



ANNO DECIMO QUARTO

GEORGI VI REGIS.

A.D. 1950.

No. 49 of 1950.

An Act to amend the Land Agents Act, 1925-1936.

[Assented to 7th December, 1950.]

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

1. (1) This Act may be cited as the "Land Agents Act Amendment Act, 1950". Short titles.
- (2) The Land Agents Act, 1925-1936, as amended by this Act, may be cited as the "Land Agents Act, 1925-1950".
- (3) The Land Agents Act, 1925-1936, is hereinafter called "the principal Act".
2. This Act is incorporated with the principal Act and that Act and this Act shall be read as one Act. Incorporation.
3. This Act shall come into operation on a day to be fixed by the Governor by proclamation. Commencement of Act.
4. The following section is enacted and inserted in the principal Act after section 2a thereof :— Enactment of s. 2b of principal Act—
 - 2b. (1) The Governor may appoint a board to be called "The Land Agents Board". The said board is in this Act referred to as "the board". Land Agents Board.
 - (2) the board shall consist of three persons, 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.

(3) The Governor shall appoint one member of board to be the chairman thereof.

(4) Subject to this Act, every member of the board shall hold office for three years and shall be eligible for re-appointment.

(5) The Governor may remove any member of the board from office for neglect of duty or mental or physical incapacity to perform his duties.

(6) 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.

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

(8) The Governor may appoint a person to be secretary of the board.

(9) 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.

(10) 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.

Amendment of
s. 6 (2) of
principal Act—
Land agents'
bonds.

5. Subsection (2) of section 6 of the principal Act is repealed and the following subsection enacted in its place :—

(2) Every such bond shall be in such of the prescribed forms as is applicable to the case, or in a form to the like effect.

In this subsection "prescribed form" means :—

- (a) a form prescribed in the schedule to this Act ; or
- (b) if by regulations a bond in a different form has been substituted for a form in the schedule, the form so substituted.

6. Section 23 of the principal Act is amended by adding at the end thereof the following subsection :—

Amendment of
s. 23 of
principal Act—
Land agents'
trust accounts.

(5) 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.

7. The following sections are enacted and inserted in the principal Act after section 29 thereof :—

Enactment of
ss. 29a-29g of
the principal
Act—

29a. (1) Whenever the board is informed or has reason to suspect that any land agent or land salesman has in the course of his business or work as such agent or salesman been guilty of any crime, neglect of duty towards a client, breach of trust, breach or non-observance of any provision of this Act, negligence, dishonesty or other conduct indicating that he is not a fit and proper person to act as land agent or land salesman, it shall obtain such statements of the facts as are necessary to enable it to decide—

Inquiries into
misconduct.

(a) in the case of a land agent whether proceedings should be taken against him under section 27 of this Act ; or

(b) in the case of a land salesman whether proceedings should be taken against him under the regulations relating to the cancellation of the registration of land salesmen ; or

(c) in either case whether objection should be lodged against the renewal of the licence or registration of the said person.

(2) Whenever the board has reason to suspect that any applicant for a land agent's licence or registration as a land salesman is not a fit and proper person to be licensed or registered (as the case may be) it shall obtain such statements of facts as are necessary to enable it to decide whether objection should be lodged against the application made by that applicant.

(3) In order to obtain satisfactory statements of any facts the board may, if it deems it necessary to do so, hold an inquiry at which evidence may be taken on oath or affirmation.

Powers of
board as to
evidence, etc.

29b. (1) For the purpose of any such inquiry the board may—

- (a) by summons signed by any member or the secretary of the board require any person to attend before the board ;
- (b) by notice in writing signed as aforesaid require any person to produce to the board any books, papers or documents ;
- (c) 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 ;
- (d) 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 appear before the board does not attend in obedience to the summons ; or
- (b) who has been served with notice to produce any books or documents before the board does not 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) refuses to answer any relevant question put to him by any member of the board or by any person appearing before the board ; or
- (e) misbehaves himself before 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 at an inquiry conducted by the board if the answer to that question would tend to incriminate him.

29c. (1) The board shall give the land agent or land salesman whose conduct is in question not less than seven days' notice of the time and place when it intends to conduct any inquiry, and shall afford that agent or salesman a reasonable opportunity of cross-examining the witnesses calling evidence and making submissions to the board.

Notice of inquiry and procedure.

(2) If a land agent or land salesman does not after such notice attend at the time and place fixed by an inquiry, the board may hold the inquiry in his absence.

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

29d. (1) The board shall, if it considers that just cause exists for doing so—

Duty of board to take proceedings and oppose applications.

(a) take proceedings under section 27 of this Act against any licensed land agent ; or

(b) take proceedings for the cancellation of the registration of any land salesman under the regulations made under this Act ; or

(c) oppose the grant or renewal of any land agent's licence or the renewal of the registration of any land salesman.

(2) Any proceedings or objection to which the board is a party may be taken and proceeded with in the official name of the board without specifying the names of the individual members thereof.

29e. The clerk of any local court in which any application for the grant or renewal of a land agent's licence or of a registration as a land salesman is filed shall forthwith after such filing give notice thereof to the secretary of the board.

Duty to inform Land Agents Board of applications.

29f. (1) The Commissioner of Police shall at the request of the board cause his officers to make any inquiries and reports relevant to any matter being inquired into by the board.

Inquiries by police officers.

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

Pending applications.

29g. Any 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 the Land Agents Act Amendment Act, 1950, shall be heard and dealt with as if that Act had not been passed.

Repeal of s. 33a of the principal Act.

8. Section 33a of the principal Act is repealed.

Amendment of s. 35 of principal Act—Regulations.

9. Section 35 of the principal Act is amended by adding after paragraph (b) of subsection (1) the following paragraph :—

(ba) prescribing the forms, terms, and conditions of bonds to be used in substitution for bonds in the forms set out in the Schedule to this Act, and requiring applicants for land agents' licences to deposit bonds in the forms and containing the terms and conditions so prescribed.

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

C. W. M. NORRIE, Governor.