



ANNO OCTAVO

ELIZABETHAE II REGINAE

A.D. 1959

No. 16 of 1959

An Act to amend the Land Agents Act, 1955.

[Assented to 19th November, 1959.]

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, 1959". Short titles.

(2) The Land Agents Act, 1955, as amended by this Act, may be cited as the "Land Agents Act, 1955-1959".

(3) The Land Agents Act, 1955, 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. Section 9 of the principal Act is amended—

(a) by striking out the word "three" in the first line thereof and by inserting in lieu thereof the word "four" ; and

(b) by striking out the word "two" in paragraph (b) thereof and by inserting in lieu thereof the word "three".

Amendment of principal Act, s. 9—
Members.

4. Section 10 of the principal Act is amended by adding at the end thereof the words "and one member of the board to be the secretary thereof".

Amendment of principal Act, s. 10—
Appointment of secretary.

Amendment of
principal Act,
s. 27—
Qualifications
for licence
necessary for
individual
applicant.

5. Paragraph (b) of subsection (1) of section 27 of the principal Act is amended by striking out the words “of good character” and by inserting in lieu thereof the words “a fit and proper person to be licensed ;”.

Amendment of
principal Act,
s. 28—
Qualification
for licence for
corporation.

6. Subsection (2) of section 28 of the principal Act is amended by striking out the words “of good character” at the end thereof and inserting in lieu thereof the words “fit and proper person to manage, direct or control the affairs of the corporation”.

Amendment of
principal Act,
s. 32—
Renewal of
licence.

7. Section 32 of the principal Act is amended—

(a) by striking out the words “or a receipt for the renewal premium on a like” in the second line of subsection (3) thereof and by inserting in lieu thereof the words “or a renewal certificate or other satisfactory evidence of the payment of the renewal premium on a”; and

(b) by adding the following words at the end of subsection (5) thereof, “or the board may grant the application and make an order pursuant to section 81 reprimanding the applicant.”

Amendment of
principal Act,
s. 35—
Surrender of
licence.

8. Section 35 of the principal Act is amended by striking out the letter “A” at the beginning of the section and inserting in lieu thereof the words “Subject to the consent of the board a”.

Amendment of
principal Act,
s. 36—
Cancellation of
licence and
disqualification.

9. Section 36 of the principal Act is amended by—

(a) inserting after the word “may” in the first line of subsection (1) the words “after an inquiry under section 78a or” ;

(b) inserting after the word “ground” in the last line of subsection (1) the words “whether of a like ground to any of those mentioned in this subsection or otherwise.”

Amendment of
principal Act,
s. 43—
Qualifications
for registration.

10. Section 43 of the principal Act is amended by striking out the words “of good character” at the end thereof and by inserting in lieu thereof the words “a fit and proper person to be registered.”

Amendment of
principal Act,
s. 47—
Renewal of
registration.

11. Section 47 of the principal Act is amended—

(a) by striking out the words “or a receipt for the renewal premium on a like” in the second line of subsection (3) thereof and by inserting in lieu thereof the words, “or a renewal certificate or other satisfactory evidence of the payment of the renewal premium on a”; and

(b) by adding the following words at the end of subsection (5) thereof, "or the board may grant the application and make an order pursuant to section 81, reprimanding the applicant."

12. Section 49 of the principal Act is amended by striking out the letter "A" at the beginning of the section and inserting in lieu thereof the words "Subject to the consent of the board a".

Amendment of principal Act, s. 49—
Surrender of registration by registered land salesman.

13. Section 50 of the principal Act is amended by—

(a) inserting after the word "may" in the first line of subsection (1) the words "after an inquiry under section 78a or";

Amendment of principal Act, s. 50—
Cancellation of registration.

(b) inserting after the word "ground" in the last line of subsection (1) the words "whether of a like ground to any of those mentioned in this subsection or otherwise".

14. Section 54 of the principal Act is amended by striking out the words "one month" in the ninth line and inserting in lieu thereof the words "two months".

Amendment of principal Act, s. 54—
Death, etc., of manager.

15. Section 55 of the principal Act is amended by striking out the figure "50" therein and by inserting in lieu thereof the figure "51".

Amendment of principal Act, s. 55—
Registration of managers.

16. Paragraph (b) of subsection (1) of section 56 of the principal Act is amended by striking out the words "of good character" and by inserting in lieu thereof the words "a fit and proper person to be registered."

Amendment of principal Act, s. 56—
Qualifications for registration as manager.

17. Section 60 of the principal Act is repealed and the following section enacted in lieu thereof:—

Repeal and re-enactment of s. 60 of principal Act—

60. (1) A land agent shall pay all moneys received by him in his capacity as a land agent into a trust account not later than the next day on which his bank is open for business after the day on which the total of all moneys received and held by him in such capacity amounts to ten pounds.

Duty of land agent with respect to moneys received in course of his business.

(2) Any moneys collected or received by a land agent as agent for any person and being rent, interest, principal, deposit, instalments, or other moneys whatever payable under any lease, mortgage, or contract for the sale of land, shall be deemed to be money received by the land agent in his capacity as a land agent.

(3) Moneys received by a land agent other than in his capacity as a land agent shall not be paid into the trust account.

(4) A land agent shall not withdraw moneys paid by him into a trust account except for the purpose of completing the transaction in the course of which the moneys were received, and when withdrawn such moneys shall be applied by the land agent in payment of—

- (a) the expenses, commission and other charges of or incidental to the particular transaction ; and
- (b) the balance (if any) payable to the person or persons lawfully entitled thereto.

(5) Every land agent shall—

- (a) keep full and accurate separate trust accounts of all moneys received or held by him in his capacity as a land agent for or on behalf of any person and of all payments made by him of such moneys ; and
- (b) keep those accounts at all times properly written up ; and
- (c) keep the accounts in such manner that they can be conveniently and properly audited at any time.

(6) Moneys paid into a trust account pursuant to this section other than any commission or expenses to which the land agent may be entitled shall not be available for payment of the debts of the land agent, or be liable to be attached or taken in execution under the order or process of any court.

(7) In this section payment into a trust account means payment 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.

(8) Every person who commits a breach of this section shall be liable to a penalty not exceeding one hundred pounds.

Amendment of
principal Act,
s. 61—
Land agent to
furnish account
to principal.

18. Section 61 of the principal Act is amended by striking out the words "if no such demand is made" in the second line of subsection (1) and inserting in lieu thereof the words "or at the expiration of any period agreed with such person, or, if no such demand is made or no such agreement exists,".

Amendment of
principal Act,
s. 64—
Advertise-
ments.

19. Section 64 of the principal Act is amended by inserting after the word "agent" in paragraph (a) the words "or the name under which he, or it, or the partnership in which he, or it, is a partner, is registered under the Registration of Business Names Act, 1928-1955 ;".

20. The following section is enacted and inserted in the principal Act after section 64 :—

Enactment of
s. 64a of
principal Act—

64a. Any licensed land agent who publishes or causes or permits to be published any advertisement relating to, or in connection with, any intended transaction relating to the sale or disposal of any land without the prior consent in writing to such transaction of the owner of the land shall be guilty of an offence.

Consent of
owner to
advertisement

Penalty : Fifty pounds.

21. Section 72 of the principal Act is amended by striking out the words "five hundred" in the third line of subsection (1) and the first line of subsection (3) and by inserting in lieu thereof the words "two thousand".

Amendment of
principal Act,
s. 72—
Provision as
to bonds.

22. Section 73 of the principal Act is amended by—

Amendment of
principal Act,
s. 73—

(a) striking out the words "six hundred" in the third line of subsection (1) and inserting in lieu thereof the words "two thousand, two hundred and fifty"; and

Certificate in
lieu of
fidelity bond.

(b) striking out the words "five hundred" in the second line of paragraph (b) of subsection (3) and inserting in lieu thereof the words "two thousand".

23. The following section is enacted and inserted in the principal Act after section 78 and under the heading "Inquiries by Board" :—

Enactment of
section 78a of
principal Act—

78a. Whenever the board has reason to believe that any land agent or land salesman or manager has in the course of his business or work as such agent or salesman or manager 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 a land agent or land salesman or to be a manager, it may of its own motion conduct an inquiry for the purpose of deciding—

Inquiries by
board of its
own motion.

- (i) in the case of a land agent whether action should be taken against him under section 36 ; or
- (ii) in the case of a manager or land salesman whether action should be taken against him under section 50.

Amendment of principal Act, s. 79—
Power of board to summon witnesses and take evidence.

24. Section 79 of the principal Act is amended by inserting after the word “application” in the second line of subsection (1) the words “or inquiry”.

Amendment of principal Act, s. 80—
Notice of inquiry and procedure.

25. Section 80 of the principal Act is amended by inserting after the word “affected” in the fourth line of subsection (1) the words “and in the case of an inquiry under section 78a, the person whose licence or registration may be affected,”.

Repeal and re-enactment of s. 81 of the principal Act.

26. Section 81 of the principal Act is repealed and the following section enacted in lieu thereof:—

Power of board to reprimand.

81. (1) Where the board has power under this Act to make an order cancelling a licence or registration or disqualifying any person from holding a licence or being registered the board may, in lieu of making such an order make an order reprimanding the land agent, land salesman or manager concerned.

(2) If within a period of five years any licensed or registered person under this Act receives three reprimands from the board his licence or registration shall be cancelled.

Repeal and re-enactment of s. 82 of the principal Act—

27. Section 82 of the principal Act is repealed and the following section is enacted in lieu thereof:—

Costs.

82. On the hearing of an application for renewal of a licence or registration or an application for the cancellation of a licence or registration or on the determination of an inquiry under section 78a, the board may in addition to its other powers make such order as to costs as the board thinks just and reasonable.

Enactment of section 88a of principal Act—

28. The following section is enacted and inserted in the principal Act after section 88:—

Power of court to cancel licence or registration.

88a. When—

- (a) any licensed land agent or director or manager of a company carrying on business as a licensed land agent ; or
- (b) any registered land salesman ; or
- (c) any registered manager,

has been convicted before any court of an offence against this Act or any offence involving dishonesty, such court may of its own motion, and without further notice to any person, make an order for cancellation of the licence or registration.

29. Section 92 of the principal Act is amended by adding at the end thereof the words "at his last known place of abode."

Amendment of principal Act, s. 92—
Delivery of documents etc. by registered post.

30. Section 16 of the principal Act is repealed.

Repeal of principal Act, s. 16—
Secretary.

31. This Act shall come into operation on a day to be fixed by proclamation.

Commencement of Act.

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

R. A. GEORGE, Governor.