

LAND AGENTS.

1° Elizabeth II., No. XIII.

No. 13 of 1952.

AN ACT to amend the Land Agents Act, 1921.

[Assented to 7th November, 1952.]

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:—

Short title
and citation.

1. (1) This Act may be cited as the *Land Agents Act Amendment Act, 1952*.

(2) In this Act the Land Agents Act, 1921-1931, Act No. 9 of 1922 as amended by the Land Agents Act Amendment Act, 1931 (Act No. 40 of 1931),

is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Land Agents Act, 1921-1952.

S. 2.
amended.

2. Section two of the principal Act is amended by—

(a) adding before the interpretation, "Land Agent" the following interpretation—

"Institute" means The Real Estate Institute of Western Australia, an association incorporated under the Associations Incorporation Act, 1895-1947;

(b) substituting for the words, "sell or otherwise dispose of land or any interest in land on commission otherwise than by auction" in lines three, four and five of the interpretation, "Land Agent" the words, "act as agent for a consideration in money or money's worth, as commission, reward, or remuneration, in respect of a land transaction";

(c) adding before the interpretation, "License" the following interpretation—

Cf. No. 30
of 1918, s. 4,
"Estate" and
"Land".

"land transaction" means—

a sale, exchange or other disposal,
and a purchase, exchange or other
acquisition—

except by auction, of land and estates
and interests in land including—

the leasing or letting, and the
acquisition under lease or letting—

of tenancy or occupation of the whole
or part or parts of houses and other
buildings.

3. Section four of the principal Act is amended by—

S. 4
amended.

(a) adding after the word, "shall" in line one of subsection (1), the words, ", in accordance with the regulations,";

(b) adding after subsection (2) the following subsection—

(2a) The clerk of the Court of Petty Sessions shall in accordance with the regulations serve or cause to be served copies of the application and testimonials and, in the cases of applications for licenses in the first instance and applications for transfers of licenses, the applicant shall in accordance with the regulations, publish notice of the application, but publication of applications for renewals of licenses is not required;

Cf. Subsection (3) repealed and re-enacted by No. 40 of 1931, s. 2.

- (c) adding after the words, "five pounds" in line three of paragraph (a) of subsection (3), the words, "or such other fee as is prescribed by the regulations";
- (d) adding after subsection (3) the following subsections—

Cf. N.Z. 1921-1922, No. 56, s. 11 (1).

(4) Before granting an application for a license or a transfer of a license, the Court shall require sufficient evidence to satisfy itself that the proposed licensee or transferee has attained the age of twenty-one years and that his character, financial position and suitability are such that he is, in the opinion of the Court, having regard to the interests of the public, a fit person to hold a license.

(5) Objection to the granting of an application may be made at such time and in such manner as are prescribed by the regulations.

S. 5A. added.

4. The following section is added after section five of the principal Act—

Renewals and transfer of licenses.

5A. Applications for renewals and transfers of licenses may be made and shall be dealt with in accordance with the regulations.

S. 6 amended.

5. Section six of the principal Act is amended by—

- (a) substituting for the words, "licensee may transfer his license" in line one of subsection (1) the words, "license may be transferred in accordance with the regulations";
- (b) adding after the words, "ten shillings" in line three of subsection (1) the words, "or such other fee as is prescribed by the regulations";
- (c) adding after the word, "hereof" in line four of subsection (2) the words, "and the regulations".

6. Subsection (1) of section eight of the principal Act is amended by—

S. 8
amended.

- (a) substituting for the words, "sale of land" in line two, the words, "land transaction";
- (b) adding after the word, "rents" in line two the words, "or interest on mortgages";
- (c) adding before the words, "the expenses" in line one of paragraph (a), the words, "such of";
- (d) substituting for the word, "sale" in line two of paragraph (a), the words, "land transaction or collection, as are payable by the persons on whose behalf the moneys are received".

7. Subsection (1) of section nine of the principal Act is amended by—

S. 9
amended.

- (a) substituting for the words, " the sale of land" in lines one and two, the words, "a land transaction, or in respect of rents or interest on mortgages";
- (b) substituting for the words, "sale was made" in line three, the words, "land transaction is effected or the rents or interest is collected".

8. Section ten of the principal Act is amended by—

S. 10
amended
Cf. N.Z.
1921-22,
No. 56, s. 27.

- (a) adding before the words, "If any" in line one the figure one in brackets, thus—(1);
- (b) substituting for the words, "sale of land" in line three, the words, "land transaction or rents or interest on mortgages";
- (c) adding after the word, "Act" in line ten the words, "or if a land agent is convicted, whether summarily or on indictment of an offence involving moral turpitude, or dishonouring him in the public estimation";
- (d) adding the following subsections—

(2) The Court before whom a person is convicted of an offence may of its own motion cancel his license in a case where the conviction is a ground for cancellation of his license.

(3) Application for the cancellation of a license may be made in accordance with the regulations, which may prescribe the grounds of cancellation and by whom applications for cancellation may be made, to the Court of Petty Sessions nearest the principal place of business of the licensee, which Court is vested by this subsection with jurisdiction to hear the application and to cancel the license.

(4) So soon as he reasonably can do so after the cancellation of a license, whether by a Court of its own motion or on application, the Registrar of the Court or the Clerk of Petty Sessions, as the case may be, shall serve written notice of the cancellation and the grounds of the cancellation on the Under Treasurer.

(5) The Under Treasurer shall cause to be removed from the register mentioned in section five of this Act, the name of every land agent—

- (a) whose license has been cancelled or transferred;
- (b) who dies; or
- (c) who has not renewed his license.

S. 12
amended.

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

- (a) substituting for the words, “land agent” in line one the word, “person”;
- (b) substituting for the words, “the sale or other disposition of land, or any interest in land” in line three, the words, “a land transaction”;
- (c) adding after the word, “effected” in line four the words, “by him in the course of business as a land agent”;
- (d) substituting for the words, “sale or disposition” in line two of paragraph (b) the words, “land transaction”.

10. Section fourteen of the principal Act is amended by adding after the word, "agent" in line two, the words, " or for having held himself out as a land agent".

S. 14
amended.

11. The following section to follow section fourteen is added to the principal Act—

S. 14A
added.

14A. (1) The Institute is authorised by this section to make—

Institute
authorised
to take
proceedings.

complaints in respect of offences against this Act and the regulations;
applications for cancellations of licenses;
and

objections to the granting, renewal and transfer of licenses.

(2) (a) The Institute may, from time to time, appoint persons to exercise on its behalf, all or any of the powers conferred by subsection (1) of this section.

(b) Where notice of an appointment is given pursuant to the provisions of section twelve of the Associations Incorporation Act, 1895-1947, to a court or person acting judicially, the court or person so acting shall, in the absence of evidence to the contrary, presume the appointment to have been regularly made.

12. Section fifteen of the principal Act is amended by—

S. 15
amended.

(a) adding after the word, "sale" in line one the words, "or exchange";

(b) adding after the word, "any" in line one the words, "estate or".

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

S. 16
amended.

(a) adding after the section designation, "16" the figure "1" in brackets thus—(1);

(b) adding the following subsections—

(2) The provisions of the following subsection do not derogate from the generality of the authority conferred by subsection (1) of this section.

(3) The regulations—

- (a) may prescribe forms of applications, objections, notices and other documents for use in pursuance of this Act;
- (b) may prescribe fees payable in respect of applications for and transfers of licenses and in respect of lodging, issuing and serving documents and processes in pursuance of this Act;
- (c) may prescribe the persons or classes of persons who may make applications and objections pursuant to this Act and the grounds of the applications and objections and the times within which they may be made;
- (d) may prescribe the procedure relating to applications and objections seriatim or by reference to the provisions of the Justices Act, 1902, or any other Act; and
- (e) may provide for the rectification of defects and extension of time in respect of anything done or required to be done by or in pursuance of this Act.

First
Schedule
repealed and
substituted.

14. The form in the First Schedule to the principal Act is repealed and the following form is substituted—

FIRST SCHEDULE.

Land Agents Act, 1921.

APPLICATION FOR LICENSE IN THE FIRST INSTANCE*
RENEWAL OF A LICENSE.*

To the Court of Petty Sessions at.....

I (name in full).....,
of (address)
occupation....., having attained the
age of twenty-one years, HEREBY APPLY on my behalf (on
behalf..... a firm of which I am
a member)* (on behalf of the Company registered by the
name of Limited)* for a license
(renewal of a license)* to carry on the business of a land
agent under the Land Agents Act, 1921. The principal place
of business will be at..... I am
the holder of a current license to carry on such business.*

*(Strike out if not applicable.)

DATED the day of 19 .

.....
Signature of Applicant.

Appointment of Hearing.

I hereby appoint the..... day of.....
19 at..... o'clock in the..... noon as the time
for the hearing of the foregoing application at the Court
of Petty Sessions at.....

DATED the day of 19 .

.....
Clerk of Petty Sessions.

Objection to the granting of the application may be served
on the applicant and the Clerk of Petty Sessions at any time
prior to seven days before the date appointed for the hearing.

