



Western Australia

Real Property (Commonwealth Titles) Act 1925

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Defined terms

Real Property (Commonwealth Titles) Act 1925

An Act relating to the registration of titles to land acquired by the Commonwealth of Australia.

1. Short title

This Act may be cited as the *Real Property (Commonwealth Titles) Act 1925*¹.

2. Incorporation with *Transfer of Land Act 1893*

This Act is incorporated with the *Transfer of Land Act 1893*.

3. Interpretation

In this Act, unless the context otherwise requires —

Acquired land means any land which, having become vested, whether before or after the commencement of this Act —

- (a) in the Commonwealth pursuant to the Constitution; or
- (b) in the Commonwealth or in any Commonwealth authority by any law of the Commonwealth, or any notice, notification of acquisition, proclamation, or order made under any such law,

is for the time being vested either in the Commonwealth or a Commonwealth authority;

Attorney General means the Attorney General for the time being of the Commonwealth, or any person to whom the powers and functions of the Attorney General under any law of the Commonwealth have been duly delegated pursuant to any law of the Commonwealth;

Commonwealth authority means any authority incorporated by any law of the Commonwealth;

The Constitution means the Commonwealth of Australia Constitution Act.

4. Provision for bringing land acquired by Commonwealth under the Transfer of Land Act

With respect to any acquired land which at the time of acquisition thereof is not or was not subject to the provisions of the *Transfer of Land Act 1893*, the following provisions shall apply:

- (i) If the land is vested in fee simple in the Commonwealth, the Attorney General, or if the land is vested in fee simple in a Commonwealth authority, then the Commonwealth authority in whom the land is so vested, may apply to the Registrar of Titles to bring the land under the provisions of the *Transfer of Land Act 1893*.
- (ii) If the land is land which became vested in the Commonwealth pursuant to the Constitution, the Attorney General, or the Commonwealth authority, whichever makes the application, shall furnish the Registrar of Titles with a certificate under the hand of the Attorney General, or the seal of the Commonwealth authority, as the case may be, certifying that the land became so vested in the Commonwealth and setting out any other facts relevant to the title of the Commonwealth or Commonwealth authority.
- (iii) In all cases other than those mentioned in the next preceding paragraph there shall be furnished to the Registrar of Titles in support of the application a copy, certified under the hand of the Attorney General, or the seal of the Commonwealth authority, whichever makes the application, of the notification of acquisition, vesting order, or other instrument or notice (if any) whereby or in pursuance of which the land was vested in the Commonwealth or Commonwealth authority as

aforesaid, and such other evidence of the title of the Commonwealth or Commonwealth authority as the Registrar of Titles may require.

- (iv) The Registrar of Titles may, if he is satisfied as to the title of the Commonwealth or Commonwealth authority, as the case may be, to the land in respect of which the application is made, bring the land under the provisions of the *Transfer of Land Act 1893*, by creating and registering a certificate of title for the land to the Commonwealth or Commonwealth authority in whom the land is vested.

[Section 4 amended: No. 81 of 1996 s. 153(1).]

5. Transfers of land which is under the Transfer of Land Act when acquired by the Commonwealth

With respect to any acquired land which at the date of the acquisition thereof is or was subject to the provisions of the *Transfer of Land Act 1893*, the following provisions shall apply:

- (i) If the land is vested in the Commonwealth the Attorney General, or if the land is vested in any Commonwealth authority then the authority in whom the land is so vested, may apply to the Registrar of Titles to transfer the land into the name of the Commonwealth or the Commonwealth authority, as the case may be.
- (ii) If the land is land which became vested in the Commonwealth pursuant to the Constitution the Attorney General or the Commonwealth authority, whichever makes the application, shall furnish the Registrar of Titles with a certificate under the hand of the Attorney General, or seal of the Commonwealth authority, as the case may be, certifying that the land became so vested in the Commonwealth and setting out any other facts relevant to the title of the Commonwealth or Commonwealth authority.

- (iii) In all cases other than those mentioned in the next preceding paragraph there shall be furnished to the Registrar of Titles in support of the application a copy, certified under the hand of the Attorney General, or the seal of the Commonwealth authority, whichever makes the application, of the notification of acquisition, vesting order, or other instrument or notice (if any) whereby or in pursuance of which the land was vested in the Commonwealth or Commonwealth authority as aforesaid, and such other evidence of the title of the Commonwealth or Commonwealth authority as the Registrar of Titles may require.
- (iv) The Registrar of Titles, if he is satisfied as to the title to the land of the Commonwealth or the Commonwealth authority, as the case may be, may deal with and give effect to the application as if it were a duly executed and stamped transfer of the land to the Commonwealth or Commonwealth authority, as the case may be, lodged for registration on the day on which the application was received by the Registrar of Titles.

6. Validation of transfers made and certificates issued before the commencement of this Act

Any entry made in the Register Book or on any certificate of title or instrument before the commencement of this Act for the purpose of transferring into the name of the Commonwealth or any Commonwealth authority any acquired land shall be deemed to have been lawfully and validly made, and any certificate or instrument issued before the commencement of this Act by the Registrar of Titles to the Commonwealth or any Commonwealth authority relating to any acquired land shall be deemed to be and to have been at all times valid and effectual in all respects.

7. Registrar may enter acquisition in Register Book in certain circumstances

If the Registrar of Titles is satisfied on information received by him from any source that the whole or any part of any land included in a certificate is acquired land, he may, notwithstanding that no application pursuant to section 5 has been made, make an entry in the Register within the meaning of the *Transfer of Land Act 1893* specifying that the land in question has been acquired by the Commonwealth or Commonwealth authority, as the case may be.

[Section 7 amended: No. 81 of 1996 s. 153(1).]

Notes

- ¹ This reprint is a compilation as at 21 November 2003 of the *Real Property (Commonwealth Titles) Act 1925* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Real Property (Commonwealth Titles) Act 1925</i>	3 of 1925	24 Sep 1925	24 Sep 1925
<i>Transfer of Land Amendment Act 1996</i> s. 153(1)	81 of 1996	14 Nov 1996	14 Nov 1996 (see s. 2(1))
Reprint 1: The <i>Real Property (Commonwealth Titles) Act 1925</i> as at 21 Nov 2003 (includes amendments listed above)			

Defined terms

*[This is a list of terms defined and the provisions where they are defined.
The list is not part of the law.]*

Defined term	Provision(s)
Acquired land.....	3
Attorney General.....	3
Commonwealth authority.....	3
The Constitution	3