

# Sydney Exchange Company Limited Act 1964 No 27

[1964-27]



New South Wales

## Status Information

### Currency of version

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Authorisation

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## Contents

**Long title** ..... 3

1 Name of Act..... 3

2 Vesting of certain land in Sydney Exchange Company Ltd. subject to a covenant.....3

3 Breach of covenant..... 3

4 Persons admitted to Exchange room licensees only .....5

5 Giving of notice ..... 5

6 Registrar-General, power to amend Crown grant ..... 5

**First Schedule** ..... 5

**Second Schedule Covenant** ..... 5

# Sydney Exchange Company Limited Act 1964 No 27



New South Wales

An Act to make provisions relating to certain land held by The Sydney Exchange Company Limited; to validate certain matters; and for purposes connected therewith.

## 1 Name of Act

This Act may be cited as the *Sydney Exchange Company Limited Act 1964*.

## 2 Vesting of certain land in Sydney Exchange Company Ltd. subject to a covenant

- (1) Any conditions, trusts, dedications, rights of reverter or restrictions on alienation affecting the land described in the First Schedule to this Act immediately before the commencement of this Act are hereby revoked and annulled but the said land is hereby made subject to the covenant set out in the Second Schedule to this Act.
- (2) No title to the said land described in the First Schedule to this Act shall be held bad either at law or in equity by reason of any breach or non-performance before the commencement of this Act of any condition, trust or proviso contained in the grant by the Crown of such land and every provision for forfeiture, reverter or re-entry in respect of any such breach or non-performance or in respect of any other matter provided in the said grant shall be deemed to have been waived and released by the Crown as from the date of such grant and it is declared that the said land described in the First Schedule to this Act is now vested subject to this Act in The Sydney Exchange Company Limited for an estate in fee simple in possession both at law and in equity.

## 3 Breach of covenant

- (1) In the event of a breach of the covenant contained in the Second Schedule to this Act the owner for the time being (hereinafter called **the owner**) of the land described in the First Schedule to this Act shall subject as hereinafter provided pay a penalty of six hundred dollars to the Under Secretary for Lands for each day or part of a day the breach continues: Provided that the total penalty payable under this Act shall not exceed the sum of one million three hundred thousand dollars and upon such sum being paid, whether by way of penalty or otherwise, and in case of penalty together with interest thereon in accordance with subsection four of this section, the covenant

shall thereupon determine.

- (2) No breach of the said covenant shall be deemed to have taken place because of any failure to comply with the terms of such covenant:
- (a) during a period of three years after the commencement of the demolition of the existing building in which the Exchange room referred to in the Second Schedule to this Act is being made available or any future building in which such Exchange room shall be made available provided that in either case the demolition of any such building is for the purpose of enabling the construction of a new building, or
  - (b) unless after any failure to comply with the terms of the said covenant the Crown gives notice to the owner requiring compliance with the said terms and the owner fails to do so within six months of such notice having been given, or
  - (c) by reason of an act of God, act of Government, fire, total or partial destruction of the building or other act beyond the control of the owner.

Any period of non-compliance with the terms of the said covenant through any reason referred to in paragraph (c) of this subsection shall be excluded in calculating the period of three years referred to in paragraph (a) of this subsection and the period of six months referred to in paragraph (b) of this subsection.

- (3) If the land is subject to a registered mortgage a copy of any notice given pursuant to paragraph (b) of subsection two of this section shall be given by the Crown to the mortgagee and in the event of the owner failing to pay the whole or part of any penalty due to the Crown the mortgagee may pay the amount due and interest as hereinafter mentioned.
- (4) Any penalty under this section shall accrue and become payable from day to day and if such penalty is not paid within one month after it has become payable interest thereon at the rate of five per centum per annum shall accrue and be payable to the Under Secretary for Lands. Such penalty and any such interest shall until paid be a charge upon the land in priority to all sales conveyances transfers mortgages charges liens and encumbrances whatsoever. The amount of the charge may be recovered in any court of competent jurisdiction from the owner or to the extent of so much thereof as has been incurred by prior owners from such owners.
- (5) The Under Secretary for Lands, or the person acting as such for the time being, shall upon payment of a fee of six dollars issue a certificate in writing signed by him which shall state what sum of money and amount of interest (if any) are due and payable to the Under Secretary under this section. The production of the certificate shall for all purposes be deemed conclusive proof in favour of a bona fide purchaser or incumbrancee for value of the land described in the First Schedule to this Act that at the date thereof no sum of money and amount of interest other than those stated in the certificate were due and payable to the Under Secretary under this section.

#### 4 Persons admitted to Exchange room licensees only

Persons admitted to the Exchange room referred to in the Second Schedule to this Act shall be licensees only of the owner and shall have no rights of property in the building containing such room or the land on which such building is erected.

#### 5 Giving of notice

Any notice given by the Crown under this Act to the owner or a mortgagee including a claim for penalty shall be deemed to have been duly given if signed by the Under Secretary for Lands, or the person acting as such for the time being, and left at the registered office of the owner or mortgagee with some person apparently in the service of the owner or mortgagee or sent by post enclosed in a prepaid registered letter addressed to the owner's or mortgagee's last known address. The service by post shall be deemed to have been effected at the time at which the letter would be delivered in the ordinary course of post.

#### 6 Registrar-General, power to amend Crown grant

The Registrar-General is authorised to make such entries with respect to the Crown grant and the duplicate thereof issued for the land described in the First Schedule to this Act or with respect to any certificate of title in fee simple issued in respect thereof and to make such other entries and notations in the records of the Registrar-General's Department as may be necessary or advisable to give effect to this Act.

### First Schedule

(Section 2 (1))

ALL that piece or parcel of land containing by admeasurement 1 rood 28 perches be the same more or less situate in the parish of St. James, county of Cumberland, being the whole of the land comprised in the Crown grant of 9 August 1853, to the Sydney Exchange Company and shown on plan catalogued S 202-858 in the Department of Lands.

### Second Schedule Covenant

(Section 2 (1))

- 1 That the owner of the land for the time being (hereinafter called **the owner**) shall at all times make available in a building erected on the land at least 222.96 square metres of floor space (hereinafter called **the Exchange room**) suitably appointed as an Exchange or place of resort wherein merchants and other persons concerned in commerce may conveniently meet for the purpose of conferring upon and transacting commercial affairs and for other purposes incidental thereto.
- 2 That the Exchange room shall be situated on a ground floor level of any such building and shall have a frontage to either Bridge Street or Pitt Street or Gresham Street.
- 3 That the admission fee and such other annual subscription as shall from time to time be prescribed by the owner for admission to and use of the Exchange room shall not in either case exceed two

guineas.

- 4** That no person engaged in commerce within the city of Sydney who shall tender or shall have paid the regular admission fee and annual subscription shall be excluded from the Exchange room between the hours of 9 am and 5.15 pm on Monday to Friday and 9 am to 12 noon on Saturday unless such day is a public or bank holiday in the city of Sydney.