

TRANSFER OF LAND (No. 2).

20° Geo. V., No. XLI.

No. 42 of 1929.

AN ACT to amend Section One Hundred and Forty-five of the Transfer of Land Act, 1893.

[Assented to 31st December, 1929.]

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

Short title.

1. This Act may be cited as the *Transfer of Land Act Amendment Act, 1929* (No. 2).

2. Section one hundred and forty-five of the Transfer of Land Act, 1893, is repealed, and a section is inserted in lieu thereof as follows:—

Attestation of instruments and powers of attorney.

145. (1.) Instruments and powers of attorney under this Act signed by any person and attested by one witness shall be held to be duly executed, and such witness may be—

(a) Within the limits of Western Australia—

The Commissioner or Registrar or any Assistant Registrar or justice of the peace, notary public, practitioner of the Supreme Court, commissioner for taking affidavits, commissioner for declarations, clerk of a local court, clerk of petty sessions, town clerk, secretary to a road board, electoral registrar, postmaster, classified officer of the State or Commonwealth public service, classified State school teacher, or member of the police force, bank manager, bank accountant, secretary of building society, minister of religion authorised to celebrate marriages within the State, or any other person authorised by the Governor to be an attesting witness within the State for the purposes of this Act.

(b) Outside the limits of Western Australia, but within the British Dominions—

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, 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 any of the States of the Commonwealth of Australia or of the Dominion of New Zealand, or the manager or acting or sub-manager of any bank 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) In any country outside the British Dominions—

A British Minister or Consul exercising his functions in that country, the Commissioner for Australia, or the official secretary to the Commissioner in that country, or 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 this section—

“Consul” includes a consul-general, consul, vice-consul, pro-consul, and consular agent, and any person acting in any of these capacities.

“Minister” includes an ambassador, envoy, minister, charge d'affaires and secretary of embassy of legation, or any person acting in any of these capacities.

“Bank” includes a branch of a bank.

(3.) A register of all appointments made by the Governor under this section shall be kept in the office of the Registrar.

(4.) The witness to the execution of any instrument or power of attorney, whether within or outside the limits of the State, may also be any other person ; but in such case the witness shall appear before one of the officers or persons aforesaid who, after making due inquiries of such witness, shall endorse or subscribe upon the instrument or power and sign a certificate in the form of the Twentieth Schedule, and such certificate shall be deemed sufficient proof of the due execution of such instrument or power.

(5.) Where an instrument or power of attorney purports to be attested or a certificate purports to be signed as aforesaid, or the instrument or power purports to be attested as provided in the Declarations and Attestations Act, 1913, the Registrar may take official notice of the signature to the attestation or certificate and of the fact that the person attesting or signing possessed the necessary qualification.

(6.) Any person, who is a qualified witness in this State, or who is a Commissioner of the Supreme Court of the State for taking affidavits in any part of the King's Dominions or in any foreign country, shall be a qualified witness under this section in any part of the said Dominions or in any foreign country in which, for the time being, he happens to be and shall have authority therein to attest instruments and powers of attorney under Subsection (1), and to take declarations under Subsection (4) of this section.

(7.) In case any instrument or power of attorney, the execution whereof by any party by whom it purports to have been executed is not attested or authenticated as provided in this section, is presented to the Registrar for registration or to be filed and noted as aforesaid, he may, in his discretion, register or file and note the document, if the genuineness of the party's signature thereto is proved to his satisfaction by the statutory declaration of some person well acquainted with such party and with his signature and handwriting.

(8.) In the case of His Majesty the King his heirs and successors being the registered proprietor of any

land, all instruments relating thereto shall be deemed to be properly executed within the meaning of this section when the Minister for Lands shall have signed the same and affixed his seal of office, and no attestation shall be necessary in such case.

This section shall apply to transfers received by the Registrar before or after the commencement of this Act.

3. Copies of the principal Act hereinafter printed by the Government Printer shall be printed as amended by this Act, and the Transfer of Land Act Amendment Act, 1929, under the superintendence of the Clerk of Parliaments, and reference to the amending Acts shall be made in the margin. In such reprints of the principal Act the sections may be re-numbered in arithmetical order, and cross references adjusted, and the short title shall be the Transfer of Land Act 1893-1929.