

## TRANSFER OF LAND (No. 3).

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No. 88 of 1969.

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AN ACT to amend the Transfer of Land Act,  
1893-1969.

[Assented to 17th November, 1969.]

**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title,  
and citations.

1. (1) This Act may be cited as the *Transfer of Land Act Amendment Act (No. 3), 1969.*

Vol. 16  
Reprinted  
Acts  
approved for  
reprint 5th  
July, 1962,  
as amended  
by Act No.  
113 of 1965  
and 28 of  
1969.

(2) In this Act the Transfer of Land Act, 1893-1969 is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Transfer of Land Act, 1893-1969.

2. Section 145 of the principal Act is repealed and re-enacted as follows:—

S. 145  
repealed and  
re-enacted.

145. (1) Every instrument or power of attorney under this Act signed by a person and attested by one witness who is not a party to the instrument or power of attorney, shall be held to be duly executed if such witness is, where the instrument or power of attorney is executed in a place—

Attestation  
of  
instruments  
and powers  
of attorney.

- (a) within the limits of the Commonwealth or a Territory of the Commonwealth—an adult person and there appears on the instrument or power of attorney the address and occupation of the witness;
- (b) outside the limits of the Commonwealth or a Territory of the Commonwealth, but within the limits of a British Dominion—the Agent General for Western Australia or his secretary, or the High Commissioner or Commissioner for Australia, or the official secretary to the High Commissioner or Commissioner, or a notary public or a commissioner for taking affidavits in any court of record, a barrister or solicitor of a British Dominion, or the mayor or other chief officer or town clerk or the acting mayor or other acting chief officer or acting town clerk of any city or municipal corporation or the officer administering the government or a judge of any court of record, or a police, resident, special or stipendiary magistrate, or a justice of the peace holding a commission from the government of the United Kingdom or of any of the States of the Commonwealth of Australia or of New Zealand, or the manager or acting or sub-manager of any bank (including any branch thereof) incorporated under the law of the United Kingdom or any part of the British Dominions, or any

Commissioner, Registrar or Recorder of Titles or any other person authorised in this behalf by the Governor either generally or for any particular place;

(c) within the limits of any country not being a British Dominion—

(i) an Australian consular officer;  
or

(ii) a British ambassador, envoy, minister, chargé d'affaires, secretary of embassy or legation, consul general, consul, vice-consul, acting consul, pro-consul or consular agent,

exercising his function as such in that country;

(iii) a commissioner of the Supreme Court for taking affidavits empowered and authorised to act in that country and any other person having authority to administer an oath in that country;

(iv) a judge of any court of law having original or appellate civil jurisdiction in that country or any part thereof or a notary public, or any other person authorised in this behalf by the Governor either generally or for any particular country.

(2) In paragraph (c) of subsection (1) of this section—

“Australian consular officer” means a person appointed to hold or act in any of the following offices (being an office of the Commonwealth) in a country or place outside the Commonwealth, namely, ambassador, high commissioner, minister, head of

mission, commissioner, chargé d'affaires, consul or secretary at an embassy, high commissioner's office, legation or other post, consular-general, consul, vice-consul, trade commissioner and consular agent.

(3) A register of the names of all persons authorised by the Governor to be witnesses under this section shall be kept by the Registrar in his office.

(4) The witness to the execution of any instrument or power of attorney that is executed outside the limits of the Commonwealth or a Territory of the Commonwealth may also be a person other than those specified in paragraph (b) or (c) of subsection (1) of this section, but in such case, the witness shall appear before one of the persons so specified who, after making due enquiries of the witness, shall endorse or subscribe upon the instrument or power of attorney and sign a certificate in the form of the Twentieth Schedule to this Act, and such certificate shall be deemed sufficient proof of the due execution of that instrument or power of attorney.

(5) Where an instrument or power of attorney purports to be attested or a certificate purports to be signed as provided in this section, the Registrar may take official notice of the signature to the attestation or certificate and of the fact that the person attesting or signing had the necessary qualification to do so.

(6) Any person who is a commissioner of the Supreme Court for taking affidavits empowered and authorised to act in any part of the British Dominions or in a foreign country is a qualified witness under this section in any part of the British Dominions or in any foreign country in which, for the time being, he happens to be and has authority therein to attest instruments

and powers of attorney under subsection (1) of this section and to take a declaration and sign a certificate under subsection (4) of this section.

(7) Where—

- (a) the execution of an instrument or power of attorney under this Act by any party by whom it purports to have been executed is not attested or authenticated as provided in this Act; or
- (b) the address or occupation, or both, of a witness to the signature of the party does not appear thereon, as required by paragraph (a) of subsection (1) of this section,

and the instrument or power of attorney is presented to the Registrar for registration or to be filed and noted as provided in this Act, the Registrar may, if he thinks fit, register or file and note the instrument or power of attorney if the genuineness of the signature of the party thereto is proved to his satisfaction by the statutory declaration of some person well acquainted with the party and with his signature and handwriting.

(8) In the case of Her Majesty the Queen, Her heirs and successors, being the registered proprietor of any land, any instrument relating thereto shall be deemed to be properly executed under this section if the Minister for Lands signs the instrument and affixes his seal of office thereto, and no attestation is necessary in that case.

(9) This section applies to transfers received by the Registrar before or after the coming into operation of the Transfer of Land Act Amendment Act (No. 3), 1969. .