

**LAND AGENTS.**

8° Elizabeth II., No. XXIX.

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**No. 29 of 1959.**

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**AN ACT to amend the Land Agents Act, 1921-1953.***[Assented to 15th October, 1959.]*

**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *Land Agents Act Amendment Act, 1959.* Short title and citation.

(2) In this Act the Land Agents Act, 1921-1953, is referred to as the principal Act. Reprinted as approved for reprint 8th March, 1954, in Vol. 6 of the Reprinted Acts.

(3) The principal Act as amended by this Act may be cited as the Land Agents Act, 1921-1959.

Ss. 14H-14L  
added.

2. The principal Act is amended by adding after section fourteen G the following sections—

Power of  
restraining  
dealing with  
trust  
accounts  
or other  
accounts.

14H. (1) Where the Committee, on an application made by it to a Judge, shows by evidence on affidavit to the satisfaction of the Judge that—

- (a) there are reasonable grounds for believing that there is a deficiency in the trust account of any land agent or licensee; or
- (b) there has been undue or unreasonable refusal, neglect or delay on the part of any land agent or licensee in paying moneys

which are, or may be, or have been payable out of the trust account of the land agent or licensee, or

which were required to be paid into the trust account by the land agent or licensee under the provisions of section eight of this Act,

to a person who is entitled thereto or is authorised to receive the moneys

the Judge may, if he thinks fit, make an order that the manager or other officer for the time being in charge of the bank in which the trust account or any other account in the name of the land agent or licensee is kept, be restrained, until the order is made absolute or discharged, from paying out, transferring or otherwise dealing with any moneys standing to the credit of the trust account or any other account kept at the bank in the name of the land agent or licensee.

(2) An order made under the provisions of this section may contain such terms and conditions as the Judge in the circumstances thinks fit and the order may relate to all or any one or more of the trust or other accounts, as the Judge determines.

(3) The order shall be made in the first instance *ex parte*, without any notice to the land agent or licensee and is an order to show cause only.

(4) Unless the land agent or licensee referred to in the order shows to a Judge within the time specified in the order sufficient cause to the contrary, the order, after proof of service as required by section fourteen I of this Act, shall be made absolute.

(5) In this section and sections fourteen I to fourteen L both inclusive the expression,

- (a) "trust account" includes a bank account, whether a general or a separate account, into which account, moneys received or held by a land agent or licensee for or on behalf of any other person are or were required to be paid under section eight of this Act; and
- (b) "land agent" includes a person who has held a license at any time within a period of twelve months prior to the date of the making of the application under subsection (1) of this section.

14I. (1) The Committee shall, as soon as practicable after any order is made under the provisions of section fourteen H or fourteen L of this Act, serve or cause to be served a copy of the order

Service of orders.  
Penalty for non-compliance therewith.

- (a) on the manager or other officer for the time being in charge of the office of the bank in which any account referred to in the order is kept; and
- (b) on the land agent or licensee in whose name the account is kept.

(2) The manager or other officer on whom the order is served shall comply with the order.

(3) A person, in addition to any other penalty or liability he may incur in failing to comply with the order, who omits to do that which he is required under the order to do, or does that which he is prohibited under the order from doing, commits an offence against this Act.

Penalty: Two hundred pounds.

(4) This section is sufficient authority and indemnity for complying with an order so made and served.

Power of land agent or licensee to apply for discharge or variation of order.

14J. A land agent or licensee whose account is the subject of an order made under the provisions of section fourteen H or fourteen L of this Act may apply to a Judge to discharge or vary the order and to award such costs upon the application as he thinks fit and the Judge is hereby empowered to discharge or vary the order and to make such further order as he thinks fit.

Duty of bank manager to disclose existence of banking accounts of land agent or licensee.

14K. Where the manager or other officer for the time being in charge of the office of a bank is served with a copy of an order made under the provisions of section fourteen H of this Act, he shall—

- (a) disclose in writing to the Committee each and every account kept at the bank in the name of the land agent or licensee referred to in the order, including any account which he reasonably suspects is held or kept at the bank for the benefit of the land agent or licensee; and
- (b) permit the Committee or any person authorised in writing by it to inspect and make and take away with him a copy of or an extract from the account or of or from any book, account, document or writing relating to the account.

14L. (1) A Judge may, on the application of the Committee, the Treasurer or the land agent or licensee referred to in an order made under the provisions of section fourteen H or fourteen J of this Act, make further orders—

Power of Judge to make further orders and give directions.

- (a) discharging or varying any order so made; and
- (b) directing that any moneys in any account affected by an order so made shall be paid to the Treasurer by the bank on such terms and conditions as the Judge thinks fit.

(2) The Treasurer, on receiving moneys paid pursuant to an order made under paragraph (b) of subsection (1) of this section—

Special account at Treasury.

- (a) shall cause the moneys to be paid into a separate account to be kept at the Treasury;
- (b) may prepare a scheme for distributing the moneys as compensation to each person who claims compensation at any time within six months after the Treasurer receives the moneys, and proves to the satisfaction of the Treasurer that the person has, in respect of any land transaction, sustained loss through any act or omission of the person who deposited the moneys in the account;
- (c) may, if the moneys are not sufficient to pay all proved claims, apportion the moneys among claimants in proportion to their proved claims and show in the scheme for distribution how the moneys are so apportioned.

Power of Treasurer to prepare scheme of distribution.

(3) (a) Where the Treasurer prepares a scheme for distribution he shall apply to a Judge for approval of the scheme and for directions in respect thereof.

(b) The Judge may give such directions in respect of the separate account at the Treasury, the moneys therein, the persons to whom and in what amounts the whole or any portion of the moneys standing to the credit of the account shall be paid by the Treasurer, and as to the payment of the balance of the moneys then remaining in the account, if any, as he thinks fit.

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