



ANNO QUARTO

## ELIZABETHAE II REGINAE

A.D. 1955

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## No. 60 of 1955

An Act to make provision with respect to the licensing of land agents, to repeal the Land Agents Act, 1925-1950, and for other purposes.

[Assented to 15th December, 1955.]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

## PART I.

PART I.

## INTRODUCTORY.

1. This Act may be cited as the "Land Agents Act, 1955". Short title.
2. This Act shall come into operation on a day to be fixed by proclamation. Commencement of Act.
3. The following Acts are repealed :— Repeals.
  - Land Agents Act, 1925—No. 1723 of 1925 ;
  - Land Agents Act, 1927—No. 1807 of 1927 ;
  - Land Agents Act Amendment Act, 1933—No. 2115 of 1933 ; and
  - Lands Agents Act Amendment Act, 1950—No. 49 of 1950.
4. The provisions of this Act are arranged as follows :— Arrangement of Act.
  - PART I—Introductory.
  - PART II—Land Agents Board.
  - PART III—Licensing of Land Agents.
  - PART IV—Registration of Land Salesmen.

- PART V—Nomination and Registration of Managers.  
 PART VI—Duties of Land Agents.  
 PART VII—Subdivision of Land.  
 PART VIII—Miscellaneous.  
 PART IX—Transitional Provisions.

## Interpretation.

5. (1) In this Act, unless the context otherwise requires or some other meaning is clearly intended—

“acquire” with reference to land includes take on lease and “acquisition” has a corresponding meaning ;

“the board” means The Land Agents Board ;

“certificate in lieu of a fidelity bond” means a certificate in lieu of a fidelity bond issued in accordance with Part VIII of this Act ;

“director” includes any member of the governing body of a corporation ;

“dispose” with reference to land includes let and “disposal” has a corresponding meaning ;

“fidelity bond” means a fidelity bond given in accordance with Part VIII of this Act ;

“insurance company” means any person who is complying with the provisions of the Insurance Acts 1932 of the Parliament of the Commonwealth, with respect to deposits ;

“land” includes any interest in land ;

“land agent” subject to this section means a person—

(a) whose business is to act as agent in respect of the sale or other disposal of land or the purchase or other acquisition of land ; or

(b) without limiting the generality of paragraph (a) of this definition, whose business is the selling, whether as owner or otherwise, of land in allotments,

whether or not he carries on any other business either in conjunction with any such business or separately therefrom ;

s. 5. In *re* a Fidelity Bond under the LAND AGENTS ACTS, 1925 AND 1927. *Ex parte JAMES* (1931) S.A.S.R. 73. The ordinary meaning of “land agent” does not include a person whose only business in connection with land is to collect rents. *Semble*, that section 2 of the Land Agents Act, 1925, as then enacted, furnished an exhaustive definition of “land agent” for the purposes of that Act.

In *re* a Fidelity Bond given by the COLONIAL MUTUAL FIRE INSURANCE COMPANY LIMITED (1931) S.A.S.R. 173. Held that a person who acted as agent for either a mortgagor or mortgagee in respect of the giving or obtaining a mortgage over land was doing work which is part of the business of a land agent as defined by section 2 of the Land Agents Act, 1925. Where moneys representing interest were paid by a mortgagor to a land agent to be paid by the agent to the mortgagee, held that this transaction was no part of the business of a land agent.

“land salesman” means a person who for or on behalf of any land agent (whether such land agent is the owner of the land proposed to be dealt with or the agent for such owner) induces or attempts to induce or negotiates with a view to inducing any person—

(a) to buy, sell, or otherwise acquire or dispose of any land ; or

(b) to make an offer to buy, sell, or otherwise acquire or dispose of any land ; or

(c) to accept any offer to buy, sell or otherwise acquire or dispose of any land ; or

(d) to enter into any contract for the purchase, sale or other acquisition or disposal of any land ;

“lease” and “let” include demise, let or agree to demise or let any land, and the noun “lease” and “letting” have a corresponding meaning ;

“legal practitioner” means a person admitted as a practitioner of the Supreme Court ;

“licence” means a licence granted under Part III of this Act and “licensed” has a corresponding meaning ;

“licensed land agent” means a person holding a licence granted under Part III of this Act ;

“licensed land broker” means a land broker licensed under the Real Property Act, 1886-1945 ;

“order” includes decision, direction or declaration ;

“registered” means registered under Part IV or Part V of this Act, and “registration” has a corresponding meaning ;

“registered land salesman” means a person registered as a land salesman under Part IV of this Act ;

“registered manager” means a person registered as a manager under Part V of this Act ;

“the secretary” means the secretary of the board.

(2) A legal practitioner who, in connection with his business as a legal practitioner, acts as agent in respect of the sale or purchase or other disposal or acquisition of land shall not by reason only of that fact be deemed to be a land agent within the meaning of this Act.

(3) A person who sells or offers to sell any land or interest in land by auction shall not by reason only of that fact be deemed to be a land agent within the meaning of this Act.

**PART I.**

(4) Where two or more persons carry on business jointly as land agents each of those persons shall be deemed to be a land agent.

Power to  
exempt  
letting agents.

6. (1) The board may, on application in that behalf, if it is satisfied that—

- (a) the applicant carries on or proposes to carry on business as an agent in respect of the letting of land ; and
- (b) the applicant does not propose to carry on any other business of a land agent as defined by this Act ; and
- (c) the main means of livelihood of the applicant will be other than the business as an agent in respect of the letting of land,

grant a certificate of exemption to the applicant.

(2) The certificate of exemption may be given subject to any condition thought fit by the board and may be revoked by the board at any time.

(3) While the certificate of exemption remains in force, the applicant shall for the purposes of this Act in respect of his business as a letting agent be deemed not to be carrying on business as a land agent.

(4) The secretary or any other person may object to an application under this section.

**PART II.****PART II.****LAND AGENTS BOARD.**

Land Agents  
Board.

7. The Land Agents Board is hereby continued.

Legal  
proceedings.

8. Legal proceedings may be taken by or against the board under the name of "The Land Agents Board" without specifying the individual members thereof.

Members.

9. The board shall consist of three persons appointed by the Governor, namely—

- (a) one person appointed on the nomination of the Real Estate Institute of South Australia Incorporated ; and
- (b) two persons, appointed on the recommendation of the Attorney-General, one of whom shall be a legal practitioner of at least seven years standing.

Appointment  
of chairman.

10. The Governor shall appoint one member of the board to be the chairman thereof.

11. Subject to this Act, the members of the board shall hold office for a period of three years after their appointment, and shall be eligible for re-appointment.

Term of office of members.

12. If a member of the board—

Casual vacancies.

(a) dies ;

(b) resigns by written notice given to the Attorney-General ;  
or

(c) is removed from the board by the Governor pursuant to this Act,

his seat shall become vacant.

13. The Governor may remove any member of the board from his office for—

Removal of members from board.

(a) mental or physical incapacity ;

(b) neglect of duty ;

(c) dishonourable conduct ; or

(d) other cause deemed sufficient by the Governor.

14. The Governor shall fill casual vacancies on the board, and every person appointed to a casual vacancy shall hold office for the balance of the term of his predecessor.

Appointment to casual vacancies.

15. (1) Every member of the board shall be entitled to such fees as are approved by the Governor.

Fees and expenses.

(2) The fees of members of the board and the other expenses of the board shall be paid out of moneys voted by Parliament for that purpose.

16. The Governor may appoint a person to be secretary of the board.

Secretary.

17. With the approval of the Attorney-General, the board may employ legal practitioners and other persons to assist it in the discharge of its duties and functions.

Employment by board of legal practitioners and other persons.

18. Two members shall constitute a quorum of the board.

Quorum.

19. (1) The first meeting of the board after the commencement of this Act shall be convened by the chairman of the board, and thereafter the meetings of the board shall be convened by the secretary under the instructions of the board, or in accordance with the regulations, and shall be held at times and places determined by the board.

Meetings.

(2) Subject to this Act, the business of the board shall be conducted in such manner as the board determines.

**PART II.****The chairman.**

**20.** (1) The chairman shall preside at every meeting of the board at which he is present. In the absence of the chairman from any meeting, another member, with the consent of the remaining member, shall preside.

(2) The person presiding at a meeting shall have a casting vote as well as a deliberative vote.

**Defects in appointment not to invalidate proceedings of board.**

**21.** (1) No act or proceeding of the board shall be invalid or illegal in consequence only of the number of the members of the board not being complete at the time of such act or proceeding.

(2) All acts and proceedings of the board shall, notwithstanding the subsequent discovery of any defect in the appointment of any member thereof, or that any member was disqualified or disentitled to act, be as valid as if such member had been duly appointed and was qualified and entitled to act and had acted as a member of the board, and as if the board had been properly and fully constituted.

**Fees and other monies received to be paid into General Revenue.**

**22.** All fees and other moneys received by the board under this Act shall be paid by the board to the Treasurer in aid of the General Revenue of the State.

**PART III.****PART III.****LICENSING OF LAND AGENTS.****Land agents to be licensed.**

**23.** A person (whether an individual or a corporation) shall not carry on business, or by any means whatsoever hold himself out, as a land agent unless he is a licensed land agent.

Penalty : One hundred pounds.

**Application for licence.**

**24.** (1) An application for a licence shall be made to the board in writing in the prescribed form and delivered to the secretary, and shall contain all the information indicated therein.

(2) The statements made in the application shall be verified by a statutory declaration made by the applicant or, where the applicant is a corporation, by an officer of the corporation.

**s. 23. UREN v. TRESTRAIL** (1929) S.A.S.R. 17. As to what constitutes a person holding himself out as a land agent. Where the defendant in a newspaper inserted an advertisement advertising the sale of a "mixed business," held that, by the advertisement, the defendant did not hold out that he carried on business as a land agent.

**LENTHALL v. HILLSON** (1933) S.A.S.R. 31; 6 Austn. Digest 133. In a prosecution under section 31 of the Land Agents Act, 1925 (which was substantially similar to section 23) the Justices Act, 1921, binds the Crown in the sense that the penalty is recoverable under that Act, and not otherwise.

**25.** The application shall be accompanied by a fidelity bond or a certificate in lieu of a fidelity bond.

Fidelity bond or certificate in lieu of fidelity bond.

**26.** The applicant shall furnish the board with all such information as it requires to enable it to decide the application.

Information to be furnished by applicant.

**27.** (1) Subject to subsection (2) of this section, on the making of an application in accordance with this Act, the applicant (not being a corporation) shall be entitled to be granted a licence by the board if he proves to the satisfaction of the board that—

Qualification for licence necessary for individual applicant.

- (a) he is over the age of twenty-one years ;
- (b) he is of good character ;
- (c) he is not an undischarged bankrupt and has not entered into any composition or scheme of arrangement, which is still subsisting, with his creditors, and has not executed any deed of arrangement, which is still subsisting, for the benefit of his creditors ; and
- (d) he has been employed in the business of one or more land agents for two years in the aggregate whether before or after the commencement of this Act or partly before and partly after the commencement of this Act : Provided that this paragraph shall not apply where the applicant—
  - (i) has held a licence at any time under this Act or the Land Agents Act, 1925-1950 ; or
  - (ii) is or has been at any time whether before or after the commencement of this Act, a licensed land broker ; or
  - (iii) in the opinion of the board has sufficient knowledge of the duties and liabilities of a land agent or sufficient commercial experience to carry on business as a land agent.

(2) The board shall not be obliged to grant a licence by reason of employment for two years as mentioned in paragraph (d) of subsection (1) of this section unless the board is satisfied that the employment was such as to give the applicant sufficient knowledge of the duties and liabilities of a land agent to carry on the business of a land agent.

**28.** (1) Subject to subsection (2) of this section, on the making of an application in accordance with this Act, a corporation shall be entitled to be granted a licence by the board.

Qualification for licence necessary for corporation.

**PART III.**

(2) The board may refuse to grant a licence to the corporation if the board is satisfied that—

- (a) the general manager or other principal officer of the corporation ;
- (b) any director of the corporation ; or
- (c) any person who in the opinion of the board substantially controls the affairs of the corporation,

is not of good character.

**Grant of licence.**

**29.** On being satisfied that the applicant is entitled to be granted a licence, and on payment of the prescribed fee (if payable), the board shall grant a licence to the applicant.

**Exemption from fees.**

**30.** An applicant for a licence or the renewal of a licence who is a licensed land broker, or a licensed auctioneer under the Auctioneers Act, 1934-1953, shall not be required to pay a fee for a licence or for the renewal of his licence, as the case may be.

**Duration of licence.**

**31.** A licence shall, unless sooner terminated in accordance with this Act, continue in force until the thirty-first day of March following the grant of the licence, and may from time to time be renewed for the period ending on the thirty-first day of March next after the commencement of the renewal.

**Renewal of licence.**

**32.** (1) An application for the renewal of a licence shall be made in the form and manner prescribed by regulation.

(2) The application shall be made to the board and shall be delivered to the secretary not earlier than the first day of January and not later than the last day of February preceding the day of the expiry of the licence.

(3) The application shall be accompanied by a fidelity bond or a receipt for the renewal premium on a like fidelity bond previously accompanying an application under this Act, or a certificate in lieu of a fidelity bond.

(4) Subject to subsection (5) of this section, on the making of an application in accordance with this section, and on payment of the prescribed fee (if payable), the board shall grant a renewal to the applicant.

(5) If an objection is made to the application, and on hearing and determining the objection, the board is satisfied that a ground exists on which the licence is subject to cancellation under this Act, the board may dismiss the application, cancel the licence and make any other order authorized by section 36.



(6) The board may determine an application for the renewal of a licence notwithstanding that the application may not have been delivered within the time limited by this section in that behalf.

(7) If an application for renewal has been delivered to the secretary before the last day of February in any year, but is not determined by the board before the thirty-first day of March following that day, the licence shall, notwithstanding anything to the contrary in this Act, be deemed to be extended until the application is disposed of by the board in accordance with this Act.

**33.** The secretary or any other person may object to any application for the grant or renewal of a licence. Objections.

**34.** Where a licensed land agent who is carrying on business as a land agent dies, the person carrying on the business shall be deemed to be the holder of a licence until the business is sold or the expiration of six months after the death of the licensed land agent whichever first happens. Death of licensed land agent.

**35.** A licensed land agent may at any time surrender his licence to the board and the licence shall thereupon cease to have effect. Surrender of licence.

**36.** (1) The board may, on application for the cancellation of a licence, cancel the licence and may in addition disqualify the licensed land agent from holding a licence either temporarily or permanently or until the fulfilment of a condition imposed by the board or until the further order of the board, on any of the following grounds, namely, that— Cancellation of licence and disqualification

(a) the licence was improperly obtained ;

(b) the licensed land agent or a partner of the licensed land agent, or a registered manager in the service of the licensed land agent nominated under this Act by the licensed land agent or, if the licensed land agent is a corporation, the general manager or other principal officer or a director of the corporation or any person who in the opinion of the board substantially controls the affairs of the corporation—

(i) has been convicted of any offence against the Land Agents Act, 1925-1950, or this Act, or any offence involving dishonesty, whether such conviction took place before or after the passing of this Act ; or

PART III.

(ii) has been guilty whether before or after the commencement of this Act of any dishonest or fraudulent conduct ;

(c) the licensed land agent or a partner of the licensed land agent has been guilty whether before or after the commencement of this Act of any breach of his duty as a land agent ;

(d) the licensed land agent is an undischarged bankrupt or has entered into any composition or scheme of arrangement, which is still subsisting, with his creditors or has executed any deed of arrangement, which is still subsisting, for the benefit of his creditors,

or on any other ground which the board deems sufficient.

(2) The secretary or any other person may apply for the cancellation of a licence.

PART IV.

## PART IV.

## REGISTRATION OF LAND SALESMEN.

Land salesman  
to be registered.

**37.** A person shall not—

(a) be or remain in the service of any person as a land salesman ;

(b) by any means whatsoever hold himself out as a land salesman ; or

(c) act as a land salesman ;

unless he is a registered land salesman or a registered manager.

Penalty : Fifty pounds.

Employment of  
land salesmen.

**38.** A person shall not have any other person in his service as a land salesman unless that other person is a registered land salesman or a registered manager.

Penalty : Fifty pounds.

**39.** (1) Notwithstanding the provisions of this Part, if the manager of a branch office of an approved stock and station agent is a registered land salesman or a registered manager, any person in the service of that agent and employed at that office, shall not by reason only of that service or anything done in the course of that service be required to be a registered land salesman or a registered manager.

Exemption of employees at branch office of approved stock and station agent.

(2) In this section—

“approved stock and station agent” means a person carrying on business as a stock and station agent and approved by the Attorney-General for the purposes of this section :

“branch office” means an office other than the head office for the State of a person carrying on business as a stock and station agent.

**40.** (1) An application for registration of any person as a land salesman under this Part shall be made in writing in the prescribed form to the board and shall be delivered to the secretary, and shall contain all the information indicated therein.

Application for registration.

(2) The statements made in the application shall be verified by a statutory declaration made by the applicant.

**41.** The application shall be accompanied by a fidelity bond or a certificate in lieu of a fidelity bond.

Fidelity bond or certificate in lieu of fidelity bond.

**42.** The applicant shall furnish the board with all such information as it requires to enable it to decide the application.

Information to be furnished by applicant.

**43.** On the making of an application in accordance with this Part, the applicant shall be entitled to be registered if he proves to the satisfaction of the board that he is of good character.

Qualification for registration.

**44.** On being satisfied that the person is entitled to be registered, and on payment of the prescribed fee (if payable), the board shall register the person and issue a certificate of registration to him in the prescribed form.

Registration.

**45.** Where registration or renewal of registration of a person who is—

Exemption from fees.

(a) a licensed auctioneer under the Auctioneers Act, 1934-1953 ; or

- (b) a registered auctioneer's clerk under that Act ; or
- (c) a licensed land broker,

is applied for, no fee shall be payable for registration or renewal of registration.

**Duration of registration.**

**46.** A registration of a land salesman shall, unless sooner terminated under this Act, continue in force until the thirty-first day of March following the commencement of the registration, and may from time to time be renewed for the period ending on the thirty-first day of March next after the commencement of the renewal.

**Renewal of registration.**

**47.** (1) An application for the renewal of a registration of a land salesman shall be made in the form and manner prescribed by regulation.

(2) The application shall be made to the board, and shall be delivered to the secretary not earlier than the first day of January and not later than the last day of February preceding the day of the expiry of the registration.

(3) The application shall be accompanied by a fidelity bond or a receipt for the renewal premium on a like fidelity bond previously accompanying an application under this Part, or a certificate in lieu of a fidelity bond.

(4) Subject to subsection (5) of this section, on the making of an application in accordance with this section and on payment of the prescribed fee (if payable) the board shall renew the registration and issue a certificate of renewal in the prescribed form.

(5) If an objection is made to the application, and on hearing and determining the objection, the board is satisfied that a ground exists on which the registration is subject to cancellation under this Act, the board may dismiss the application, cancel the registration and make any other order authorized by section 50.

(6) The board may determine an application for renewal of registration notwithstanding that the application may not have been delivered within the time limited by this section in that behalf.

(7) If an application for renewal has been delivered to the secretary before the last day of February in any year, but is not determined by the board before the thirty-first day of March following that day, the registration shall, notwithstanding anything to the contrary in this Act, be deemed to be extended until the application is disposed of by the board in accordance with this Act.

**48.** The secretary or any other person may object to any application for registration or renewal of registration. Objections.

**49.** A registered land salesman may at any time surrender his certificate of registration to the board, and the registration shall thereupon cease to have effect. Surrender.

**50.** (1) The board may, on application for the cancellation of the registration of any land salesman, cancel the registration and may, in addition, disqualify him from being registered either temporarily or permanently or until the fulfilment of a condition imposed by the board, or until the further order of the board, on any of the following grounds, namely, that— Cancellation of registration.

- (a) his registration was improperly obtained ;
- (b) he has been convicted of any offence against the Land Agents Act, 1925-1950, or this Act, or any offence involving dishonesty, whether such conviction took place before or after the commencement of this Act ;
- (c) he has been guilty whether before or after the commencement of this Act of any dishonest or fraudulent conduct,

or any other ground which the board deems sufficient.

(2) The secretary or any other person may apply for the cancellation of the registration of a land salesman.

**51.** During such time as a registered land salesman is not in the service of a land agent, his registration shall be deemed to be suspended and shall have no force or effect. Suspension of registration of land salesman while not in service of a land agent.

## PART V.

## PART V.

### NOMINATION AND REGISTRATION OF MANAGERS.

**52.** (1) Subject to section 54, a corporation carrying on business as a land agent shall have at all times in its service a person nominated under this Act as manager of the corporation's business as a land agent in the State who— Duty to appoint manager.

- (a) is a registered manager ; and
- (b) has his usual place of residence within the State.

Penalty : Fifty pounds.

(2) Subject to section 54, a person (not being a corporation) carrying on business as a land agent whose usual place of residence is outside the State shall have at all times in his service a person nominated under this Act as manager of his business as a land agent in the State who—

(a) is a registered manager ; and

(b) has his usual place of residence within the State :

Provided that this subsection shall not apply if any partner of the person who is a licensed land agent has his usual place of residence within the State.

Penalty : Fifty pounds.

(3) In proceedings for an offence against this section, the allegation in the complaint that a person does not have his usual place of residence within the State shall be *prima facie* evidence of that fact.

Nomination  
of manager.

**53.** (1) The nomination of a manager for the purposes of this Act shall be made in the prescribed form.

(2) The person making the nomination shall deliver the form of nomination to the secretary within fourteen days of the making of the nomination.

Penalty : Fifty pounds.

Death, etc., of  
manager.

**54.** If any person nominated as manager under this Act—

(a) dies ;

(b) ceases to be in the service of the person by whom he was nominated ;

(c) ceases to be registered as a manager ; or

(d) ceases to have his usual place of residence within the State,

it shall not be necessary for a new manager to be nominated in his place until the expiration of one month after the death or cessation as aforesaid.

Registration  
of managers.

**55.** Subject to this Part, an application for registration as a manager shall be made in the same manner and shall be dealt with in the same way as an application for registration as a land salesman, and the provisions of sections 40, 41, 42, and 44 to 50 (inclusive), shall apply with the necessary modifications with respect to the registration of managers in the same way as to the registration of land salesmen.

56. (1) Subject to subsection (2) of this section, on the making of an application for registration as a manager in accordance with this Part, the applicant shall be entitled to be registered if he proves to the satisfaction of the board that—

- (a) he is over the age of 21 years ;
- (b) he is of good character ;
- (c) he is not an undischarged bankrupt and has not entered into any composition or scheme of arrangement, which is still subsisting, with his creditors, and has not executed any deed of arrangement, which is still subsisting, for the benefit of his creditors ; and
- (d) he has been employed in the business of one or more land agents for two years in the aggregate whether before or after the commencement of this Act or partly before and partly after the commencement of this Act : Provided that this paragraph shall not apply where the applicant—
  - (i) has held a licence at any time under this Act or the Land Agents Act, 1925-1950 ; or
  - (ii) is or has been at any time whether before or after the commencement of this Act, a licensed land broker ; or
  - (iii) in the opinion of the board has sufficient knowledge of the duties and liabilities of a land agent or sufficient commercial experience to manage the business of a land agent.

(2) The board shall not be obliged to register the applicant by reason of employment for two years as mentioned in paragraph (d) of subsection (1) of this section unless the board is satisfied that the employment was such as to give the applicant sufficient knowledge of the duties and liabilities of a land agent to manage the business of a land agent.

PART VI.

## PART VI.

## DUTIES OF LAND AGENTS.

*Notice of Commencing to Carry on Business, Etc.*

Notice to secretary on commencing to carry on business, etc.

57. A licensed land agent shall within fourteen days of commencing or ceasing to carry on a business as a land agent give to the secretary notice in writing of that fact.

Penalty : Twenty pounds.

*Registered Office.*

Land agent to have registered office.

58. (1) A person shall, on and after the day on which he commences to carry on business as a land agent, for so long as he carries on such business, have a registered office in the State.

Penalty : Twenty pounds.

(2) Any summons, notice, order, or other document required to be served upon a land agent may be served by leaving the same at his registered office or by sending it through the post in a prepaid and registered letter addressed to the land agent at that office.

(3) An office may be registered by giving notice of the situation of the office to the secretary, and a registered office may be changed by giving notice of the change to the secretary.

Land agent to display notice on registered office.

59. Every land agent shall exhibit and keep exhibited in a prominent place on his registered office, and on every branch office, so as to be easily read from outside that office, a notice of his name and of the fact that he is a licensed land agent, together with the name or style under which he carries on business as a land agent, if such business is not carried on in his own name.

Penalty : Twenty pounds.

*Trust Accounts.*

Duty of land agent with respect to moneys received in course of his business.

60. (1) All moneys received by a land agent in respect of the sale or other disposal of land or in respect of any other transaction in his capacity as a land agent, shall be applied as follows :—

1. In payment of the expenses, commission, and other charges of or incidental to such sale, or other disposal or transaction as aforesaid :

a. 60. In *re* a Fidelity Bond under the LAND AGENTS ACTS, 1925 AND 1927. *Ex parte* JAMES (1931) S.A.S.R. 73. Observations as to the interpretation of "lease of land" and "other transaction" in section 23(1) of the Land agents Act, 1925.

In *re* a Fidelity Bond given by the COLONIAL MUTUAL FIRE INSURANCE COMPANY LIMITED (1931) S.A.S.R. 173. If a person has obtained a licence as a land agent and has undertaken to do work for a client which comes within the business of a land agent as defined in section 5, he may be presumed to be acting in his capacity as a land agent and is therefore obliged to apply in manner provided by section 60 moneys received by him in respect of such transaction. Meaning of "person lawfully entitled thereto" discussed.



ii. In payment of the balance (if any) to the person or persons lawfully entitled thereto.

Any money collected or received by a land agent as agent for any person and being rent, interest, principal, deposit, instalments, or other moneys whatever payable under any lease, mortgage, or contract for the sale of land shall be deemed to be money received by the land agent in his capacity as a land agent.

(2) Pending the payment of any balance as aforesaid, it shall be paid by the land agent into a trust account, and shall not be withdrawn therefrom save for the purpose of paying the same to the person or persons entitled thereto, as hereinbefore provided.

(3) The land agent shall not pay into the trust account any money other than money mentioned in subsection (1) of this section.

(4) Every person who commits a breach of this section shall be liable to a penalty not exceeding one hundred pounds.

(5) Save as herein provided, moneys paid into a trust account pursuant to this section shall not be available for payment of the debts of the land agent, or be liable to be attached or taken in execution under the order or process of any court.

(6) In this section the expression "pay into a trust account" means to pay into a bank carrying on business in the State to the credit of a trust account kept in the name of the land agent concerned.

#### *Duty to Furnish Account.*

61. (1) Forthwith on the demand of the person for whom he has acted as agent, or, if no such demand is made, then within twenty-eight days after the receipt by him of any moneys in respect of the sale or other disposal of land, or in respect of any other transaction in his capacity as a land agent, every land agent shall render to the person on whose behalf he has acted as agent an account in writing, setting forth particulars of all such moneys, and of the application thereof.

Land agent to  
furnish  
account to  
principal.

(2) If any land agent refuses, or for a period of seven days after demand neglects or fails to render an account as aforesaid, or, in the absence of a demand, neglects or fails to render an account within the period of twenty-eight days aforesaid, he shall be liable to a fine not exceeding fifty pounds.

*Fraudulent Conversion and False Accounts.*

Fraudulent  
conversion  
and false  
accounts.

62. (1) A person who—
- (a) fraudulently converts to his own use any moneys received by him in his capacity as a land agent ;  
or
  - (b) renders an account purporting to be an account of any moneys received by him as aforesaid, knowing the same to be false in any material particular,
- shall be guilty of an offence.

(2) An offence against this section may be prosecuted either summarily or upon information in the Supreme Court, but a person shall not be liable to be punished more than once in respect of the same offence.

(3) The punishment for an offence against this section shall be—

- (a) if the offence is prosecuted summarily, a fine not exceeding two hundred pounds or imprisonment for a term not exceeding two years ; or
- (b) if the offence is prosecuted upon information, a fine not exceeding five hundred pounds, or imprisonment for a term not exceeding five years.

*Preparation of Instruments.*

Preparation of  
instruments.

63. (1) In this section “instrument” means any conveyance, mortgage, lease or other deed relating to any estate or interest in land or any instrument within the meaning of the Real Property Act, 1886-1945.

(2) After the thirtieth day of June, nineteen hundred and fifty-seven, if a land agent—

- (a) not being a land broker, prepares ; or
- (b) causes or permits any person, not being a legal practitioner or a land broker to prepare,

any instrument relating to any transaction in which the land agent is directly or indirectly concerned or engaged, the land agent shall be guilty of an offence.

Penalty : Fifty pounds.

Provided that this subsection shall not apply if the instrument is before being lodged for registration in the Lands Titles Registration Office certified as correct for purposes of the Real Property Act, 1886-1945, by a legal practitioner.

(3) A land agent shall not prepare for any party to a transaction in which he is concerned or engaged any instrument relating to the transaction without the consent in writing of the party.

Penalty : Fifty pounds.

(4) An instrument drawn or prepared in contravention of this section shall not by reason only of that fact be void or voidable.

(5) An officer of the Crown to whom an instrument is presented for registration or stamping shall not be concerned to inquire whether the instrument has been prepared in contravention of this section.

#### *Advertisements.*

64. Any person being a licensed land agent who publishes or causes or permits to be published any advertisement relating to or in connection with the sale or purchase or other disposal (not being letting) or acquisition of any land which does not state—

Advertisements.

(a) the name of the licensed land agent ; and

(b) the address of his registered office ; and

(c) the fact that the person named is a licensed land agent.

shall be guilty of an offence.

Penalty : Fifty pounds.

### PART VII.

PART VII.

#### SUBDIVISION OF LAND.

65. (1) In this Part "subdivided land" means any one or more vacant allotments of land shown on a plan of subdivision deposited in the Lands Titles Registration Office or the General Registry Office at Adelaide or any part of such an allotment : Provided that the term shall not include any allotments which as allotments are suitable or intended wholly or mainly for use for agricultural, pastoral, horticultural, or viticultural purposes. Land shall be deemed to be vacant within the meaning of this

Offences in connection with the sale of subdivided land.

s. 65. GEORGE V. GREATER ADELAIDE DEVELOPMENT COMPANY LTD. (1929) 43 O.L.R. 91; 36 A.L.R. 72; 4 Austr. Digest 605; affirming GREATER ADELAIDE DEVELOPMENT COMPANY LTD. v. GEORGE (1929) S.A.S.R. 199. Where a contract of sale is entered into prior to the deposit of a plan of subdivision in the Lands Titles Registration Office, the land is not "subdivided land" within the meaning of section 65 and following sections.

section if no house or building suitable for human occupation is built thereon.

(2) Any person who, in connection with the selling of any subdivided land or any interest in such land, knowingly makes a false representation which is likely to induce another person to buy such land or interest shall be guilty of an offence.

Penalty: Two hundred pounds or imprisonment for not more than twelve months.

In any proceedings under this subsection, if it is proved that the defendant made any false representation, he shall be deemed to have made such representation with knowledge of its falsity unless he satisfies the court that he had reasonable ground to believe and did believe it to be true.

(3) Any person who in order to induce any other person (in this subsection called "the prospective purchaser") to purchase subdivided land states—

(a) that he or any other person will buy at a profit to be received in the future by the prospective purchaser any other land or chattel then owned by the prospective purchaser; or

(b) that he or some other person will at some future time obtain for the prospective purchaser a profit on such subdivided land or any part thereof,

shall be guilty of an offence.

Penalty: Two hundred pounds or imprisonment for not more than twelve months.

Contracts relating to subdivided land voidable in certain cases.

**66.** (1) Subject to subsection (2) of this section, any contract for the sale of any subdivided land or interest in such land shall be voidable at the option of the purchaser at any time within six months from the making thereof unless such contract

**s. 66. OUTER SUBURBAN PROPERTY LIMITED v. CLARKE** (1933) S.A.S.R. 221; 4 Austr. Digest 466. Where the respondent signed a form of "contract" for the purchase of land and, after obtaining his signature, the agent of the appellant, without the knowledge of or authority from the respondent, filled in the additional particulars required by section 25b of the Land Agents Act, 1925 (which was substantially similar to section 66) and after that the contract was signed on behalf of the vendor, held on the facts that no contract was concluded, and held further that (if any contract had been concluded) there was no contract in writing containing the particulars required by section 25b. Meaning of contract "in writing" discussed.

**LESKE v. S.A. REAL ESTATE INVESTMENT COMPANY, LIMITED** (1930) 45 C.L.R. 22; affirming **S.A. REAL ESTATE INVESTMENT COMPANY LIMITED v. LESKE** (1929) S.A.S.R. 288. "Person" in paragraph (c) of subsection (1) includes body corporate. A provision in an agreement requiring payments under the agreement to be made at the office of the vendor company held to be sufficient compliance with paragraph (c).

complies with the following requirements, namely, such contract—

- (i) shall be in writing; and—
- (ii) shall contain the following particulars, namely:—
  - (a) The name, address, and description of the vendor :
  - (b) The name, address, and description of the person who is, at the time when the contract is made, the owner of the land or interest :
  - (c) The allotment number of the land and the name, if any, of the subdivision, or other information sufficient to enable the land to be readily identified :
  - (d) The name, address, and description of some person to whom all moneys falling due under the contract may be paid.

A purchaser shall not be deemed to have elected to affirm a contract which is voidable under this section by reason of any payments of money made by the purchaser pursuant to the contract within the period of six months aforesaid.

(2) This section shall not apply where the sale is by public auction.

Prohibition of contracting out.

**67.** Any agreement whereby a person purports to waive any right which he may have under this Part to avoid a contract shall be void and of no effect.

Onus of proof as to knowledge of falsity of representation.

**68.** If on the trial of any action it is shown that any false representation was made and that any person was induced by such representation to enter into a contract to purchase subdivided land or any interest in such land, the person making such representation shall be deemed to have made the same with knowledge of its falsity unless it is proved that he had reasonable ground to believe and did believe that such representation was true.

**69.** In any such action as aforesaid if it is shown that any person was induced—

Contracts induced by excessive persuasion.

- (a) to enter into any contract to purchase subdivided land or any interest in such land ; or
- (b) to affirm any such contract, being voidable by such person,

by any unreasonable persuasion on the part of any person acting or appearing to act on behalf of the vendor or the vendor's agent, then according to the nature of the case—

- (i) such contract whether equitable or otherwise shall be deemed to have been induced by undue influence, and shall be voidable at the option of such first-mentioned person accordingly ; or
- (ii) such affirmation shall be void and of no effect.

Provision as to judgments obtained in other States on voidable contracts.

**70.** (1) If—

- (a) any person resident in the State enters into a contract within the State for the sale of land which contract would if governed by the law of the State be or be held to be void or voidable under this Part ; and
- (b) judgment is obtained on or in respect of such contract in any other State ; and
- (c) a certificate of such judgment is registered in any court within the State,

the person against whom the judgment was obtained may apply to such court at any time within forty-two days of his receiving notice of the registration of the certificate of the judgment to set aside the same on any ground of defence which would have been available to such person if—

- (i) the action upon which such judgment was obtained had been brought in a court within the State ; and
- (ii) the contract had been governed by the law of the State.

(2) Upon any application to set aside a judgment under this section, the court may make such order in conformity with this section as it deems just and shall observe as nearly as possible the usual practice of the court on the hearing of applications for a stay of proceedings on certificates of judgment registered in such court under the Service and Execution of Process Act, 1901-1953 of the Parliament of the Commonwealth.

Application of sections 68, 69 and 70.

**71.** The provisions of sections 68, 69 and 70 shall apply in respect of all contracts made after the commencement of this Act.

## PART VIII.

## PART VIII.

## MISCELLANEOUS.

*Fidelity Bonds.*

**72.** (1) A fidelity bond for the purposes of this Act shall be given by an insurance company to Her Majesty in the sum of five hundred pounds: Provided that a bond for the purposes of Part IV or Part V may be given by some other surety approved by the Attorney-General. Provisions as to bonds.

(2) The bond shall be in the prescribed form appropriate to a licensed land agent, registered land salesman, or registered manager, as the case may require.

(3) The sum of five hundred pounds named in a fidelity bond under this section shall not be deemed to be a penalty, but shall be liquidated damages, and shall accordingly be recoverable in full, as a debt due by the surety or sureties to Her Majesty unless the surety or sureties prove performance of every condition upon which the bond is defeasible.

(4) Every sum so recovered shall be paid into the general revenue, and the residue, after the deduction of costs and other expenses, may, with the approval of the Attorney-General, and without further appropriation than this Act, be applied—

(a) in compensating any person for any loss sustained by reason of any breach of any condition of the bond; and

(b) in refunding to the surety or sureties any balance left after payment of such compensation.

(5) If at any time during the currency of a licence or registration the bond taken out by a licensed land agent or a registered land salesman or a registered manager ceases to be of full force and effect, he shall, until an appropriate bond of full force and effect or a certificate in lieu of a fidelity bond is delivered by him to the secretary, be deemed to be unlicensed or unregistered, as the case may be.

*Certificate in Lieu of Fidelity Bond.*

**73.** (1) The Treasurer shall on the deposit with him for the purposes of this Act of securities issued by the Commonwealth the face value of which is six hundred pounds, issue to the person depositing them in each year while the Treasurer holds the securities a certificate in lieu of a fidelity bond certifying the fact of deposit. Certificate in lieu of fidelity bond

(2) All such securities shall be transferred to the Treasurer and held by him as security for the performance of the same conditions as would have required to be included in the fidelity bond in lieu of which the certificate is obtained.

(3) Upon the breach of any of such conditions, the Treasurer shall sell the securities and apply the proceeds thereof in the following order of priority :—

- (a) in payment of the costs of selling the securities ;
- (b) in compensating any person up to but not exceeding the sum of five hundred pounds for any loss sustained by reason of any breach of any such condition ; and
- (c) in refunding to the person depositing such securities or his successor in title or nominee any balance left after payment of such costs and compensation.

(4) While the securities are held by the Treasurer the person depositing them shall be entitled to the interest accruing thereon.

(5) The Treasurer shall on application duly made re-transfer the securities deposited under this section to the person who deposited them, or his successor in title or nominee, if he is satisfied that that person—

- (a) has not carried on business as a land agent or has not acted as a land salesman, or has not been nominated as a manager or acted as a land salesman, as the case may be, for at least six months, and has not committed any breach of any condition rendering such securities liable to be sold ; or
- (b) has delivered to the secretary an appropriate fidelity bond.

(6) On the re-transfer of the securities, the depositor of the securities shall be deemed to be unlicensed or unregistered, as the case may be, unless he has delivered to the secretary an appropriate fidelity bond.

#### *Registers.*

#### **Registers.**

**74.** (1) The secretary shall keep the following registers, namely :—

- (a) a register of licensed land agents ;
- (b) a register of registered land salesmen ; and
- (c) a register of registered managers.



(2) The secretary shall record in the registers the prescribed particulars and such other particulars as the board may direct.

75. The registers kept by the secretary under this Act shall, on payment of the prescribed fee, be open to inspection within ordinary business hours by any person desirous of inspecting the same. Inspection of registers.

76. The board shall cause to be removed from the registers the name of every licensed land agent, registered land salesman or registered manager who— Removal of names from registers.

- (a) ceases for any reason to hold a licence or to be registered ;  
or
- (b) dies.

*Publication of List of Licensed Land Agents, Etc.*

77. (1) A list of the names and descriptions of all persons holding licences under this Act as on a date to be therein specified, together with such of the relevant particulars appearing in the register as the board thinks fit, shall be published in the *Gazette* during the month of May of each year. Publication of list of licensed land agents, etc.

(2) A list of the names and descriptions of all persons registered as on a date to be therein specified, together with such of the relevant particulars appearing in the register as the board thinks fit, shall be published in the *Gazette* during the month of June in each year.

(3) Supplementary lists may be published in like manner to the lists mentioned in subsection (1) and subsection (2) of this section, as the board may from time to time direct.

(4) The production of copies of the *Gazette* containing the list mentioned in subsection (1) or subsection (2) of this section for any year together with all lists supplementary to that list for the year, shall until the contrary is proved, be sufficient evidence in all judicial proceedings of the contents of the register, and the absence of the name of any person from the list and supplementary lists for any year, shall until the contrary is proved, be sufficient evidence that such person is not licensed or is not registered, as the case may be.

(5) A certificate under the hand of the secretary and purporting to certify that any person is or is not licensed or is or is not registered on the date of the certificate or as to any other matter concerning the contents of the registers

shall, in all judicial proceedings, be sufficient evidence of the fact or facts therein purported to be certified, and judicial notice shall in all events be taken of the signature of the secretary.

The secretary, shall upon the request in writing of any person and payment of the prescribed fee, issue a certificate stating any such matters as are referred to in this subsection.

*Investigation by Police Officers.*

Investigation  
by police  
officers.

**78.** (1) The Commissioner of Police shall at the request of the secretary cause his officers to make any investigations and reports relevant to any matter being investigated by the secretary or the board.

(2) Such reports shall be forwarded to the secretary.

*Inquiries by Board.*

Power of  
board to  
summon  
witnesses and  
take evidence.

**79.** (1) For the purpose of hearing and determining any application under this Act, the board may—

- (a) by summons signed on behalf of the board by a member of the board or the secretary, require the attendance before the board of any person whom the board thinks fit to call before it ;
- (b) by notice in writing signed on behalf of the board by a member of the board or the secretary require the production of any books, papers or documents ;
- (c) inspect any books, papers or documents produced before it, and retain them for such reasonable period as it thinks fit, and make any copies of them or of any of their contents ;
- (d) require any person to take an oath or affirmation that he will truly answer all questions put to him by the board relevant to any matter being inquired into by the board, which oath or affirmation may be administered by any member or the secretary of the board ;
- (e) require any person appearing before the board, whether on summons or otherwise, to answer any relevant questions put to him by any member of the board or by any person appearing before the board.

(2) If any person—

- (a) who has been served with a summons to attend before the board, does not attend in obedience to the summons ; or
- (b) who has been served with a notice to produce books, papers or documents, refuses or fails to comply with the notice ; or
- (c) when required by the board to take an oath or affirmation as mentioned in the preceding subsection, refuses to do so ; or
- (d) when required to answer a relevant question as mentioned in the preceding subsection, refuses to do so ; or
- (e) wilfully insults the board or any member thereof ; or
- (f) misbehaves himself before the board ; or
- (g) interrupts the proceedings of the board,

he shall be guilty of an offence, and liable to a fine not exceeding one hundred pounds.

(3) A person shall not be obliged to answer a question put to him by the board if the answer to that question would tend to incriminate him or to produce any books, papers or documents if their production would tend to incriminate him.

**80.** (1) The board shall give the applicant, any person objecting to the application and, in the case of an application for cancellation, the person whose licence or registration is affected, not less than seven days notice of the time when and the place where, it intends to conduct an inquiry into an application under this Act, and shall afford any such person a reasonable opportunity of cross-examining the witnesses, calling evidence and making submissions to the board.

Notice of  
inquiry and  
procedure.

(2) If a person to whom notice is given pursuant to subsection (1) of this section does not after such notice attend at the time and place fixed by the notice, the board may hold the inquiry in his absence.

(3) The procedure at any inquiry shall be such as the board orders.

## PART VIII.

Power of board to censure.

**81.** On an application for renewal of a licence or registration or on an application for cancellation of a licence or registration the board may in addition to or in lieu of making any order under this Act, censure the licensed land agent, registered land salesman or registered manager, as the case may be.

Costs.

**82.** (1) On granting an application under this Act, the board may order that any person objecting to the application or, in the case of an application for the cancellation of a licence or registration, the licensed land agent, registered land salesman or registered manager, pay within such time as is fixed by the board to the applicant such costs as the board thinks just and reasonable.

(2) On refusing an application under this Act, the board may order that the applicant pay to any person objecting to the application or, in the case of an application for cancellation of a licence or registration, the licensed land agent, registered land salesman or registered manager, within such time as is fixed by the board such costs as the board thinks just and reasonable.

Recovery of costs.

**83.** (1) Where the board has made an order for the payment of costs against a licensed land agent or a person registered as a land salesman or manager under this Act, and the costs are not paid within the time fixed by the board, the board may suspend the licence or registration of the person until the costs are paid or for such period as the board thinks fit.

(2) Costs ordered to be paid under this Act shall be recoverable summarily.

Members of board taking part in investigation.

**84.** Neither the board nor any of its members shall be debarred from hearing and determining any application by reason of the fact that the board or any member has authorized or taken part in an investigation as to such application.

### *Appeals.*

Appeals against decisions of board.

**85.** (1) There shall be an appeal against any order of the board made in the exercise or purported exercise of any of its powers or functions under this Act.

(2) Subject to this section, the appeal shall lie to the Supreme Court and shall be instituted within one month from the making of the order appealed against. The appeal shall be by way of re-hearing.

The Supreme Court may, if in its opinion the appellant has done whatever is reasonably practicable to institute the appeal within the time provided in this section, dispense with the requirement that the appeal shall be so instituted.

(3) The Supreme Court may, on the hearing of the appeal, do any one or more of the following things, according to the nature of the case :—

- (a) affirm, quash or vary the order appealed against, or substitute, or make any order which ought to have been made in the first instance ;
- (b) remit the subject matter of the appeal to the board for further consideration or further hearing ;
- (c) make any further or other order as to costs or otherwise, which the case requires.

(4) The judges of the Supreme Court, in accordance with the provisions of the Supreme Court Act, 1935-1953, as to the making of rules of court, may make rules of court regulating the practice and procedure on such appeals.

(5) The board shall, if required by any person affected by any order made by it, state in writing the reason for its order. If the reason for the order of the board is not given in writing in the first instance, the time within which an appeal may be instituted shall, if the appellant at the time of the order requested that the reason for the order should be given in writing, run from the time when the board first gives the reason for its order in writing.

**86.** (1) Where the board has made any order under this Act the board or the Supreme Court may, on application, if the board or the court is satisfied that an appeal against the order has been or is intended to be instituted under this Act, suspend the operation of the order pending the determination of the appeal.

Suspension of orders.

(2) The board may at any time after the suspension by the board of an order pursuant to subsection (1) of this section, terminate the suspension.

(3) The Supreme Court, on application in that behalf, may at any time after the suspension by the Supreme Court of an order pursuant to subsection (1) of this section, terminate the suspension.

*Commission.***Commission.**

**87.** (1) A person required to hold a licence under this Act shall not be entitled to receive any commission in respect of his services as agent in connection with the sale, purchase or other disposal or acquisition of land unless—

(a) he is a licensed land agent at the time he renders the services ; and

(b) his appointment to act as agent is in writing signed before the receipt of the commission, and whether before or after the rendering of the services, by the person to be charged with the commission, or by some person on his behalf lawfully authorised to sign such appointment.

(2) An amount received in contravention of this section shall be recoverable summarily.

(3) In this section “commission” includes reward or other valuable consideration.

*Legal Proceedings.***Proof whether person is licensed or registered.**

**88.** (1) In any legal proceedings whatever *prima facie* evidence of the fact that any person is at any time licensed or registered may be given by production of a document purporting to be a licence or certificate of registration granted by the board to such person and purporting to be in force at such time.

(2) The allegation in any complaint that any person was not licensed or registered at any time mentioned in the complaint shall be *prima facie* evidence of that fact.

**Summary proceedings.**

**89.** Except where this Act provides otherwise, all proceedings in respect of offences against this Act shall be disposed of summarily.

**Civil remedies not affected.**

**90.** Nothing in this Act shall prejudice any civil remedy that any person may have against a land agent in respect of any matter.

**Contracting out.**

**91.** No term or provision of any agreement, whether made before or after the commencement of this Act, for the sale and purchase of land shall be so construed as in any way to prevent any party thereto from claiming or being awarded damages or any other relief in respect of fraud or misrepresentation in connection with the purchase of such land.

**s. 87. JUTTNER v. RIEDEL** (1937) S.A.S.R. 466. Held, on the evidence that there was no written appointment as an agent pursuant to the section.

*Delivery of Documents, etc.*

**92.** Any document required to be delivered, or any notice required to be given, to any person under this Act may be delivered or given by registered post.

Delivery of documents, etc., by registered post.

*Regulations.*

**93.** (1) The Governor may make regulations prescribing any matter which it is necessary or convenient to prescribe for giving effect to this Act and without limiting the generality of the foregoing, may make regulations under this Act—

Regulations.

- (a) prescribing forms to be used for the purposes of this Act ;
- (b) prescribing fees payable for the doing of anything under this Act ;
- (c) prescribing the forms, terms and conditions of fidelity bonds ;
- (d) prescribing the mode in which any fact relevant to any matter arising under this Act may be proved in any court ;
- (e) providing for an annual audit of the trust accounts of every land agent, and the manner in which, and the persons or class of persons by whom, such audit shall be conducted, and for a report of the result of such audit ;
- (f) requiring the production to the auditor of books, papers, and accounts, subject to such conditions as are prescribed ;
- (g) prescribing the persons to whom the reports of auditors shall be sent for inspection, information or record ;
- (h) prescribing a scale of fees to be paid to such auditors ;
- (i) prescribing that, in the absence of any agreement in writing to the contrary, the auditor's fees shall be paid by the land agent ;
- (j) generally to ensure that all such trust accounts shall be duly kept and audited ;

PART VIII.

- (k) prescribing various maximum rates of commissions which may be charged by land agents for their services in transactions of various natures defined in such regulations ;
- (l) generally with respect to charges, reimbursements and payments of any other kind payable to a land agent in respect of or in connection with any work done by him as a land agent ;
- (m) generally with respect to the conduct of inquiries by the board ;
- (n) prescribing penalties, not exceeding one hundred pounds in any case, for the breach of any regulations under this Act.

(2) All information obtained by an auditor in the course of the audit of any trust account under this Act shall be treated as confidential, subject only to such rights of publication as may be prescribed in furtherance of the proper purposes of the audit.

PART IX.

## PART IX.

## TRANSITIONAL PROVISIONS.

Continuance  
in office of  
members,  
chairman and  
secretary of  
board.

**94.** (1) The members of the board in office at the commencement of this Act shall, subject to the provisions of this Act, continue in office for the terms for which they were appointed under the Land Agents Act, 1925-1950.

(2) The chairman and secretary of the board at the commencement of this Act shall, subject to this Act, continue in office.

Licences  
under Land  
Agents Act,  
1925-1950.

**95.** (1) A licence held by any person on his own behalf or on behalf of any other person (not being a corporation) under the Land Agents Act, 1925-1950, at the commencement of this Act shall be deemed for all purposes, including renewal, to have been granted under this Act to the holder thereof.



(2) Where at the commencement of this Act a licence is held on behalf of a corporation under that Act by any person, the licence shall for all purposes, including renewal, be deemed to have been granted to the corporation under this Act.

(3) Where at the commencement of this Act, a licence is held on behalf of a firm under that Act by any person, a licence shall be deemed for all purposes, including renewal, to have been granted under this Act to each of the other members of the firm.

**96.** A licence deemed to be granted pursuant to the preceding section shall be subject to cancellation on the ground that the licence under the Land Agents Act, 1925-1950, was improperly obtained contrary to the provisions of that Act as well as on any ground under this Act.

Cancellation of licence deemed to be granted under this Act.

**97.** The registered office under this Act of a land agent to whom a licence is deemed to be granted under this Act shall, until changed by him pursuant to this Act, be the same as the registered office of the holder of the licence under the Land Agents Act, 1925-1950.

Registered office of land agent deemed to be granted a licence under this Act.

**98.** Where at the commencement of this Act a person is registered as a land salesman under regulations made under the Land Agents Act, 1925-1950, the person shall be deemed to be registered as a land salesman under this Act for all purposes, including renewal of the registration.

Registration as land salesman under regulations under Land Agents Act 1925-1950.

**99.** The registration of a person deemed to be registered may be cancelled on the ground that the registration under the regulations made under the Land Agents Act, 1925-1950, was improperly obtained contrary to those regulations, as well as on any ground under this Act.

Cancellation of deemed registration.

**100.** (1) Subject to subsection (2) of this section, a fidelity bond filed in compliance with the Land Agents Act, 1925-1950, and in force at the commencement of this Act shall be deemed to have been given in compliance with this Act and shall have effect as though it had been so given.

Fidelity bonds under Land Agents Act, 1925-1950.

(2) Where the bond was given with respect to the members of a firm, the bond shall have effect as though it had been given in compliance with this Act with respect to each such member.

## PART IX.

Deposit of securities under Land Agents Act, 1925-1950.

**101.** (1) Subject to subsection (2) of this section, securities held by the Treasurer at the commencement of this Act pursuant to section 7a of the Land Agents Act, 1925-1950, shall be deemed to have been deposited under this Act, and shall be held as security for the performance of the same conditions as if they had been deposited under this Act.

(2) Where the securities were deposited to secure the performance of conditions by the members of a firm, the securities shall be held as security for the performance by those members of the same conditions as if the securities had been deposited under this Act.

Person deemed to be licensed not required to appoint a manager until after the expiration of three months.

**102.** Notwithstanding the provisions of section 52, a person deemed to be granted a licence pursuant to this Part shall not be required to nominate a manager under this Act until after the expiration of three months from the commencement of this Act.

Exemption of letting agents continued.

**103.** A person exempted by the Attorney-General pursuant to the Land Agents Act, 1925-1950, from compliance with section 3 of that Act, shall be deemed to have been granted a certificate of exemption by the board pursuant to section 6 of this Act.

Clerks of local courts to deliver fidelity bonds to secretary, etc.

**104.** Every clerk of a local court shall after the commencement of this Act as soon as practicable forward to the secretary all fidelity bonds held by him and such other information and documents or copies thereof relating to the licensing of land agents and the registration of land salesmen as the board may require.

Pending applications.

**105.** (1) An application for the grant or renewal of a land agent's licence or of registration as a land salesman lodged in a court before the commencement of this Act under the Land Agents Act, 1925-1950, shall be heard and dealt with as if this Act had not been passed.

(2) If the licence or registration is granted or renewed this Part shall apply with respect to such licence or registration in the same manner as if the licence or registration had been in force or had been so renewed at the commencement of this Act.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

R. A. GEORGE, Governor.