

LOCAL GOVERNMENT (SMALL HOLDINGS) AMENDMENT ACT.

Act No. 61, 1932.

George V.
No. 61, 1932.

An Act to enable the councils of shires and municipalities to acquire or provide land for small holdings and to sell or lease such holdings for agricultural purposes; to amend the Local Government Act, 1919, and certain other Acts; and for purposes connected therewith. [Assented to, 22nd December, 1932.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. (1) This Act may be cited as the "Local Government (Small Holdings) Amendment Act, 1932."

(2)

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(2) This Act shall be read and construed with the Local Government Act, 1919, as amended by subsequent Acts. That Act as so amended is referred to in this Act as the Principal Act.

2. The Principal Act is amended by inserting next after section five hundred and fourteen the following new Part:—

Amendment
of Act No.
41, 1919.
New Part
XXIII A.

PART XXIII A.

SMALL HOLDINGS.

DIVISION 1.—*Acquisition of land for small holdings.*

514A. In this Part, unless inconsistent with the context or subject-matter,—

Interpreta-
tion.

“ Small holding ” means an agricultural holding which does not exceed fifty acres in area, or if exceeding fifty acres is at the date of sale or lease by the council of an unimproved capital value not exceeding five hundred pounds.

cf. Small
Holdings
and Allot-
ments Act
(Eng.),
1908, 8 Ed.
VII, c. 36,
s. 61.

“ Agriculture ” and “ Cultivation ” include horticulture and the use of land for any purpose of husbandry, including the keeping or breeding of live stock, poultry, or bees, and the growing of fruit, vegetables, and the like, and “ agricultural ” and “ cultivate ” have a corresponding meaning.

514B. (1) The council may by gift, agreement, purchase or lease, acquire land within or without its area for the purpose of providing small holdings for persons who desire to buy or lease and will themselves cultivate the holdings.

Acquisition
of land.

(2) The council shall not acquire land for small holdings save at such a price or rent that in the opinion of the council all expenses incurred by the council in relation to the land will be recouped out of the purchase money for the land when sold by the council, or out of the rent of the land when leased by the council, and the council shall fix the purchase money or rent at such reasonable amount as will in its opinion guard it against loss.

(3)

(3) Any land owned by the council which is not required for any other purpose may be used temporarily or permanently by the council for the purposes of this Part, and may be sold or leased by the council as provided in this Part.

(4) Before acquiring or using any land for the purpose of this Part the council shall obtain a certificate signed by the Minister for Agriculture that the land is suitable for cultivation and for use as small holdings or can be made suitable at reasonable expense.

(5) The power to acquire land outside its area conferred on the council by this section shall not be exercised except with the consent of the council of the area in which the land is situated.

DIVISION 2.—Subdivision and adaptation of land for small holdings.

Subdivision.

514c. (1) The council may subdivide any land acquired or provided by it for the purposes of this Part into suitable allotments and shall cause a plan of each such subdivision to be prepared showing the dimensions, area and situation of each allotment.

(2) Such plan shall be kept at the office of the council and shall be available for inspection by any person interested during the usual office hours without payment of a fee.

Adaptation
of land for
use.

cf. 8 Ed.
VII (Eng.),
c. 36, s. 8.

514d. (1) The council may, if it thinks fit, before selling or leasing any land for small holdings, adapt the land for that purpose—

(a) by clearing and grubbing and preparing the land for cultivation; and

(b) by fencing all or any of the allotments and making roads and executing any other works, including the provision of drainage, which in the opinion of the council may be more economically and efficiently executed for the land as a whole.

(2)

(2) The council shall apportion the total cost of each area of land subdivided by it under this Part, and of any adaptation thereof among the several small holdings into which the land is subdivided in such manner as seems to it to be just.

Apportionment of cost among holdings. S. Ed. VII, c. 36, s. 9.

514E. The council may also, if it thinks fit, erect on any allotment a dwelling and/or such other buildings as it may consider necessary for the adaptation of the property for the purpose of a small holding, or may make such adaptation of existing buildings as it may consider necessary for such purpose.

Erection of buildings. *Ibid.* s. 8. (2).

DIVISION 3.—*Sale or lease of land for small holdings.*

514F. (1) Subject to the other provisions of this Part the council shall have power to sell or lease to any person any land acquired or made available by it as aforesaid as a small holding.

Sale or lease of land.

(2) The provisions of Division 3 of Part XXIV of this Act respecting the sale or leasing of land shall not apply to the sale or lease of the land under this Part.

(3) (a) In the case of a sale of any land under this Part the council may sell on such extended terms of payment and may fix such rates of interest to be paid on the amount of the purchase money outstanding as it thinks fit.

(b) In any such case the amount of the purchase money outstanding shall be secured by a charge on the small holding in favour of the council.

(4) The council may, if it thinks fit, postpone for a term not exceeding five years, the payment of all or any part of the instalments of principal and interest of the purchase money of a small holding in consideration of the making by the purchaser of improvements which, in the opinion of the council, will increase the value of the holding, but shall do so only on such terms as will in its opinion prevent it from incurring any loss.

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(5) A small holding may be sold subject to such rights of way or other rights as the council may consider necessary or expedient.

Register of
applicants
for small
holdings.

514G. (1) Before exercising any of the powers conferred by section 514B of this Act, the council shall publish an advertisement in a newspaper of its intention to provide small holdings within its area, and shall in such advertisement invite all persons who may desire to be considered as applicants for such holdings if the council provides them, to apply to the council upon the prescribed form to have their names recorded as applicants.

(2) The council shall cause the names of all such applicants, together with such particulars concerning such applicants as may be prescribed, to be entered in a book to be called the "Register of Applicants for Small Holdings."

Considera-
tion of
applications
for small
holdings.

514H. (1) Before the council sells or leases any land for a small holding it shall consider the character, circumstances, and capacity of all the persons whose names appear on the register of applicants for small holdings, and shall offer the land for sale or lease to such one of them (if any) as appears to it to be most capable of profitably cultivating the land.

(2) If the council is of opinion that none of the applicants whose names appear on the register of applicants for small holdings are capable of profitably cultivating the land which it proposes to sell or lease as a small holding, it shall not be obligatory upon it to offer such land to any of such applicants, and it may invite fresh applications by advertisement in a newspaper.

The provisions of section 514G and of subsection one of this section shall, mutatis mutandis, apply to the persons making application in response to such advertisement and with respect to the applications received and the consideration by the council of the applications.

(3)

(3) The council shall not sell or lease under this Part more than one small holding to any one person:

Provided that the council shall have power to sell or lease one or more than one small holding to a number of persons working on a co-operative system, provided such system is approved by the council, or to sell or lease one or more small holdings to any association of persons formed for the purpose of creating or promoting the creation of small holdings or for the relief of unemployment and so constituted that the division of profits among the members of the association is prohibited or limited.

514r. (1) A small holding sold by the council shall for a term of twenty years from the date of the sale and thereafter for so long as any part of the purchase money remains unpaid be held subject to the following conditions:—

Conditions of sale or lease.
cf. 16 and 17 Geo. V, c. 52, s. 6.

- (a) any payment due to the council in respect thereof shall be duly made;
- (b) the holding shall not be subdivided, sold, mortgaged, assigned, let, or sublet without the consent of the council;
- (c) the holding shall be cultivated by the owner or occupier himself as the case may be or by a member or members of his family upon his behalf, and shall not be used for any purpose other than agriculture;
- (d) not more than one dwelling-house shall be erected on the holding unless in the opinion of the council additional accommodation is required for the proper cultivation of the holding;
- (e) such other conditions as the council may consider necessary or expedient for the purposes of this Part (including a condition, if the council so decides, that the holding shall be cultivated in an efficient manner in accordance with the best rules of husbandry as practised in the neighbourhood), or as may be prescribed.

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(2) If any of such conditions is broken, the council may, after giving the owner an opportunity of remedying the breach (if it is capable of remedy), either take possession of the holding or order the sale of the holding without taking possession.

cf. Closer
Settlement
Act No. 37,
1904, s. 33.

(3) (a) In the event of the death or declared lunacy of the owner while the holding is subject to conditions, such conditions may be performed by the representatives of the deceased owner either personally or by an agent approved by the council.

(b) If, on the decease of the owner while the holding is subject to the conditions imposed by or under this section, the holding would, by reason of any devise, bequest, intestacy, or otherwise, become subdivided, the council may require the holding to be sold within twelve months after such decease to some one person, subject to the conditions attaching thereto, and if default is made in so selling the holding, the council may either take possession of the holding or order the sale of the holding without taking possession.

(4) A small holding leased by the council shall be held subject to the conditions on which it would under this section be held if it were sold, except so far as those conditions relate to the purchase money and to repairs and insurance against fire; and, if any such condition or any term of the letting is broken, the council may, after giving the tenant an opportunity of remedying the breach (if it is capable of remedy), determine the tenancy.

Recovery of
possession
of small
holdings.

514j. Where the council is entitled under this Act to take possession of a small holding, possession may be recovered (whatever may be the value of the holding) by or on behalf of the council either under Part III or Part IV of the Landlord and Tenant Act, 1899, as in the cases therein provided for, and in either case may be recovered as if the council were the landlord and the owner of the holding were the tenant.

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DIVISION 4.—*Miscellaneous.*

514k. (1) The council may provide tools, agricultural implements, appliances, equipment and/or live stock to any person in occupation of a small holding under this Part upon such conditions of purchase or hire as it sees fit. Sale or hire of tools, etc.

(2) The council may provide any person in occupation of a small holding under this Part with seed, seedlings, plants and the like, and with material for building or fencing, and with wire netting or manures, upon such conditions of purchase as it sees fit. Sale of seed, etc.

514L. The council may on a small holding undertake the work of ploughing and other work of cultivation for the owner or lessee upon such terms and conditions as it sees fit. Ploughing, etc.

514M. (1) The council may, whether it is providing land for small holdings or not, erect buildings and provide plant and equipment for the treatment, preservation and preparation for sale and/or marketing of agricultural products, and may undertake the treatment, preservation and preparation for sale and/or marketing of agricultural products. Assistance to agricultural operations.

(2) The council may sell or lease such buildings, plant and equipment upon such terms and conditions as it sees fit to any co-operative association comprised of persons engaged in agriculture in the area, provided the rules of such association are approved by the council, or to any association of persons formed for the purpose of promoting settlement and so constituted that a division of profits among the members of the association is prohibited or limited.

DIVISION 5.—*Ordinances.*

514x. Ordinances may be made for carrying this Part into effect and in particular for and with respect to— Ordinances.

(a) the form and contents of applications for small holdings;

(b)

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- (b) the form of and particulars to be entered in the register of applicants for small holdings;
- (c) the form and contents of contracts of sale or lease by the council of small holdings;
- (d) the regulation of the sale or lease of small holdings and of the sale or hiring of tools, agricultural implements, appliances, equipment and/or live stock, and the sale of seed, seedlings, plants and the like, or of material for building or fencing, and of wire netting and manures, to persons in occupation of small holdings;
- (e) the prevention of the giving of undue preference in the selling or leasing of small holdings.

Further amendment of Act No. 41, 1919. New s. 603A.

3. The Principal Act is further amended by inserting next after section six hundred and three the following new section:—

Conveyance of land to council.

603A. Where an application is made to the Public Trustee for the sale of any land under this Part, and the Public Trustee after obtaining a valuation of the land from the Valuer-General is reasonably of opinion that the proceeds of the sale thereof would not exceed the total of the fees and expenses of the Public Trustee and the rates or charges due to the council, he may convey or transfer such land to the council, and thereupon such land shall become vested in the council as if the transaction were a sale under this Part.

Further amendment of Act No. 41, 1919, s. 3. (Division into Parts.)

4. The Principal Act is further amended by inserting in section three after the words and figures "Part XXIII.—Miscellaneous Powers—ss. 476-514" the following words and figures: "Part XXIII A.—Small Holdings—ss. 514A-514N."