

## LAND SALES CONTROL.

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No. 34 of 1948.

AN ACT to make provision for the regulation and control of the prices payable in respect of certain transactions in land and for matters incidental thereto.  
[17 September, 1948.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

Short title and commencement.

**1**—(1) This Act may be cited as the *Land Sales Control Act* 1948.

(2) This Act shall commence on the twentieth day of September 1948.

Interpretation.

**2** In this Act, unless the contrary intention appears—

“approved valuer” means a person appointed by the Minister as an approved valuer for the purposes of this Act, and includes the Senior Valuer;

“country land” means land used for agricultural, pastoral, horticultural, viticultural, apicultural, dairy farming, or poultry farming purposes, or for other like purposes;

“Senior Valuer” means the person holding office as Senior Valuer in the Department of Lands and Surveys;

“the Commonwealth Regulations” means the National Security (Economic Organization) Regulations of the Commonwealth.

Certain transactions in land forbidden without Minister's consent.

Cf. S.R. 1942 No. 76 (C'wealth), r. 6 (1) and 6 (10).

**3**—(1) Except as provided by this Act, no person shall, without the consent in writing of the Minister—

(a) purchase any land;

(b) take an option for the purchase of any land;

(c) take any lease of land;

(d) take a transfer or assignment of any lease of land;

or

(e) otherwise acquire any land.

(2) Where a transaction prohibited by subsection (1) of this section has been entered into subject to the consent of the Minister thereto being obtained, the transaction shall not be a contravention of that subsection if an application

for the consent of the Minister is made within three months after the date of the transaction; but the transaction shall not have any effect unless the Minister gives his consent thereto within six months after the date of the transaction or within such other period as is agreed upon, in writing, by all parties to the transaction.

- 4**—(1) The provisions of section three shall not apply to—
- Exemptions.  
rr. 6 (2), and  
8, and 9.
- (a) the taking of a lease of land (other than country land) to be used by the lessee where the term of the lease does not exceed three years and is to commence not more than three months after the date of the lease;
  - (b) the taking of a transfer or assignment of a lease of land (other than country land) to be used by the transferee or assignee where the unexpired portion of the term of the lease does not exceed three years;
  - (c) the taking of an option for the purchase of any land where the period within which the option may be exercised is limited to one month after the taking of the option;
  - (d) the acquisition of land by way of gift;
  - (e) any transaction to which the State or the Commonwealth or any authority thereof or person acting on behalf thereof (other than the Public Trustee) is a party;
  - (f) the acquisition of land on sale under a writ or warrant of execution issued out of any court;
  - (g) any transaction by way of renewal or extension of a lease which was in existence prior to the twentieth day of February, 1942, where the rent under the lease as renewed or extended does not exceed the rent payable under the lease prior to the renewal or extension;
  - (h) any transaction to give effect to an agreement in writing entered into prior to the twentieth day of February, 1942;
  - (i) the exercise of any option in writing given before the twentieth day of February, 1942;
  - (j) any transaction—
    - (i) by way of mortgage or sub-mortgage;
    - (ii) by way of discharge of a mortgage or sub-mortgage;
    - (iii) by way of transfer or assignment of a mortgage to a guarantor who, in pursuance of the terms of his guarantee, has repaid the whole or part of the moneys due under the mortgage;

- (k) the vesting in the personal representative of a deceased person, in his capacity as such, of any estate or interest in land;
  - (l) any transaction which vests any estate or interest in land, in any trustee of the estate of a deceased person, in any trustee in bankruptcy, or in any new trustee under any instrument, in his capacity as trustee;
  - (m) any transaction which is without consideration in money or money's worth and the purpose of which is to vest any estate or interest in land in any person beneficially entitled thereto under or by virtue of any will or intestacy; or
  - (n) the execution of any deed of assignment under Part XI. of the *Bankruptcy Act* 1924-1946 of the Commonwealth or of any deed of arrangement under Part XII. of that Act.
- (2) The regulations may exempt from all or any of the provisions of this Act, either unconditionally or subject to such conditions as may be prescribed—
- (a) transactions of any prescribed class;
  - (b) land of any prescribed class; or
  - (c) all land, or the land comprised in any prescribed class of land, situated in any prescribed part of the State.
- (3) Every person to whom any conditions prescribed in any such regulations are applicable shall comply with such conditions.
- (4) Any order made before the commencement of this Act under sub-regulation (1) of regulation nine of the Commonwealth Regulations which is in force at such commencement shall continue in force in the same manner and to the same extent in all respects as if it were a regulation validly made under the authority of subsection (2) of this section, but may be rescinded, varied, or amended by any regulation under that subsection.

Application  
for consent  
and  
valuations.  
r. 6 (3) to  
(8).

**5**—(1) Every application for the consent of the Minister under section three—

- (a) shall be in writing in the prescribed form, or, if no form is prescribed, in such form as the Minister may direct;
- (b) shall contain such particulars of the proposed transaction as are prescribed, including full particulars of any option granted to or by the applicant or the wife or husband of the applicant in relation to the land which is the subject of the transaction; and
- (c) shall be accompanied by a valuation of the land by an independent approved valuer unless, in special circumstances, the Minister dispenses with such a valuation.

(2) The Minister may require any person who is a party to any proposed transaction in respect of which an application is made for the Minister's consent under section three to furnish in writing to the Minister such particulars of the proposed transaction as the Minister may require or direct.

(3) A valuation under this section shall—

(a) if the proposed transaction is the purchase of any land, specify the amount which would have been a fair and reasonable price for the land as at the tenth day of February, 1942; and

(b) in any other case, specify the value of the subject-matter of the transaction as at a date specified by the Minister.

(4) Where the Minister is not satisfied with any valuation furnished under this section he may—

(a) require the approved valuer to furnish such information concerning the valuation as the Minister specifies; and

(b) require a further valuation to be furnished to him by an approved valuer nominated by the Minister.

(5) Where before the date of the commencement of this Act an application for consent to a transaction affecting land was made under the Commonwealth Regulations, but no decision on the application was given before that date, the Minister may deal with the application as if this Act had been in force when it was made and the application had been made under this Act.

**6**—(1) Where application is made for the consent of the Minister under section three to any proposed transaction, the Minister may, in his discretion—

Consent of Minister.  
rr. 6 (10A),  
and 9.

(a) grant his consent thereto, either unconditionally or subject to such conditions as he thinks fit; or

(b) refuse to grant his consent thereto.

(2) The Minister shall not refuse to grant his consent to any proposed transaction or give his consent thereto subject to any conditions, except for the purpose of giving effect to a policy preventing or limiting increases in prices of land.

(3) Where the Minister's consent to any proposed transaction is granted subject to conditions, every person shall comply with all such conditions as are applicable to him.

**7**—(1) No person shall, without the consent in writing of the Minister, purchase or otherwise acquire any residential business.

Disposal of residential businesses.  
r. 10C.

(2) An application for the consent of the Minister under subsection (1) of this section shall be in writing.

(3) The Minister may require any person—

(a) to furnish him with such information as he may require;

(b) to attend and give evidence before him or before any officer authorised by him in that behalf; or

(c) to produce and leave with him or any officer so authorised all books, documents and other papers whatever in his custody or under his control, concerning any residential business in respect of which an application for consent is made under this section, or concerning any proposed purchase or other acquisition of any such business.

(4) The Minister may require any such information or evidence to be given on oath and either verbally or in writing, and for that purpose he or the officer so authorised may administer an oath or affirmation.

(5) Subject to this section, any consent granted under this section to any person shall, in addition to such other conditions as the Minister thinks fit, be subject to the following conditions, namely:—

(a) That the person to whom the consent is given shall not require any person lodging or boarding and lodging in the building in respect of which the business is being carried on to vacate his lodging on any ground other than that—

(i) payment for his lodging or board and lodging has not been made within two weeks after it became due; or

(ii) he has been guilty of conduct which is a nuisance or annoyance to the person to whom the consent is granted, or to the other lodgers or boarders;

(b) That the person to whom the consent is given shall not charge a rate for any kind of lodging or board and lodging in that building higher than the rate permitted by or under the *Prices Act 1948* to be charged for that kind of lodging or board and lodging; and

(c) That the person to whom the consent is given shall not refuse or fail to provide for any person lodging in the building board of substantially the same kind as the board provided for that person by the person from whom the business is purchased or otherwise acquired.

(6) Where application is made for the consent of the Minister under this section, he may, in his absolute discretion, grant the consent either unconditionally or subject to such conditions as he thinks fit or may refuse to grant his consent.

(7) No person shall contravene or fail to comply with any conditions subject to which any consent is granted to him under this section.

(8) For the purposes of this section—

- (a) “building” includes licensed premises within the meaning of the *Licensing Act 1932\**;
- (b) “residential business”, in relation to any building means the business of providing in that building lodging or board and lodging for valuable consideration; and
- (c) a person shall be deemed to acquire a residential business if he acquires—
  - (i) a lease for any period of the building; or
  - (ii) all or a substantial part of the furniture, plant and equipment which has been used for the purposes of the business and retains that furniture, plant and equipment in the building in which the business is carried on.

**8**—(1) The Minister administering the *Commonwealth and State War Service Land Settlement Agreement Act 1945†* (in this section referred to as “the said Act”) may, by order published in the *Gazette*, declare any country land specified in the order to be land suitable for land settlement in accordance with the agreement set forth in the schedule to the said Act.

War service  
land  
settlement.  
r. 6A.

(2) The Minister shall not grant his consent under section three to any proposed transaction relating to any land specified in an order under subsection (1) of this section if he is satisfied, after consultation with the Minister administering the said Act, that the land is likely to be required for land settlement in accordance with the agreement set forth in the schedule to the said Act.

**9**—(1) Where any transaction is entered into in contravention of this Act or where any condition to which the transaction is subject is not complied with, the transaction shall not thereby be invalidated and the rights, powers and remedies of any person thereunder shall be the same as if this Act had not been passed.

Validation of  
transactions.  
r. 10.

(2) Nothing in this section shall affect the liability of any person to any penalty in respect of any contravention of this Act.

**10** When any instrument relating to a transaction to which the Minister’s consent is required under this Act is submitted to the Recorder of Titles or Registrar of Deeds for registration, the Recorder or Registrar, as the case may be, may require such evidence as he deems necessary that the transaction to which the instrument relates is not in contravention of any provision of this Act, and may refuse to register the instrument until such evidence is submitted to him to his satisfaction.

Recorder of  
Titles, &c.,  
may require  
evidence that  
transactions  
are not in  
contravention  
of this Act.  
r. 10B.

23 Geo. V. No. 55. For this Act, as amended to 1936, see Reprint of Statutes, Vol. IV., p. 843. Subsequently amended by 1 Geo. VI. No. 40, 7 Geo. VI. No. 38, and 11 Geo. VI. No. 81.

† 9 & 10 Geo. VI. No. 36. Subsequently amended by 11 Geo. VI. No. 27.

Recovery of  
excess  
consideration.  
r. 6AB.

**11**—(1) Where consent has been given under section three to any transaction or proposed transaction, and the person from whom the land, option, or lease is to be or has been purchased, taken, or otherwise acquired accepts or has accepted, in respect of the transaction or proposed transaction, any consideration in excess of the consideration provided for in the terms of the transaction or proposed transaction, as so consented to, the person who has paid or given the excess consideration may, notwithstanding that he is or may be concerned in a contravention of this Act in relation to the transaction, but subject to subsection (2) of this section, recover the amount or value of the excess consideration from the person to whom it was so paid or given, by action in any court of competent jurisdiction.

(2) The court in which any such action is brought may, if in its discretion it considers that the circumstances of the case so warrant, refuse to give judgment for the plaintiff, or give judgment for the plaintiff in respect of any part only of the amount or value of the excess consideration.

Power of  
Minister to  
obtain  
information.  
r. 22 (1) and  
(2).

**12**—(1) The Minister may, by order, require any person—

(a) to furnish to the Minister, or to such other person as the Minister directs, such information as the Minister or that other person requires;

(b) to attend and give evidence before the Minister or such other person as the Minister directs,

with respect to any transaction to which the Minister's consent is required under this Act, and may require him to produce any books, documents, and other papers whatsoever in his custody or under his control relating thereto.

(2) The Minister may require the information or evidence to be given on oath or affirmation and either orally or in writing, and, for that purpose, the Minister or person before whom the evidence is given may administer an oath or affirmation.

(3) The Minister may require that any information or particulars required to be furnished to him or to any other person under this Act shall be verified by statutory declaration.

Delegation of  
Minister's  
powers.

Act No. 77 of  
1946 (Com-  
monwealth),  
s. 18.

**13**—(1) The Minister may, by writing under his hand, delegate all or any of his powers and functions under this Act (except this power of delegation) in relation to any matter or class of matters, so that the delegated powers and functions may be exercised by the delegate with respect to the matter or class of matters specified in the instrument of delegation.

(2) Any delegation by the Minister under this section shall be revocable, in writing, at will, and no such delegation shall prevent the exercise of any power or function by the Minister.

Appointment  
of approved  
valuers.

**14**—(1) The Minister may, by notice under his hand published in the *Gazette*, appoint such and so many persons as he considers necessary as and to be approved valuers for the purposes of this Act, and may, at any time, by the like notice so published, revoke any such appointment.

(2) Subject to subsection (3) of this section, no person shall be appointed as an approved valuer in pursuance of subsection (1) of this section unless that person has had not less than ten years' continuous experience as a valuer before the commencement of this Act.

(3) Any person holding office as the Senior Land Valuer in the Department of Lands and Surveys shall, by virtue of his office and without further authority be deemed, while so holding office, to be an approved valuer for all the purposes of this Act.

**15** The Minister may appoint such boards of valuers in such places as he thinks fit to advise the Minister on any matters referred to them by him with respect to any applications for the consent of the Minister under this Act. Advisory boards of valuers.

**16**—(1) No person shall—

- (a) make to the Minister, or to any delegate of the Minister, or to any person referred to in paragraph (a) or paragraph (b) of subsection (1) of section twelve any statement, whether oral or in writing, relating to any matter dealt with or arising under this Act which he knows to be untrue in any particular, or which is made by him without his having first made proper inquiries to ascertain the truth thereof;
- (b) enter into any contract or arrangement purporting to do, whether presently or at some future time or upon the happening of any contingency, anything prohibited by this Act;
- (c) enter into any transaction or make any contract or arrangement, whether orally or in writing, for the purpose of or which has the effect of in any way, whether directly or indirectly, defeating, evading, or preventing the operation of this Act in any respect;
- (d) refuse or fail to comply with any requirement of the Minister under this Act;
- (e) contravene or fail to comply with any provision of this Act which is applicable to him; or
- (f) with intent to evade the provisions of this Act destroy, mutilate, deface, secrete, or remove any book, document, or other paper:

Offences.  
S.R. 1942 No.  
76, rr. 20, 21,  
22.

Penalty: One hundred pounds or six months' imprisonment, or both.

(2) Where a person convicted of an offence against this Act is a body corporate, every person who, at the time of the commission of the offence, was a director or officer of the body corporate shall be deemed to have committed the like offence, and shall be liable to the pecuniary penalty or imprisonment or both prescribed in subsection (1), unless he proves that the offence was committed without his knowledge or that he used all due diligence to prevent the commission of the offence.



## Regulations.

**17**—(1) The Governor may make regulations prescribing all matters which are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to the provisions of this Act, and, in particular, for regulating the furnishing and verification of valuations and of applications for the Minister's consent under section three and of any information or particulars required to be furnished in pursuance of this Act.

(2) The regulations may require that any such valuations, applications, information and particulars shall be verified by statutory declaration.

## Expiry of Act.

**18** This Act shall expire on the thirty-first day of December, 1948.

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**PUBLIC WORKS EXECUTION (No. 2).**

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No. 35 of 1948.

AN ACT to provide for the execution and carrying out of certain Public Works and Purposes, and to authorise the borrowing of certain sums of money for meeting the cost of those Works and Purposes, and for the purposes of the *Hydro-Electric Commission Act* 1944, and the *Transport Act*, 1938.  
[28 September, 1948.]

**B**E it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

## Short title.

**1** This Act may be cited as the *Public Works Execution Act* (No. 2) 1948.

## PART I.

## PUBLIC WORKS AND PURPOSES GENERALLY.

## Works and purposes to be executed and carried out.

**2**—(1) The public works and purposes specified in the first schedule may be executed and carried out by the Minister administering the Act or Department under or for the purposes of which those works and purposes are respectively required to be executed or carried out.

(2) The cost of any public work or purpose specified in the first schedule shall not exceed the amount set forth therein in respect of each work or purpose.