

## LAND SALES CONTROL ACT.

### Act No. 28, 1948.

**George VI.** **No. 28, 1948.** **An Act to make provision for regulating and controlling prices payable in respect of certain transactions in land; and for purposes connected therewith. [Assented to, 24th August, 1948.]**

**B**E 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 and commencement.**

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

(2) This Act shall commence upon a day to be appointed by the Governor, and notified by proclamation published in the Gazette.

**Definitions.**

**2.** In this Act unless the context or subject matter otherwise indicates or requires—

"Commonwealth Regulations" means the regulations having the title of the National Security (Economic Organisation) Regulations as in force immediately before the commencement of this Act under the Defence (Transitional Provisions) Act 1946-1947 of the Parliament of the Commonwealth.

"Country land" means land used for agricultural, pastoral, horticultural, viticultural, apicultural, dairy farming, poultry farming or other like purposes.

"Regulations" means regulations made under this Act.

**3.**

**3.** (1) Except as provided by this Act, a person shall **No. 28, 1948.**  
**not, without the consent in writing of the Minister—**

**Certain land  
transactions  
forbidden.**

- (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) Nothing in this section shall prevent—

- (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 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; or
- (g) any transaction by way of renewal or extension of a lease which was in existence prior to the twentieth day of February, one thousand nine hundred and forty-two, 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.

(3)

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(3) An application for the consent of the Minister under this section shall be in writing. The regulations may prescribe the form of such application and the particulars and information to be set out therein, may require that any statement made in the application shall be verified by statutory declaration and may prescribe the persons by whom any such statutory declaration shall be made.

(4) The Minister may require any person who is a party to a proposed transaction in respect of which an application is made for the Minister's consent under this section to furnish in writing to the Minister such particulars of the proposed transaction and of any transaction connected therewith as the Minister requires.

(5) In the case of an application for consent to purchase any land the application shall be accompanied by a valuation of the land by an independent approved valuer, unless the Minister dispenses with such a valuation.

(6) Where an application is made for the consent of the Minister to any proposed transaction, being the purchase of land, the taking of a lease of land, the taking of a transfer or assignment of a lease of land or any other acquisition of land, the Minister may, before giving consent, if a valuation has not been furnished under subsection five of this section, require to be furnished to him a valuation, by an independent approved valuer, of the subject matter of the proposed transaction.

(7) A valuation under subsection five or subsection six of this section—

(a) if the proposed transaction is the purchase of any land—shall specify the amount which would have been a fair and reasonable price for the land as at the tenth day of February, one thousand nine hundred and forty-two, or, if the valuation is a valuation by the Valuer-General, may be the last valuation of the land made by the Valuer-General; and

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

(8)

(8) Where the Minister is not satisfied with any valuation furnished under subsection five or subsection six of this section, he may—

- (a) require the valuer to furnish such information concerning the valuation as the Minister specifies; and
- (b) require to be furnished to him a further valuation by an approved valuer nominated by the Minister.

(9) An applicant for the Minister's consent under this section shall set out in his application full and correct particulars (including the amount of the consideration paid or payable) of any option which has been granted to or by the applicant, or to the wife or husband of the applicant, in relation to the land or lease specified in the application.

(10) Where an applicant fails to comply with subsection nine of this section, any consent given under this section to the transaction the subject of the application shall be void and of no effect.

(11) Where an applicant for consent to purchase any land on which is erected a dwelling-house has informed the Minister that he intends to live in the dwelling-house, the applicant shall not, without the consent in writing of the Minister, let the land.

(12) Where a transaction prohibited by this section has been entered into subject to the consent of the Minister thereto being obtained, the transaction shall be deemed not to have been entered into in contravention of this section 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 a period of six months after the date of the transaction, or within such other period as is agreed on in writing, at the time the transaction is entered into or at any time thereafter, by all the parties to the transaction or, where the agreement is made after the death of any party, by the surviving parties and the legal personal representative of the deceased party.

(13)

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(13) Notwithstanding anything contained in this Act, the Minister shall not refuse to grant his consent under subsection one of this section, or make the granting of his consent subject to any condition, except for the purpose of giving effect to a policy of preventing or limiting increases in prices of land.

(14) In this section—

“approved valuer” means—

- (a) the Valuer-General; or
- (b) any other person who has had not less than ten years' continuous experience as a valuer and is for the time being approved by the Minister as a valuer for the purposes of this Act;

“land” includes every share, interest or right in a tenement or claim under the Mining Act, 1906, or any Act amending that Act.

(15) (a) Any person who immediately before the commencement of this Act was an approved valuer within the meaning of paragraph (b) of the definition of “approved valuer” in sub-regulation eleven of regulation six of the Commonwealth Regulations shall be deemed to be a person for the time being approved by the Minister for the purposes of paragraph (b) of the definition of “approved valuer” in subsection fourteen of this section.

(b) The approval of the Minister of any person as an approved valuer under subsection fourteen of this section or under paragraph (a) of this subsection may be revoked by the Minister at any time by notice in writing served by post on such person.

**War service  
land  
settlement.**

4. (1) (a) The Secretary for Lands may, from time to time, by order published in the Gazette, declare country land specified in the order to be land suitable for settlement by former members of the Defence Force.

(b) Any order made by the appropriate Minister before the commencement of this Act under sub-regulation one of regulation 6A of the Commonwealth Regulations, and in force in this State immediately before such commencement shall continue in force and shall be deemed to have been made under paragraph (a) of this subsection.

(c).

(c) Any order made or deemed to have been made under this subsection may be revoked by the Secretary for Lands by order published in the Gazette. No. 28, 1948.

(2) The Minister shall not grant consent to an application under section three of this Act relating to land specified in any such order if he is satisfied, after consultation with the Secretary for Lands, that the land is likely to be required for settlement by former members of the Defence Force.

5. (1) Where, after the commencement of this Act, consent has been given under section three of this Act 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 two of this section, recover the amount or value of the excess consideration as a debt from the person to whom it was so paid or given by action in any court of competent jurisdiction. Excess consideration may be recovered.

(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 part only of the amount or value of the excess consideration.

6. Nothing in this Act shall prevent—

- (a) any transaction to give effect to a contract or agreement in writing entered into prior to the twentieth day of February, one thousand nine hundred and forty-two;
- (b) the exercise of any option in writing given before that date;
- (c) any transaction—
  - (i) by way of mortgage or sub-mortgage;
  - (ii) by way of discharge of a mortgage or sub-mortgage;
  - (iii)

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- (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;
- (iv) by way of partition between co-owners;
- (v) by way of deed of family arrangement between beneficiaries under a will or settlement;
- (d) the vesting in the personal representative of a deceased person, in his capacity as such, of any property or any interest in any property;
- (e) any transaction which vests any property, or any interest in property, in any trustee of the estate of a deceased person, in a trustee in bankruptcy, or in any new trustee under any instrument, in his capacity as trustee;
- (f) any transaction which is without consideration in money or money's worth and the purpose of which is to vest any property, or any interest in property, in any person beneficially entitled thereto under or by virtue of any will or intestacy; or
- (g) the execution of any deed of assignment under Part XI of the Bankruptcy Act 1924-1946 of the Parliament of the Commonwealth, or of any deed of arrangement under Part XII of that Act.

**Exemptions  
and  
consents.**

**7.** (1) (a) The Governor may by regulations exempt from the whole or any of the provisions of this Act, and either unconditionally or subject to such conditions as are specified in the regulations—

- (i) persons of any particular class specified in the regulations;
- (ii) lands of any particular class specified in the regulations;
- (iii) lands situated in any particular part of the State specified in the regulations; or
- (iv) transactions of any particular class specified in the regulations.

(b)

(b) Any order made before the commencement of this Act under sub-regulation one of regulation nine of the Commonwealth Regulations and in force in this State immediately before such commencement shall continue in force in all respects as if such order had been made by regulations made under this Act, and may be rescinded, varied or amended accordingly by regulations made under this Act. No. 28, 1948.

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

(3) Where any consent or exemption is granted subject to conditions, a person shall comply with all such conditions as are applicable to him.

8. (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 enacted. Validation of transactions.

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

9. The Registrar-General may, upon submission to him for registration of any instrument relating to a transaction in connection with any land, require such evidence as he deems necessary that the transaction to which the instrument relates is not in contravention of any provisions of this Act and may refuse to register the instrument until such evidence is submitted to him. Registrar-General may require evidence that transactions are not in contravention of Act.

10. (1) A person shall not, without the consent in writing of the Minister, purchase or otherwise acquire any residential business. Disposal of guest house businesses.

(2) An application for the consent of the Minister under subsection one of this section shall be in writing. The regulations may prescribe the form of such application, and the particulars and information to be set out therein, may require that any statement made in the application shall be verified by statutory declaration, and may prescribe the persons by whom any such statutory declaration shall be made. (3)



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- (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 the business.

(4) The Minister may require the 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.

(5) A person shall not refuse or fail to comply with a requirement made under subsection three of this section.

(6) 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 condition that the person to whom the consent is granted—

- (a) 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) 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 Regulation Act, 1948, to be charged for that kind of lodging or board and lodging; and

(18)

- (c) shall not refuse or fail to provide for any person No. 28, 1948.  
 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.

(7) 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 refuse to grant the consent.

(8) A person shall not contravene or fail to comply with any conditions subject to which any consent is granted to him under this section.

(9) For the purposes of this section—

- (a) the term “building” does not include a building licensed under the Liquor Act, 1912, as amended by subsequent Acts;
- (b) the expression “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 respect of which the business is carried on.

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

(2)

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

(3) Where under this Act the exercise of any power or function by the Minister is dependent upon the opinion, belief or state of mind of the Minister in relation to any matter, that power or function may be exercised by the delegate upon the opinion, belief or state of mind of that delegate.

False statement.

**12.** A person shall not make to the Minister, or to any person having duties connected with the provisions of this Act, 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.

Contracts to evade Act.

**13.** A person shall not—

- (a) enter into any contract or agreement purporting to do whether presently or at some future time or upon the happening of any contingency, anything forbidden by this Act; or
- (b) 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 avoiding or preventing the operation of this Act in any respect.

Power to obtain information.

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

- (a) to furnish to the Minister, or to such other person as he directs, such information as the Minister or that other person requires; and
- (b) to attend and give evidence before the Minister or such other person as the Minister directs,

with respect to any act, transaction, matter or thing prohibited by this Act or to which any provision of this Act applies, and may require him to produce all books, documents and other papers whatever in his custody or under his control relating thereto.

(2)

(2) The Minister may require the information No. 28, 1948. 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.

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

(3) A person shall not—

- (a) refuse or fail to comply with any requirement made in pursuance of subsection one or subsection two of this section; or
- (b) with intent to evade the provisions of this Act, destroy, mutilate, deface, secrete, or remove any book, document or other paper.

**15.** (1) Any person who contravenes or fails to comply with any provision of this Act or the regulations, or any order, direction or other instrument made or given under this Act shall be guilty of an offence against this Act. Offences and penalties.

(2) No prosecution for an offence against this Act shall be instituted without the written consent of the Minister.

(3) Any person who is guilty of an offence against this Act shall be liable—

- (a) if a body corporate—to a penalty not exceeding two hundred pounds;
- (b) if any other person—to a penalty not exceeding one hundred pounds, or to imprisonment for a term not exceeding six months, or to both such penalty and imprisonment.

(4) 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 be liable to the pecuniary penalty or imprisonment or both provided by this section in the case of such an offence by a person other than a body corporate accordingly, 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.

**No. 28, 1948.** **16.** All proceedings for offences against this Act or the regulations shall be disposed of in a summary manner before a court of petty sessions holden before a stipendiary magistrate sitting alone.

Proceedings  
for offences.

**Regulations.** **17.** (1) The Governor may make regulations not inconsistent with this Act prescribing all matters which are required or permitted by this Act to be prescribed or which are necessary or convenient to be prescribed for the purpose of carrying out or giving effect to this Act.

(2) The regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified therein;
- (c) be laid before both Houses of Parliament within fourteen sitting days after the publication thereof if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

Expiration  
of Act.

**18.** (1) This Act shall remain in force for a period of twelve months from the date of commencement thereof and no longer.

(2) The expiry of this Act shall not affect the previous operation thereof or the validity of any action taken thereunder or any penalty incurred in respect of any contravention of or failure to comply with this Act or any proceeding or remedy in respect of any such penalty or punishment.