



Department of Lands

Land Administration & Management
Property & Spatial Information

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Circular

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Commencement of the balance of the *Property Legislation Amendment Act 2005*

Most provisions of the *Property Legislation Amendment Act 2005* commenced on 1 January 2006. The Act amended the *Real Property Act 1900*, *Conveyancing Act 1919*, *Strata Schemes (Freehold Development) Act 1973*, *Strata Schemes (Leasehold Development) Act 1986* and *Local Government Act, 1993* in order to introduce a number of practical and important reforms.

Remaining provisions of the *Property Legislation Amendment Act 2005* will come into force on 1 September 2006. These provisions affect procedures concerning variation of an easement, profit à prendre or restriction on the use of land by way of dealing.

The amending Act inserts two new sub sections 47 (5AB) and 47(5AC) into the *Real Property Act 1900*. The new sub sections require that any variation of an affecting interest by way of a registered dealing must bear the consent of every mortgagee, chargee or covenant chargee recorded in the folio of the Register relating to that land. Secondly, the consent of any lessee, judgment creditor under a writ recorded in the folio of the Register relating to the land, or caveator under a caveat relating to any estate or interest in the land may be required by the Registrar General and should be provided.

An affecting interest is defined by the Act to include an easement, profit à prendre or restriction on the use of land. The new requirements of section 47(5AB) and 47 (5AC) will apply to any variation of easement, profit à prendre or restriction on the use of land lodged for registration from 1 September 2006.

The *Property Legislation Amendment Act 2005* may be viewed at www.legislation.nsw.gov.au under 'Acts in Force'.

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