term, it is not a waiver of, authorisation 29
of or excuse for the noncompliance. 30

[s 27]

321D Registered document not affected by amendment or repeal of prescribed terms	1 2
(1) A registered document is not affected by—	3
(a) a term prescribed by regulation after the document was registered; or	4 5
(b) the amendment or repeal, after the document was registered, of a prescribed term of the document.	6 7 8
(2) Subsection (3) applies if a prescribed term is amended or repealed after it becomes a term of a document.	9 10 11
(3) The designated officer for the document may, if the designated officer considers it appropriate and with the agreement of each person who is bound by the prescribed term—	12 13 14 15
(a) if the prescribed term was amended—include the amended term in the document; or	16 17 18
(b) if the prescribed term was repealed—omit the term from the document.	19 20

Subdivision 2 Remedial action

21

321E Notice to remedy	22
(1) This section applies if the designated officer for a registered document reasonably believes a person who is bound by a prescribed term of the document has not complied, or is not complying, with the prescribed term.	23 24 25 26 27
(2) The designated officer may give a notice (a <i>notice to remedy</i>) about the noncompliance to each person who is bound by the prescribed term.	28 29 30
(3) The notice to remedy must state the following—	31

-
- (a) that the designated officer reasonably believes a stated person has not complied, or is not complying, with the prescribed term;
- (b) the facts and circumstances that are the basis for the belief;
- (c) that the noncompliance must be remedied within a stated reasonable period;
- (d) that it is an offence not to comply with the notice to remedy without a reasonable excuse.
- (4) The notice to remedy may also state—
- (a) the reasonable steps the designated officer is satisfied are necessary to remedy the noncompliance; and
- (b) that a written report must be given to the designated officer after the steps are taken.
- (5) A person who is given the notice to remedy may appeal against the decision to give the notice.

321F Failure to comply with notice to remedy

A person who is given a notice to remedy must comply with the notice unless the person has a reasonable excuse.

Maximum penalty—400 penalty units.

321G Notice to cancel interest

- (1) This section applies if the Minister is satisfied a person has not complied with a notice to remedy given in relation to a prescribed term of a registered document.
- (2) The Minister may give, to each person who is bound by the prescribed term, notice (a *notice of intention to cancel*) of the Minister's intention to

[s 27]

cancel the registration of the document.	1
(3) The notice of intention to cancel must state the following—	2 3
(a) that the Minister intends to cancel the registration of the document;	4 5
(b) that cancellation of the registration of the document will end any interest in land created by the document’s registration;	6 7 8
(c) that the person may, within 30 days after being given the notice, make written submissions to the Minister to show why the registration should not be cancelled.	9 10 11 12
321H Decision about cancellation	13
(1) The Minister must consider all submissions made under section 321G(3)(c) and may decide to cancel, or not to cancel, the registration of the document.	14 15 16 17
(2) If the Minister decides not to cancel the registration of the document, the Minister may decide to impose conditions on any interest in land created by the document’s registration.	18 19 20 21
(3) The Minister must give notice of a decision under subsection (1) or (2) to each person who was given the notice of intention to cancel.	22 23 24
(4) Each person who is entitled to be given a notice of a decision under subsection (3) may appeal against the decision.	25 26 27
321I Effect of decision	28
The chief executive must record the following in the appropriate register—	29 30

-
- (a) if the Minister decides to cancel the registration of a document—the cancellation; 1
2
3
 - (b) if the Minister decides to impose conditions on an interest in land created by the document’s registration—the conditions. 4
5
6

321J Removal of improvements on cancellation 7

- (1) This section applies if— 8
 - (a) the registration of a document that created an interest in land is cancelled under section 321H; and 9
10
11
 - (b) the interest was held by the owner of improvements on the land. 12
13
- (2) The owner may apply to the Minister to remove the improvements. 14
15
- (3) The owner may remove the improvements only with the written approval, and within the reasonable period stated by, the Minister. 16
17
18
- (4) The improvements become the property of the State if— 19
20
 - (a) the Minister does not give approval for their removal; or 21
22
 - (b) the improvements are not removed within the period stated by the Minister. 23
24

321K Compensation 25

- (1) Compensation for the cancellation of the registration of a document that created an interest in land under this division is payable only for lawful improvements on the land that become the property of the State. 26
27
28
29
30
- (2) The compensation is the value of the 31

[s 28]

	improvements on the day the cancellation takes effect.	1 2	
	(3) The Minister must decide the compensation payable.	3 4	
	(4) The value of the improvements must be assessed as their market value in a sale of the interest in land if the interest had not been cancelled.	5 6 7	
	(5) The person whose improvements became the property of the State may appeal against the Minister's decision about the compensation payable.	8 9 10 11	
	(6) No person has a right to claim compensation from the Minister or the State because of the imposition of conditions on an interest in land under this division.	12 13 14 15	
Clause 28	Replacement of ch 9, pt 2 (Repeal)	16	
	Chapter 9, part 2—	17	
	<i>omit, insert—</i>	18	
	Part 2	Transitional provisions for Land and Other Legislation Amendment Act 2016	19 20 21 22
	522 Definition for part	23	
	In this part—	24	
	<i>mandatory standard terms document</i> means a mandatory standard terms document under this Act as in force before the commencement.	25 26 27	

**523 Chief executive must cancel registered
mandatory terms documents** 1
2

The chief executive must cancel a registered 3
standard terms document that, immediately 4
before the commencement, was a mandatory 5
standard terms document. 6

**524 Documents containing mandatory standard
terms document not affected** 7
8

- (1) This section applies if, under section 319, a 9
mandatory standard terms document forms part of 10
a document that— 11
- (a) immediately before the commencement was 12
a registered document; or 13
- (b) was executed within 7 days after the 14
commencement. 15
- (2) The document is not affected by the repeal of 16
section 318A or the cancellation of the mandatory 17
standard terms document under section 523. 18
- (3) If there is a conflict between the document, or 19
another relevant document, and the mandatory 20
standard terms document, the mandatory standard 21
terms document prevails. 22
- (4) Subsection (3) applies despite section 320(2). 23

Clause 29 Amendment of sch 2 (Original decisions) 24

Schedule 2— 25

insert— 26

- 321E(2) giving a notice to remedy
- 321H(1) cancelling the registration of a document
- 321H(2) imposing conditions on an interest in land

[s 30]

321K(3) about the value of improvements

Clause 30	Amendment of sch 6 (Dictionary)	1
(1)	Schedule 6, definition <i>mandatory standard terms document</i> — <i>omit.</i>	2 3
(2)	Schedule 6— <i>insert</i> —	4 5
	<i>notice of intention to cancel</i> , for chapter 6, part 3, division 3, see section 321G(2).	6 7
	<i>notice to remedy</i> , for chapter 6, part 3, division 3, see section 321E(2).	8 9
	<i>prescribed term</i> , for chapter 6, part 3, division 3, see section 321A.	10 11
Part 3	Amendment of Land Title Act 1994	12 13
Division 1	Preliminary	14
Clause 31	Act amended	15
	This part amends the <i>Land Title Act 1994</i> .	16
	<i>Note</i> —	17
	See also the amendments in schedule 1.	18

Division 2	Amendments commencing on assent	1 2
Clause 32	Amendment of s 109 (How interest as trustee may be registered)	3 4
	Section 109—	5
	<i>insert—</i>	6
	(2) For subsection (1)(b), a request to vest an interest in a lot in a person as trustee includes a request to give effect to an order of a court appointing the person as trustee for the sale of the lot.	7 8 9 10
Clause 33	Amendment of s 110A (Instrument to vest in trustee)	11
	Section 110A(2), ‘made under the <i>Trusts Act 1973</i> or another Act’—	12 13
	<i>omit, insert—</i>	14
	of a court	15
Clause 34	Amendment of s 112 (Registering beneficiary)	16
	(1) Section 112(2)(a)(ii), ‘; and’—	17
	<i>omit, insert—</i>	18
	; or	19
	(2) Section 112(2)(a)—	20
	<i>insert—</i>	21
	(iii) a person who has obtained a grant of representation other than in Queensland and would, in the registrar’s opinion, succeed in an application for the resealing of the grant in Queensland; and	22 23 24 25 26

[s 35]

Clause 35	Amendment of s 126 (Lapsing of caveat)	1
(1)	Section 126(1)(b), after ‘registered owner’—	2
	<i>insert—</i>	3
	, in the appropriate form,	4
(2)	Section 126(1)(c), ‘122(d) or (e)’—	5
	<i>omit, insert—</i>	6
	122(1)(d) or (e)	7
(3)	Section 126—	8
	<i>insert—</i>	9
	(1A) However, this section applies to a caveat lodged by the registered owner of a lot if—	10 11
	(a) the lot is subject to a mortgage; and	12
	(b) the grounds stated in the caveat relate to the actions of the mortgagee in relation to—	13 14
	(i) if the mortgage is registered—registration of the mortgage; or	15 16 17
	(ii) the mortgage’s power of sale.	18
Clause 36	Amendment of s 130 (Compensation for improper caveat)	19
(1)	Section 130(1), ‘A person who lodges or continues a caveat’—	20 21
	<i>omit, insert—</i>	22
	The caveator under a caveat lodged or continued	23
(2)	Section 130(3), ‘person who lodged or continued it’—	24
	<i>omit, insert—</i>	25
	caveator	26

138 Definitions for part	1
(1) In this part—	2
<i>extension request</i> see section 141(1).	3
<i>priority notice</i> see section 139(1).	4
<i>related instrument</i> see section 139(2)(d)(ii).	5
(2) In this part, a reference to an instrument includes a reference to a caveat.	6 7
139 Depositing priority notice	8
(1) A notice (a <i>priority notice</i>) for a lot may be deposited by or for a person who is, or will be, a party to an instrument that—	9 10 11
(a) is to be lodged; and	12
(b) will affect the lot or an interest in the lot.	13
(2) A priority notice must—	14
(a) be in the appropriate form; and	15
(b) state the person’s name; and	16
(c) be signed by or for the person; and	17
(d) sufficiently describe—	18
(i) the lot; and	19
(ii) each instrument to which the notice relates (each a <i>related instrument</i>); and	20 21
(e) state the order in which the related instruments are intended to be lodged.	22 23
(3) The related instruments must include the instrument mentioned in subsection (1).	24 25
140 Effect of priority notice	26
(1) The deposit of a priority notice for a lot prevents an instrument affecting the lot or an interest in the	27 28

lot being registered until the notice lapses or is
withdrawn, removed or cancelled. 1
2

- (2) However, the priority notice does not prevent 3
registration of— 4
- (a) an instrument if the person for whom the 5
notice was deposited consents to its 6
registration; or 7
 - (b) an instrument of transfer or release of 8
mortgage executed by a mortgagee whose 9
interest was registered before the notice was 10
deposited; or 11
 - (c) an instrument lodged before the notice was 12
deposited; or 13
 - (d) a caveat; or 14
 - (e) another instrument that, if registered, would 15
not affect an interest the subject of the 16
notice. 17

141 Extending priority notice 18

- (1) A priority notice may be extended for 30 days by 19
depositing a request (an *extension request*) to 20
extend the notice. 21
- (2) An extension request must be— 22
- (a) in the appropriate form; and 23
 - (b) signed by or for the person for whom the 24
priority notice was deposited; and 25
 - (c) deposited within 60 days after the priority 26
notice was deposited. 27
- (3) Only 1 extension request may be deposited for a 28
priority notice. 29
- (4) The deposit of an extension request continues the 30
effect of the priority notice under section 140. 31

[s 39]

142 Lapsing of priority notice	1
A priority notice lapses on the earliest of the following days—	2 3
(a) either—	4
(i) if an extension request for the notice has been deposited under section 141—the day that is 90 days after the notice was deposited; or	5 6 7 8
(ii) otherwise—the day that is 60 days after the notice was deposited;	9 10
(b) the day when all related instruments have been lodged in the order stated in the notice.	11 12
143 Withdrawing priority notice	13
(1) A priority notice may be withdrawn by depositing a request to withdraw the notice.	14 15
(2) The request must be—	16
(a) in the appropriate form; and	17
(b) signed by or for the person for whom the priority notice was deposited.	18 19
144 Removing priority notice	20
(1) An affected person for a lot may, at any time, apply to the Supreme Court for an order that a priority notice for the lot be removed.	21 22 23
(2) The Supreme Court may make the order—	24
(a) whether or not the person for whom the priority notice was deposited has been served with the application; and	25 26 27
(b) on the terms the court considers appropriate.	28
(3) In this section—	29
<i>affected person</i> , for a lot the subject of a priority	30

-
- notice, means a person, other than the person for whom the priority notice was deposited, who—
- (a) is a registered proprietor of the lot; or
 - (b) has another interest in the lot.

145 Cancelling priority notice

- (1) The registrar may cancel a priority notice for a lot if—
 - (a) a request to cancel the notice is deposited; and
 - (b) the registrar is satisfied it is unlikely the related instruments for the notice will be lodged before the notice lapses.
- (2) The registrar must give written notice of the registrar's intention to cancel the priority notice to the person for whom the priority notice was deposited at least 7 days before cancelling the notice.
- (3) The registrar may give the notice by leaving it at, or sending it to, the address stated in the notice for the person who deposited the notice.

146 Compensation for improper priority notice

- (1) This section applies if, without reasonable cause—
 - (a) a priority notice is deposited or extended; or
 - (b) a priority notice is not withdrawn after it is no longer needed to prevent the registration of an instrument.
- (2) The person for whom the priority notice was deposited must compensate another person who suffers loss or damage because of the deposit or extension of the notice, or the failure to withdraw

[s 39]

- the notice. 1
- (3) In a proceeding for compensation under 2
subsection (2)— 3
- (a) the Supreme Court may include a 4
component for exemplary damages in a 5
judgment for compensation; and 6
- (b) proof there was reasonable cause to deposit 7
or extend the priority notice, or not to 8
withdraw the notice after it was no longer 9
needed to prevent the registration of an 10
instrument, rests on the person for whom the 11
notice was deposited. 12
- 147 Registrar may withdraw instrument** 13
- (1) The registrar may withdraw an instrument that has 14
been lodged but prevented from being registered 15
by a priority notice. 16
- (2) The registrar must give written notice of the 17
registrar’s intention to withdraw the instrument to 18
the person who lodged the instrument at least 14 19
days before withdrawing the instrument. 20
- 148 Priority of instruments** 21
- (1) Instruments lodged, but prevented from being 22
registered by a priority notice, are taken to have 23
been lodged (in the order in which they were 24
lodged) immediately after lodgment of the related 25
instruments for the notice. 26
- (2) This section does not apply to an instrument 27
withdrawn by the registrar under section 147. 28
- 149 Minor correction of priority notice** 29
- (1) This section applies if the registrar receives a 30
written request to correct a priority notice from, or 31

	on behalf of, the person for whom the priority notice was deposited.	1 2
	(2) The registrar may make the correction if the registrar is satisfied the correction is minor.	3 4
Clause 40	Insertion of new pt 12, div 6	5
	After section 211—	6
	<i>insert—</i>	7
	Division 6	8
	Transitional provision for Land and Other Legislation Amendment Act 2016	9 10
	212 Existing settlement notices	11
	This Act as in force before the commencement continues to apply in relation to a settlement notice that was deposited and had not lapsed or been cancelled or withdrawn before the commencement.	12 13 14 15 16
Clause 41	Amendment of sch 2 (Dictionary)	17
	Schedule 2—	18
	<i>insert—</i>	19
	<i>extension request</i> , for part 7A, see section 141(1).	20
	<i>priority notice</i> , for part 7A, see section 139(1).	21
	<i>related instrument</i> , for part 7A, see section 139(2)(d)(ii).	22 23

[s 42]

Part 4 **Other amendments** 1

Clause 42 **Acts amended** 2

Schedule 1 amends the Acts it mentions. 3

Schedule 1	Other amendments	1
	section 42	2
Part 1	Amendments commencing on assent	3
		4
Land Act 1994		5
1	Section 15(3)(b), example, ‘17(2)’—	6
	<i>omit, insert—</i>	7
	17(3)	8
2	Section 164B(1) and (3)(c), ‘under section 164(1)(b)(ii)’—	9
	<i>omit.</i>	10
3	Section 164H(1)(c), ‘164(1)(b)(ii)’—	11
	<i>omit, insert—</i>	12
	section 164(1)	13
4	Section 288B(4), ‘mortgagee’—	14
	<i>omit, insert—</i>	15
	mortgage	16
5	Section 431Z(2), after ‘operation’—	17
	<i>insert—</i>	18
	of	19

Schedule 1

6	Schedule 2, entry for section 322(6), ‘322(6)’—	1
	<i>omit, insert—</i>	2
	322(8)	3
7	Schedule 3, part 1, item 4(d)(ii), ‘section 373A(4)(b)’—	4
	<i>omit, insert—</i>	5
	section 373A(5)(b)	6
8	Schedule 3, part 2, item 4(d)(ii), ‘section 373A(4)(b)’—	7
	<i>omit, insert—</i>	8
	section 373A(5)(b)	9
	Land Title Act 1994	10
1	Section 11B(4), ‘mortgagee’—	11
	<i>omit, insert—</i>	12
	mortgage	13
2	Section 188A(1)(g), ‘of which’—	14
	<i>omit, insert—</i>	15
	with which	16

Planning (Consequential) and Other Legislation Amendment Act 2016		1 2
1	Section 282(2), ‘373A(7)’— <i>omit, insert—</i> 373A(9)	3 4 5
2	Section 282(2), inserted subsection (7A), ‘Subsection (7)(b)’— <i>omit, insert—</i> Subsection (9)(b)	6 7 8 9
3	Section 282(2), inserted subsections (7) and (7A)— <i>renumber</i> as inserted subsections (9) and (9A).	10 11
Part 2	Amendments commencing on proclamation	12 13
Land Act 1994		14
1	Section 57(2), from ‘, including’ to ‘lease’— <i>omit.</i>	15 16
2	Section 57(5)(b)— <i>omit.</i>	17 18
3	Section 57(5)(c) and (d)— <i>renumber</i> as section 57(5)(b) and (c).	19 20

