

LAND AGENTS.

12° GEO. V., No. XLIII.

No. 9 of 1922.

AN ACT to provide for the Licensing of Land Agents.

[Assented to 31st January, 1922.]

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

Short title.

1. This Act may be cited as the *Land Agents Act*, 1921.

2. In this Act—

Interpretation.
N.Z., 1912,
No. 42, s. 2.

“Land agent” means a person whose business, either alone or as part of or in connection with any other business, is to sell or otherwise dispose of land or any interest in land on commission otherwise than by auction; but does not include public accountants acting in the discharge of their duties as trustees, liquidators, or receivers.

“License” means a license granted under this Act.

“Licensee” means the holder of a license, and includes a firm or company on whose behalf a license is held.

Land agents to
be licensed.
Ibid., s. 3.

3. (1) From and after the first day of April, nineteen hundred and twenty-two, no person shall carry on the business of a land agent unless he is the holder of a license.

(2) Where a firm carries on the business of land agents it shall be sufficient if one member of the firm is the holder of a license on behalf of the firm.

(3) Where a registered company carries on the business of land agents it shall be sufficient if some person appointed in writing by the company is the holder of a license on behalf of the company.

4. (1) Every person who desires to obtain a license shall lodge with the clerk of a Court of Petty Sessions in the district wherein he resides an application in the form in the First Schedule hereto.

Application for
license.
Ibid., s. 4.

(2) Such application shall state the principal place of business of the applicant, and shall be accompanied by testimonials as to the character of the applicant, signed by not less than three reputable persons.

(3) If the Court is satisfied that the applicant is a fit person to be the holder of a license under this Act it shall, on payment of a fee of five pounds, and on the deposit of a fidelity bond for two hundred pounds in the form in the Second Schedule hereto from some approved insurance company, or other approved sureties, issue to the applicant a license in the form in the Third Schedule hereto:

Provided that the Colonial Treasurer may remit a proportionate part of such fee for a license issued after the thirty-first day of March in any year.

5. (1) Such license shall take effect from a date to be therein stated, and shall expire on the thirty-first day of December next following, and shall authorise the licensee to act as a land agent in Western Australia during the currency of the license, unless the same is cancelled as hereinafter provided.

License.
Ibid., s. 5.

(2) The issue of every license shall, within ten days after the issue thereof, be notified by the Clerk of the Court to the Under Treasurer.

(3) A register of licenses issued under this Act shall be kept in the office of the Under Treasurer, and a copy thereof shall be published in the *Gazette* each year.

(4) The *Gazette* containing any such copy shall be *prima facie* evidence in all judicial proceedings of the contents of the register.

(5) The absence of a person's name from any such copy shall, until the contrary is shown, be evidence that he is not registered.

Provided that in the case of any person whose name does not appear in such copy a certified copy, under the hand of the Under Treasurer, of the entry of the name of that person in the register shall be evidence of the contents of the register with respect to that entry.

Licensee may transfer license.
Ibid., s. 6.

6. (1) A licensee may transfer his license to any person approved by a Court of Petty Sessions, and on payment of a fee of ten shillings that person shall be deemed to be the holder of the license and may act as a land agent during the currency thereof.

(2) Before giving its approval in any case the Court of Petty Sessions shall be satisfied that the requirements of section four (except as regards the payment of the license fee) hereof have been complied with by the proposed transferee in the same manner as in the case of an application for a license.

Registered office of the licensee.
Ibid., s. 7.

7. (1) The place of business mentioned in the application for a license, or such other place of business as the holder of a license from time to time, by notice in writing to the Clerk of the Court of Petty Sessions, appoints, shall be the registered office of the licensee; and all writs, summonses, notices, or other documents required to be served or given to the licensee shall be deemed to be duly served or given if left at the said registered office.

(2) Notice of the change of the address of the registered office shall be given by the Clerk of the Court of Petty Sessions to the Under Treasurer, and such change shall be entered in the register of licensees.

Application of trust-moneys.
Ibid., s. 8.

8. (1) All moneys received by a land agent in respect of any sale of land, or in respect of rents collected by him, shall be applied as follows:—

- (a) In payment of the expenses, commission, and other charges of or incidental to the sale.
- (b) In payment of the balance to the person legally entitled or authorised to receive the same; and until payment such balance shall be paid into a bank to a general or separate trust account.

(2) For every breach of this section:

Penalty: Fifty pounds.

(3) Moneys so paid into any such trust account shall not be available for payment of the debt of any other creditor of the land agent, or be liable to be attached or taken in execution under the order or process of any Court at the instance of any such creditor.

9. (1.) On the receipt of any moneys in respect of the sale of land by a land agent he shall render to the person on whose behalf the sale was made an account in writing of all such moneys and of the application thereof.

Account of moneys received, and their application.
Ibid., s. 9.

(2) For every breach of this section:

Penalty: Fifty pounds.

10. If any land agent is convicted of fraudulently converting to his own use any moneys received by him in respect of any sale of land or any part thereof, or of fraudulently rendering an account of any such moneys knowing the same to be false in any material particular, or of a breach of section eight hereof, his license shall be *ipso facto* cancelled; and if any land agent who has been convicted of any other offence against this Act is within twelve months thereafter convicted of a second or any subsequent offence of any kind against this Act, the Court may, if it thinks fit, in addition to any other penalty, cancel his license.

When license may be cancelled.
Ibid., s.s. 10, 11.

11. Nothing in this Act shall affect any civil remedy that any person may have against a land agent in respect of any matter.

Civil remedies not affected.
Ibid., s. 12.

12. A land agent shall not be entitled to sue for or recover any commission, reward, or remuneration for or in respect of the sale or other disposition of land, or of any interest in land, made or effected after the thirty-first day of March, nineteen hundred and twenty-two, unless—

Disability of unlicensed agent.
Ibid., s. 13.

(a) he is the holder of a license under this Act; and

(b) his engagement or appointment to act as agent in respect of such sale or disposition is in writing signed by or on behalf of the person to be charged with such commission, reward, or remuneration.

13. Every person not being the holder of a license who, after the thirty-first day of March, nineteen hundred and twenty-two, carries on business as a land agent, or holds himself out as a land agent, shall be guilty of an offence.

Carrying on business without a license.
Ibid., s. 14.

Penalty: Fifty pounds.

14. In all proceedings against any person for having carried on business as a land agent without a license such person shall, unless he produces his license or brings other

Onus of proof that person is licensed.
Ibid., s. 15.

satisfactory proof of his having been licensed at the time when the offence was alleged to have been committed, be deemed to have been unlicensed.

Apportionment of rates, taxes, and outgoings.

15. Whenever on the sale of land or any interest therein, a land agent receives payment of the purchase money on behalf of the vendor, it shall be such agent's duty to the purchaser to ascertain that all rates, taxes, and outgoings then payable, which are by statute a charge on the land, and which, as between the vendor and the purchaser, are payable by the vendor are paid by him, and that all such rates, taxes, and outgoings then accruing are duly apportioned between the vendor and purchaser.

Regulations.
Ibid., s. 17.

16. The Governor may make regulations for any purpose necessary for giving effect to the provisions of this Act.

Sec. 4 (1).

FIRST SCHEDULE.

LAND AGENTS ACT, 1921.

Application for License.

To the Court of Petty Sessions at

I [*name in full and address*] hereby apply on my own behalf [*or on behalf of* _____, a firm of which I am a member, *or on behalf of the company registered by the name of* _____ Limited] for a license to carry on the business of a land agent.

My principal place of business will be at

Dated the _____ day of _____, 192 .

(Signature)

SECOND SCHEDULE.

Sec. 4 (3).

LAND AGENTS ACT, 1921.

Bond.

Know all members by these presents that _____ hereby binds itself [or _____ of _____ and _____ of _____ hereby bind themselves jointly and severally] to His Majesty the King for the payment to His Majesty of the sum of Two hundred pounds.

Sealed with the seal of the said _____ this _____ day of _____, 192 .

Whereas a Land Agent's License for the year ending the 31st day of December, 192 , has been issued to _____ [or to _____ on behalf of the firm or company registered as _____]: Now the above-written obligation is conditioned to be void in case all moneys received in respect of all sales of land during the currency of the said license, by the said _____ [and the firm or company on whose behalf the said license was issued] are duly applied by the licensee and accounted for in manner prescribed by Sections 8 and 9 of the said Act.

Signed, sealed, and delivered by the above-named _____ in the presence of:

(Seal or signature and seals of obligor or obligors.)

THIRD SCHEDULE.

LAND AGENTS ACT, 1921.

License.

Western Australia.

In the Court of Petty Sessions held at _____ A.B., _____ of [name in full and address] is hereby licensed to carry on the business of a Land Agent in Western Australia, from the _____ day of _____ instant until the 31st day of December next [if issued on behalf of a firm or company, add "on behalf of the firm (or company) registered as _____," stating name of firm or company].

Principal place of business _____

Given under my hand and the seal of the Court this _____ day of _____ 192 .

P.M. or J.P.