

Queensland



ANNO TRICESIMO SEPTIMO

ELIZABETHAE SECUNDAE REGINAE



**No. 75 of 1988**

**An Act to provide for the disclosure of foreign ownership of  
land and for related purposes**

[ASSENTED TO 11TH NOVEMBER, 1988]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

#### PART I—PRELIMINARY

**1. Short title.** This Act may be cited as the *Foreign Ownership of Land Register Act 1988*.

**2. Commencement.** (1) Section 1 and this section shall commence on the day on which this Act is assented to for and on behalf of Her Majesty.

(2) Except as provided by subsection (1), this Act shall commence on a day appointed by Proclamation.

(3) The day appointed under subsection (2) is in this Act referred to as the commencement of this Act.

**3. Arrangement.** This Act is arranged as follows:—

PART I—PRELIMINARY (ss. 1-10);

PART II—ADMINISTRATION (ss. 11-16);

PART III—NOTIFICATION OF OWNERSHIP (ss. 17-23);

PART IV—OFFENCES AND PENALTIES (ss. 24-28);

PART V—FORFEITURE AND RESTRAINT (ss. 29-40);

PART VI—MISCELLANEOUS (ss. 41-45).

**4. Interpretation.** (1) In this Act, unless the contrary intention appears—

“acquire” includes obtain, gain, receive or acquire—

(a) by purchase, exchange or lease;

(b) by will, devolution or operation of law;

(c) by grant or gift;

and

(d) by enforcement of a security;

“agreement” means any agreement, whether formal or informal and whether express or implied;

“corporation” means any body corporate;

“director”, in relation to a corporation, includes—

(a) any person occupying or acting in the position of director of the corporation, by whatever name called and whether or not validly appointed to occupy or duly authorized to act in the position;

and

(b) any person in accordance with whose directions or instructions the directors of the corporation are accustomed to act;

“foreign corporation” means—

- (a) a corporation that is incorporated in Australia or an external Territory and in which, on its last accounting date—
  - (i) a foreign natural person holds a controlling interest;  
or
  - (ii) 2 or more foreign natural persons hold an aggregate controlling interest;
- (b) a body (whether incorporated or unincorporated) that is formed outside Australia and its external Territories;  
or
- (c) a corporation that is incorporated in Australia or an external Territory and in which, on its last accounting date, a body referred to in paragraph (b) holds a controlling interest in that corporation;

“foreign natural person” means a person—

- (a) who is not an Australian citizen within the meaning of the Australian Citizenship Act 1948 of the Commonwealth, as amended from time to time;  
and
- (b)—
  - (i) whose continued presence in Australia is subject to a limitation as to time imposed by law;  
or
  - (ii) who is not domiciled in Australia;

“foreign person” means—

- (a) a foreign natural person;
- (b) a foreign corporation;  
and
- (c) a person who is a trustee or an agent of a foreign natural person or a foreign corporation;

“interest in land” includes an estate or interest—

- (a) in land and any improvements thereon;
- (b) in a licence granted under the *Land Act 1962-1988*;
- (c) in a permit granted under section 371A of the *Land Act 1962-1988*;  
and
- (d) in land vested under the *Harbours Act 1955-1987* in a Harbour Board or the Harbours Corporation:  
but does not include—
  - (e) a security interest in land;
  - (f) an estate or interest in an easement over land;  
or
  - (g) the estate or interest of a lessee of freehold land or a sublessee of leasehold land where the term of the lease

or the sublease, as the case may be, including all options given under the lease or sublease, as the case may be, does not exceed 3 years;

“last accounting date”, in relation to a corporation, means the date of the expiration of the most recent period in relation to which a profit and loss account of the corporation has been laid before it in general meeting, including an account so laid before it before the commencement of this Act;

“Minister” includes a Minister of the Crown for the time being acting for or on behalf of the Minister;

“officer”, in relation to a corporation, includes—

- (a) a director, secretary, executive officer or employee of the corporation;
  - (b) a receiver and manager of property of the corporation appointed under a power contained in an instrument;
  - (c) an official manager or deputy official manager of the corporation;
  - (d) a liquidator of the corporation appointed in a voluntary winding up of the corporation;
- and
- (e) a trustee or other person administering a compromise or arrangement made between the corporation and another person or other persons:

but does not include—

- (f) a receiver who is not also a manager;
  - (g) a receiver and manager appointed by a court;
- or
- (h) a liquidator appointed by a court;

“register” means the register maintained under section 11;

“registering authority” includes—

- (a) the Registrar of Titles under the *Real Property Act 1861-1986* and the *Real Property Act 1877-1986*;
- and
- (b) every other person, other than a registering authority under any Act relating to the mining of or exploration for minerals or petroleum, who has, pursuant to law, the duty of registering or certifying title to property or recording dealings with respect thereto;

“Registrar” means the Registrar of Dealings appointed under the *Land Act 1962-1988*;

“security interest” means any mortgage, encumbrance or other charge on land created for securing a loan or the payment of an annuity or sum of money other than a loan: but does not include an interest created by a transfer by way of security of the legal estate of an interest in land;

“share”, in relation to a corporation, means a share in the share capital of the corporation, and—

- (a) includes stock into which all or any of the share capital of the corporation has been converted;  
and
- (b) except in section 10, includes an interest in such a share or in such stock;

(2) In this Act, unless the contrary intention appears, where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.

(3) In this Act, unless the contrary intention appears—

- (a) a person who directly or indirectly controls an interest in land shall be deemed to have acquired that interest;  
and
- (b) a reference to acquire includes a reference to agreeing to acquire.

(4) For the purposes of this Act, the time of acquisition of an interest in land shall be—

- (a) where the interest in land is acquired as the result of the granting of a lease of Crown land—the time when the lease commences;
- (b) where the interest in land is acquired under an agreement—the time of entry into possession of that interest;
- (c) where the interest in land is acquired otherwise than under paragraph (a) or (b)—the time when the event that gave rise to the acquisition occurred.

(5) For the purposes of subsection (4) (b), the time of entry into possession in respect of an interest in land means the time under an agreement when the purchaser is entitled to—

- (a) occupy, use and control that interest;  
or
- (b) the rents and profits of that interest.

(6) For the purposes of the definition “foreign corporation”, a foreign natural person shall be deemed to have a controlling interest in a corporation where he has a controlling interest in the holding corporation of that firstmentioned corporation.

**5. Holding corporations and subsidiaries.** (1) A reference in this Act to a holding corporation of another corporation is a reference to a corporation of which that other corporation is a subsidiary.

(2) For the purposes of this Act, but subject to subsection (3)—

- (a) a corporation shall be deemed to be a subsidiary of another corporation if that other corporation—
  - (i) is in a position to control more than one-half of the voting power in the firstmentioned corporation;

or

- (ii) holds more than one-half of the issued shares in the firstmentioned corporation (excluding any shares that carry no right to participate beyond a specified amount in a distribution of either profits or capital);

and

- (b) a corporation shall be deemed to be a subsidiary of another corporation if the firstmentioned corporation is a subsidiary of any corporation that is that other corporation's subsidiary (including a corporation that is that other corporation's subsidiary by another application or other applications of this paragraph).

(3) In determining whether a corporation is a subsidiary of another corporation—

- (a) any shares held or power exercisable by that other corporation in a fiduciary capacity shall be treated as not held or exercisable by it;

- (b) subject to paragraph (c) and (d), any shares held or power exercisable—

- (i) by any person as a nominee for that other corporation (except where that other corporation is concerned only in a fiduciary capacity);

or

- (ii) by, or by a nominee for, a subsidiary of that other corporation, not being a subsidiary that is concerned only in a fiduciary capacity,

shall be treated as held or exercisable by that other corporation;

- (c) any shares held or power exercisable by any person by virtue of the provisions of any debentures of the firstmentioned corporation, or of a trust deed for securing any issue of such debentures, shall be disregarded;

and

- (d) any shares held or power exercisable by, or by a nominee for, that other corporation or its subsidiary (not being held or exercisable as mentioned in paragraph (c)) shall be treated as not held or exercisable by that other corporation if the ordinary business of that other corporation or its subsidiary, as the case may be, includes the lending of money and the shares are held or the power is exercisable solely by way of security for the purposes of a moneylending agreement.

**6. Substantial and controlling interests in corporations.** (1) For the purposes of this Act—

- (a) a person shall be taken to hold a substantial interest in a corporation if the person, alone or together with any associate or associates of the person, is in a position to control not

less than 15 per centum of the voting power in the corporation or holds interests in not less than 15 per centum of the issued shares in the corporation;

and

- (b) 2 or more persons shall be taken to hold an aggregate substantial interest in a corporation if they, together with any associate or associates of any of them, are in a position to control not less than 40 per centum of the voting power in the corporation or hold interests in not less than 40 per centum of the issued shares in the corporation.

(2) Where—

- (a) a person holds a substantial interest in a corporation;  
or

- (b) 2 or more persons hold an aggregate substantial interest in a corporation,

that person shall be taken to hold a controlling interest in the corporation, or those persons shall be taken to hold an aggregate controlling interest in the corporation, as the case may be, unless the Minister is satisfied that, having regard to all the circumstances, that person together with the associate or associates (if any) of that person is not, or those persons together with the associate or associates (if any) of each of them are not, in a position to determine the policy of the corporation.

(3) Where—

- (a) a person holds a substantial interest, or 2 or more persons hold an aggregate substantial interest, in a corporation (including a substantial interest held by that person, or an aggregate substantial interest held by those persons, by another application or other applications of this subsection); and

- (b) that corporation is in a position to control all or any of the voting power in another corporation or holds interests in all or any of the issued shares in another corporation,

that person or those persons together shall be taken to be in a position to control so much of the voting power of the other corporation as the firstmentioned corporation is in a position to control or to hold the interests in the issued shares in the other corporation that the firstmentioned corporation holds, as the case may be.

**7. Voting power.** In this Act, a reference to the voting power in a corporation is a reference to the maximum number of votes that might be cast at a general meeting of the corporation.

**8. Control of voting power.** A reference in this Act to control of the voting power in a corporation is a reference to control that is direct or indirect, including control that is exercisable as a result or by means of arrangements or practices, whether or not having legal or equitable force, and whether or not based on legal or equitable rights.

**9. Associates.** For the purposes of this Act, the following persons are associates of a person—

- (a) the person's spouse or a parent or remoter lineal ancestor, son, daughter or remoter issue, brother or sister of the person;
- (b) any partner of the person;
- (c) any corporation of which the person is an officer;
- (d) where the person is a corporation—any officer of the corporation;
- (e) any employee or employer of the person;
- (f) any officer of any corporation of which the person is an officer;
- (g) any employee of a natural person of whom the person is an employee;
- (h) any corporation whose directors are accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the person or, where the person is a corporation, of the directors of the person;
- (i) any corporation in accordance with the directions, instructions or wishes of which, or of the directors of which, the person is accustomed or under an obligation, whether formal or informal, to act;
- (j) any corporation in which the person holds a substantial interest;
- (k) where the person is a corporation—a person who holds a substantial interest in the corporation;
- (l) any person who is, by virtue of this section, an associate of any other person who is an associate of the person (including a person who is an associate of the person by another application or other applications of this paragraph).

**10. Interests in shares.** (1) Subject to this section, a person holds an interest in a share if he has any legal or equitable interest in that share.

(2) Without limiting the generality of subsection (1), where a person—

- (a) has entered into a contract to purchase a share;
- (b) has a right, otherwise than by reason of having an interest under a trust, to have a share transferred to himself or to his order, whether the right is exercisable presently or in the future and whether on the fulfilment of a condition or not;
- (c) has the right to acquire a share, or an interest in a share, under an option, whether the right is exercisable presently or in the future and whether on the fulfilment of a condition or not;



or

- (d) is entitled (otherwise than by reason of his having been appointed a proxy or representative to vote at a meeting of members of a corporation or of a class of its members) to exercise or control the exercise of a right attached to a share, not being a share of which he is the registered holder,

that person shall be deemed to hold an interest in that share.

(3) A person shall not be deemed not to hold an interest in a share by reason only that he holds the interest in the share jointly with another person.

(4) It is immaterial, for the purpose of determining whether a person holds an interest in a share, that the interest cannot be related to a particular share.

(5) There shall be disregarded—

- (a) an interest in a share of a person whose ordinary business includes the lending of money if he holds the interest solely by way of security for the purposes of a moneylending agreement;
- (b) an interest of a person in a share, being an interest held by him by reason of his holding a prescribed office;  
and
- (c) an interest of a prescribed kind in a share, being an interest of such person, or of the persons included in such class of persons, as is prescribed.

(6) An interest in a share shall not be disregarded by reason only of—

- (a) its remoteness;
- (b) the manner in which it arose;  
or
- (c) the fact that the exercise of a right conferred by the interest is or is capable of being made subject to restraint or restriction.

(7) In relation to a corporation the whole or a portion of the share capital of which consists of stock, an interest of a person in any such stock shall be deemed to be an interest in an issued share in the corporation having the same nominal amount as the amount of that stock and having attached to it the same rights as are attached to that stock.

## PART II—ADMINISTRATION

**11. Register.** (1) The Registrar shall maintain a register called the Foreign Ownership of Land Register in which he shall cause to be recorded, in respect of each acquisition of an interest in land by a foreign person whether acquired before or after the commencement of this Act, the particulars contained in each relevant prescribed form lodged with the Registrar.

(2) All prescribed forms lodged with the Registrar shall form part of the register.

(3) The register may be maintained wholly or partly—

- (a) on paper, or microfilm or in such other medium as the Registrar from time to time considers appropriate;
- (b) in such device for storing or processing information as the Registrar from time to time considers appropriate.

(4) The Registrar may from time to time cause a microfilm or such other copy to be made, by the means approved from time to time by the Minister for the purposes of this section, of any part of the register, including any prescribed form and, upon the Registrar certifying that the microfilm or other copy is an accurate copy of that part, that microfilm or other copy shall form part of the register.

(5) The Registrar—

- (a) may cause particulars recorded in one part of the register to be recorded in another part of the register;  
and
- (b) may cause to be deleted from a part of the register particulars that he is satisfied have been accurately recorded in another part of the register.

(6) The Registrar may cause to be destroyed any prescribed form which has been microfilmed or copied in accordance with subsection (4) and that microfilm or copy shall be—

- (a) recognized as a true copy of that part of the register;
- (b) received in evidence in any court or tribunal acting judicially.

**12. Accurately completed prescribed forms.** Each prescribed form lodged with the Registrar shall be completed so as to clearly and accurately indicate in respect of each acquisition of an interest in land such information as is prescribed.

**13. Rectification of register.** Where the Registrar is satisfied that there is an error or omission in the register or a failure to comply with this Act in respect of any prescribed form or acquisition, he may do all things necessary to rectify the error, omission or failure.

**14. Access to information in register.** A person may, upon payment of the prescribed fee and during the hours and upon the days appointed by the Registrar for that purpose—

- (a) obtain particulars of information recorded or contained in the register;
- (b) obtain extracts of particulars of information recorded or contained in the register;  
and
- (c) upon the giving of adequate notice to allow its preparation—obtain statistical data from information recorded in the register under section 11 (1).

**15. Delegation.** (1) The Registrar may, by instrument in writing, delegate to any officer or employee of the Department of Lands all or any of his powers and duties under this Act, other than this power of delegation.

(2) A delegation made under this section may be made either generally or as otherwise provided in the instrument of delegation.

(3) A power or duty delegated under this section shall, when exercised or performed by the delegate, be deemed to have been exercised or performed by the Registrar.

(4) The Registrar may make such number of delegations of the same power or duty and to such number of persons as he considers appropriate.

(5) A person purporting to exercise a power or to perform a duty pursuant to a delegation under this section, shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the instrument of delegation.

(6) A delegate, in the exercise of a power or performance of a duty delegated under this section, is subject to the directions of the Registrar.

(7) The delegation of a power or duty under this section shall not prevent the exercise of the power or the performance of the duty by the Registrar.

**16. Annual Report.** (1) The Registrar shall, as soon as practicable after 30 June in each year, prepare a report on the administration of this Act during the previous period of 12 months and submit the report to the Minister.

(2) The first report submitted under subsection (1) shall relate to the period commencing on the date of commencement of this Act and ending on 30 June next following.

(3) The Minister shall cause each report submitted to him under subsection (1) to be laid before the Legislative Assembly within 14 sitting days after it is received by him.

### PART III—NOTIFICATION OF OWNERSHIP

**17. Disclosure of present interest.** (1) A foreign person who has the legal estate of an interest in land vested in him (other than as trustee) at the commencement of this Act, shall, in respect of that interest, lodge a duly completed prescribed form (in this Act called a "Notification of Ownership") with the Registrar not later than 12 months after that commencement.

(2) Where the agent of a foreign person referred to in subsection (1) duly completes and lodges a Notification of Ownership on behalf of that foreign person, that foreign person shall be deemed to have complied with subsection (1) in respect of the relevant interest in land.

(3) A person who has the legal estate of an interest in land vested in him (as trustee for a foreign person) at the commencement of this Act, shall, in respect of that interest, lodge a duly completed prescribed form (in this Act called a "Trustee Notification of Ownership") with the Registrar not later than 12 months after that commencement.

(4) For the purposes of subsection (3), a foreign person includes a person who is a trustee for a foreign person (including a person who is a foreign person by another application or other applications of this subsection).

**18. Disclosure of acquisition.** (1) A person who acquires the legal estate of an interest in land (other than as trustee) after the commencement of this Act, shall, in respect of that interest, lodge a duly completed Notification of Ownership with the Registrar not later than 90 days after the date of that acquisition.

(2) Where the agent of a person referred to in subsection (1) duly completes and lodges the Notification of Ownership on behalf of that person, that person shall be deemed to have complied with subsection (1) in respect of the relevant interest in land.

(3) A person who acquires the legal estate of an interest in land (as trustee) after the commencement of this Act, shall, in respect of that interest, lodge a duly completed Trustee Notification of Ownership with the Registrar not later than 90 days after the date of that acquisition.

(4) A person who holds (as trustee) an interest (other than the legal estate) in land shall, upon the request of the person who holds (as trustee) the legal estate of that interest, supply to the person holding the legal estate the name, usual place of residence and details of the interest held in respect of each person for whom he holds as trustee and shall state whether or not each such person is a foreign person.

(5) Notwithstanding subsections (1) and (3), where an interest in land is acquired as the result of the death of a person—

(a) the personal representative of the deceased person shall not be required to lodge a Trustee Notification of Ownership in respect of the interest in land vested in him as personal representative;

and

(b) a person beneficially entitled to an interest in the land of the deceased person shall not be required to lodge a Notification of Ownership before documents that result in that interest vesting in the person beneficially entitled are lodged with the relevant registering authority.

(6) Where a person referred to in subsection (5) (b) is under a legal disability and his guardian duly completes and lodges the Notification of Ownership referred to in that subsection on behalf of that person, that person shall be deemed to have complied with section 18 (1).

**19. Notification upon ceasing to be a foreign person.** Where a person who has an interest in land (as trustee or otherwise) ceases to be a

foreign person, he shall, in respect of that interest, lodge a notification of that cessation in the prescribed form with the Registrar not later than 90 days after the date on which he ceases to be a foreign person.

Penalty: 20 penalty units.

**20. Notification upon becoming a foreign person.** Where a person who has an interest in land (as trustee or otherwise) becomes a foreign person, he shall, in respect of that interest, lodge a duly completed notification in the prescribed form with the Registrar not later than 90 days after the date on which he becomes a foreign person.

**21. Other registries and transitional.** (1) Every person required to lodge a Notification of Ownership or Trustee Notification of Ownership with the Registrar under section 18 shall be deemed to have complied with the requirements of that section if that person, within the period specified in that section, lodges with the relevant registering authority a duly completed Notification of Ownership or Trustee Notification of Ownership, as the case may require, contemporaneously with such other documents as are required to be lodged with that registering authority to enable the registration or recording of the relevant acquisition.

(2) Every document that is lodged with a registering authority after the commencement of this Act for the registration or recording of a dealing in respect of an acquisition of an interest in land shall, notwithstanding that the acquisition was made before the commencement of this Act, be accompanied by—

- (a) a Notification of Ownership or Trustee Notification of Ownership, as the case may require;
- (b) a certificate of exemption referred to in subsection (3);
- or
- (c) evidence, in the prescribed form, of compliance with section 18,

in respect of that acquisition, contemporaneously with such other documents as are required to be lodged with that registering authority to enable the registration or recording of that acquisition.

(3) Where an acquisition of an interest in land occurred prior to the commencement of this Act the Registrar may, in his absolute discretion, issue in respect of that acquisition a certificate of exemption in the prescribed form, exempting that acquisition from the application of subsection (2) (a) and (2) (c).

(4) Notwithstanding any other Act or law to the contrary, a registering authority shall not register or record in its register or records any documents lodged with that registering authority after the commencement of this Act, in respect of an acquisition of an interest in land unless subsection (2) has been complied with.

(5) Every Notification of Ownership or Trustee Notification of Ownership, as the case may be, lodged with a registering authority under this section shall be verified in the prescribed manner by that

registering authority and produced by that registering authority to the Registrar within 30 days of the registration or recording of the acquisition in respect of which it was lodged with that registering authority.

(6) Notwithstanding any provision of the *Harbours Act 1955-1987* to the contrary, where a Harbour Board or the Harbours Corporation disposes of or leases to any person an interest in land vested under that Act in that Harbour Board or in the Harbours Corporation, as the case may be, that Harbour Board or the Harbours Corporation, as the case may be, shall produce to the Registrar within 30 days of that disposal or leasing such details, in respect of that disposal or leasing, as may be prescribed.

**22. Registrar may require additional information.** (1) The Registrar may, for the purpose of—

- (a) ascertaining whether there is any liability on a person to lodge a prescribed form;
- (b) ascertaining whether a person is required to comply with this Act or whether the Act has been contravened or not complied with by a person in any respect;
- or
- (c) enquiring into any matter connected with the administration of this Act,

by notice in writing, require a person—

- (d) to give information of a kind and in a form or manner specified in the notice or to produce records (or copies thereof) of a kind specified in the notice (being information or records believed to be within the knowledge, in the custody or under the control of the person) at a place and within a time specified in the notice, to the Registrar or an officer authorized by him and specified in the notice;
- or
- (e) to attend before the Registrar or an officer authorized by him and specified in the notice at a time and place specified in the notice and there to give information and to produce records of a kind specified in the notice (being information or records believed to be within the knowledge, in the custody or under the control of the person) and to answer questions or to do all or any of those things.

(2) The Registrar or an officer authorized by him pursuant to subsection (1) may require information sought under this section to be given, verbally on oath or in writing by statutory declaration made under the authority of the *Oaths Act 1867-1988*, as the case may be, and for that purpose the Registrar, that officer or any justice may administer an oath or take a declaration.

(3) The Registrar or an officer authorized by him pursuant to subsection (1) may cause to be made copies of or extracts from the whole or part of the information or records produced in accordance with subsection (1).

(4) A notice pursuant to subsection (1) which requires a person to give information to, to attend before or to produce records to an officer authorized by the Registrar pursuant to subsection (1) may specify that officer by name or by the office that he holds.

(5) Notwithstanding that a notice issued pursuant to subsection (1) requires a person to give information to, to attend before or to produce records to an officer whose name or office is specified in the notice, the Registrar may at any time (without notice to the person to whom the notice was given) authorize another officer for that purpose to exercise any power or perform any duty that he would be able to exercise or perform if he were authorized pursuant to subsection (1).

(6) The regulations may prescribe scales of expenses to be allowed to persons whose attendance is required under this section.

**23. Registrar may enter information.** Where in respect of an acquisition of an interest in land—

(a) a Notification of Ownership or Trustee Notification of Ownership is not lodged with the Registrar in accordance with this Act;

or

(b) a Notification of Ownership or Trustee Notification of Ownership lodged with the Registrar is not complete in respect of any material particular,

the Registrar may, in respect of that acquisition and until correct or more accurate particulars are provided to the Registrar, record in the register such particulars as he considers appropriate for that acquisition.

#### PART IV—OFFENCES AND PENALTIES

**24. Offence not to comply with section 22.** (1) A person who fails to comply with a requirement made of him under section 22 (1) commits an offence against this Act.

Penalty: 835 penalty units.

(2) A person shall not be convicted of an offence defined in subsection (1), if the court hearing the charge is satisfied—

(a) that the defendant could not, by the exercise of reasonable diligence, have complied with the requirement to which the charge relates;

or

(b) that the defendant complied with that requirement to the extent of the defendant's ability to do so.

(3) A person is not excused from complying with a requirement under section 22 to give information or answer a question on the ground that the information or answer might tend to incriminate him or make him liable to a penalty.

(4) Information given or an answer made by a person in complying with a requirement under section 22, which might tend to incriminate

him or make him liable to a penalty, is not admissible against him in any proceedings brought against him in a court in Queensland with a view to his punishment for an alleged offence except—

- (a) proceedings in respect of an offence under this Act;  
or
- (b) proceedings in respect of an offence in connexion with verification of the information or answer by oath or affirmation.

(5) Where a person commits an offence defined in subsection (1)—

- (a) the offence shall be a continuing offence and be deemed to continue for as long as the requirement in respect of which the offence was committed is not complied with;  
and
- (b) the court may, upon convicting the person of the offence, in addition to any penalty that it may impose under subsection (1), order the person to pay a penalty of 85 penalty units for each day on which the offence is, pursuant to paragraph (a), deemed to have continued to the date of the person's conviction of the offence.

(6) Subsection (5) applies notwithstanding that the failure or conduct alleged against a defendant related to a particular time or a particular period.

(7) Where a person has been convicted of an offence against subsection (1), the court may, in addition to imposing a penalty that it may impose under subsection (1) and, where applicable, subsection (5), order the person to comply with the requirement in respect of which the offence was committed.

(8) Where a court makes an order under subsection (7), it shall specify therein a place where and a time or period by or within which the order is to be complied with.

(9) A person who fails to comply with an order made by a court pursuant to subsection (7) commits an offence against this Act.

Penalty: 1670 penalty units.

(10) A person who after conviction of an offence defined in subsection (1) or this subsection (in this subsection called the "previous conviction") continues to fail to comply with the requirement in respect of which he incurred the previous conviction commits an offence against this Act.

Penalty: 170 penalty units for each day on which he has continued to fail to comply with the requirement from the date of the last occurring previous conviction to the date of his conviction for the offence under this subsection last committed by him.

(11) When a person is convicted of an offence as defined in subsection (1) and the court makes an order under subsection (7), the



person shall not be punished under subsection (10) for continuing to fail to comply with the requirement to which the order relates.

**25. False or misleading statements.** (1) A person shall not give an answer, whether orally or in writing, that is false or misleading in a material particular to a question put to him under section 22.

Penalty: 835 penalty units.

(2) A person shall not, in providing information in accordance with section 22, make a statement or representation that is false or misleading in a material particular.

Penalty: 835 penalty units.

(3) A person shall not, in communicating information to the Registrar in respect of the acquisition of an interest in land by completing a Notification of Ownership or Trustee Notification of Ownership make any answer, statement or representation that is false or misleading in a material particular.

Penalty: 835 penalty units.

(4) It is a defence to a charge under subsection (1) or (2) to prove that the defendant believed on reasonable grounds that the answer, statement or representation was neither false nor misleading.

(5) It is a defence to a charge under subsection (3) to prove that when the answer, statement or representation was given or made the defendant believed on reasonable grounds the answer, statement or representation was neither false nor misleading.

**26. Offences by corporations.** (1) Where a corporation commits an offence against this Act—

(a) the chairman of directors, managing director or other governing officer, by whatever name called, and every member of the governing body, by whatever name called; and

(b) every person who in Queensland manages or acts or takes part in the management or administration of the business of that corporation in Queensland,

shall be deemed to have committed an offence against this Act and shall be liable to be proceeded against and punished accordingly.

(2) It is a defence to a charge of an offence against this Act brought against a person specified in subsection (1) to prove that the offence was committed without that person's knowledge or connivance and that he could not by due diligence have prevented the commission of the offence.

(3) Subsection (1) applies so as not to limit or affect in any way the liability of a corporation to be proceeded against and punished for an offence against this Act.

**27. General penalty.** (1) A person who contravenes or fails to comply with a provision of this Act commits an offence against this Act.

(2) Where no penalty is expressly provided, a person who commits an offence against this Act is liable to a penalty—

- (a) for a first offence—835 penalty units;
- (b) for a second or subsequent offence—1670 penalty units.

**28. Proceedings for offences.** (1) A prosecution for an offence against this Act shall be by way of summary proceedings under the *Justices Act 1886-1987* upon the complaint of the Registrar or any person authorized in writing in that behalf by the Minister.

(2) The authority of a person to make a complaint in respect of an offence against this Act shall be presumed until the contrary is proved.

(3) Proceedings for an offence against this Act may be instituted within 12 months after the commission of the offence or within 6 months after the commission of the offence comes to the knowledge of the complainant, whichever is the later period.

#### PART V—FORFEITURE AND RESTRAINT

**29. Prescribed offence.** For the purpose of this Part, a person shall be deemed to have been convicted of an offence against sections 17, 18, 20, 24 or 25 (in this Part called a “prescribed offence”) if that person has been found guilty of the offence by a court, or has pleaded that he is guilty of the offence.

**30. Notice to show cause.** Where in respect of an acquisition of an interest in land by a foreign person, a person is convicted of a prescribed offence, the Minister may, by notice in writing—

- (a) where that person has not lodged an appeal against conviction—within 30 days after the expiration of the time for lodging an appeal against that conviction;

or

- (b) where that person has appealed against that conviction and on the final determination of that appeal the appeal is dismissed—within 30 days of the dismissal of the appeal,

require that foreign person to show cause in writing within 60 days, why that interest should not be forfeited to the Crown in accordance with this Part.

**31. Minister’s recommendation to Governor in Council.** Where the Minister issues a notice under section 30 he may, within 90 days of the issue of that notice, recommend to the Governor in Council the forfeiture of the relevant interest in land and that the interest be vested pursuant to this Part.

**32. Forfeiture declaration.** (1) The Governor in Council may, on the recommendation of the Minister made under section 31, by Order in Council published in the Gazette, declare that the interest in the land referred to in the recommendation, is forfeited to the Crown and vested—

(a) in the Crown and shall be dealt with under the *Land Act 1962-1988* as Crown land;

or

(b) in the Public Trustee of Queensland upon trust for and on behalf of the Crown and shall be dealt with in accordance with the Minister's directions.

(2) Where a person, whose interest in land is forfeited under this Part, holds that interest together with another person whose interest is not forfeited the interest forfeited shall be vested pursuant to subsection (1) (b).

**33. Effect of forfeiture.** Upon the making of a forfeiture declaration under section 32 the interest in land to which it relates shall divest from the person in whom it is vested at that time and free of all charges vest in accordance with the Order in Council made under section 32.

**34. Documents of title.** (1) A person who in respect of an interest in land forfeited under section 32 is in possession of documents of title to that interest shall deliver the documents of title to a person authorized in that behalf by the Minister, upon demand of that authorized person.

(2) Where a person has delivered documents of title to an interest in land in compliance with subsection (1) he shall thereby be discharged from any duty or obligation had by him to any other person in relation to the disposition of the documents of title and from all liability that, but for this subsection, might have arisen by reason of that delivery.

**35. Recording of forfeiture declaration.** (1) The Registrar of Titles, Registrar of Dealings and any other person charged with the keeping of registers relating to interests in land forfeited to the Crown pursuant to this Part shall, upon request in that regard, upon production to him of sufficient evidence of the forfeiture and without the payment of any fee, record the forfeiture and vesting, in accordance with the Order in Council made under section 32 in respect of that interest, in the register in his keeping and shall do so notwithstanding—

(a) any other Act to the contrary;

or

(b) that any relevant document of title to that interest is not produced to him.

(2) Every Order in Council made under section 32 shall be conclusive evidence of the matters contained therein.

**36. Effect of forfeiture declaration on third parties.** (1) Where a person has, in respect of an interest in land—

(a) pursuant to section 29, been deemed to have been convicted of an offence against section 18;

or

(b) been convicted of an offence against section 25 (3),

and a forfeiture declaration is made under section 32 the interest of any person who claims an estate or interest in that interest in land shall be of no effect against the Crown.

(2) Where a person, pursuant to section 29, has been deemed to have been convicted of an offence against sections 17, 20, 24 or 25 and a forfeiture declaration is made under section 32, any person who claims an estate or interest in the interest in land the subject of that forfeiture declaration may, within 90 days of the making of the forfeiture order, make application to the Minister for a declaration under subsection (3).

(3) Where a person makes an application under subsection (2) the Minister may, where he is satisfied that the person was not a party to the commission of an offence referred to in subsection (2), declare the nature, extent and value of that person's estate or interest in the interest in land the subject of the forfeiture declaration (including accruing interest, if any).

(4) The Minister may, from the proceeds of the sale of a relevant interest in land disposed of pursuant to section 32, pay, to the person who applies under subsection (2), an amount not exceeding an amount equal to the value declared under subsection (3) to be that person's interest in that interest in land and upon such payment any further claim under this Part by that person shall be of no effect against the Crown.

(5) A claim by a person for an estate or interest in an interest in land forfeited under this Part shall be of no effect against the Crown unless an application in respect of that estate or interest is made under subsection (2).

**37. Forfeiture not applicable to Land Act.** A forfeiture of an interest in land under this Part shall not be construed to be a forfeiture under the *Land Act 1962-1988*.

**38. Restraining orders.** (1) Where in respect of an acquisition of an interest in land by a foreign person, a person has been, or is about to be, charged with a prescribed offence, the Supreme Court may, upon application made to it by the Registrar (on the directions of the Minister) make a restraining order in respect of that interest, and such other ancillary order as it considers appropriate.

(2) Upon the making of a restraining order—

(a) the management and control of the interest in land to which it relates shall pass to the person named in the order as

manager of that interest and remain in that person while the order remains in force;

- (b) the person whose interest is restrained by an order made under this section, is incompetent in law to pass title to that interest while the order remains in force;
- (c) a person who holds as trustee an interest in land to which it relates for the person whose interest is restrained shall, while the order remains in force, hold that interest for the person named in the order and shall deal with that interest as directed by the manager.

(3) The manager named in a restraining order is empowered to deal with and dispose of that interest of which he is manager in and for the purposes of his management as if he were the absolute owner thereof subject always to his being prudent and diligent in his management thereof and to his complying with conditions specified in the order as regulating his management thereof.

(4) Where a restraining order has been made the applicant therefor shall cause a copy of the order to be given to every person who, to his knowledge, is holding as trustee an interest in land affected by the order on account of the person to whose interest the order relates.

(5) A person or the trustee, agent or servant of that person—

- (a) to whose interest in land a restraining order made under subsection (1) relates;
- or
- (b) to whom a copy of a restraining order made under subsection (1) has been given or is deemed to have been given,

shall not attempt to do or purport to do any act in disobedience to or wilful disregard of the order, while it remains in force.

(6) A person who contravenes subsection (5) in respect to any order made by a judge is guilty of a crime.

Penalty: Imprisonment for 5 years or, if the offender is a corporation, a fine of 2000 penalty units.

(7) Upon production to him of a copy of a restraining order made under this section, the Registrar of Titles, Registrar of Dealings and any other person charged with the keeping of registers relating to an interest in land referred to in the order shall not register any dealing with respect to that interest until the order has been revoked or discharged.

**39. Procedure upon application for restraining order.** (1) Upon an application under section 38 for a restraining order, the Supreme Court may require notice of the application to be given to such person as it considers should be informed of the proceedings.

(2) Every person to whom notice of an application under section 38 for a restraining order has been given shall be entitled to be heard with respect to the matter of the application.

(3) Where notice of an application under section 38 for a restraining order is given to a foreign person in respect of whose interest in land a restraining order is sought or to another person who holds that interest as trustee, the notice shall have effect as if it were a copy of a restraining order duly made in respect of that foreign person's interest, until the matter of the application has been disposed of.

**40. Variation, revocation, discharge of order.** (1) A restraining order made under section 38 is discharged—

- (a) if at the expiration of the period ordered by the Supreme Court in that regard, proceedings against a person have not been commenced in respect of a prescribed offence;
- (b) upon the making of a forfeiture declaration in respect of an interest in land to which the restraining order relates;
- (c) if the person charged with committing the offence, by reason of which charge the restraining order was made, has been acquitted of the charge or the charge has been withdrawn;
- (d) if the person charged with committing the offence, by reason of which the restraining order was made, having been convicted of the charge, has had his conviction quashed on appeal, unless the court hearing the appeal otherwise orders.

(2) A restraining order made under section 38 may, upon application made to the Supreme Court, be varied or revoked at any time for any reason appearing to the Supreme Court to be sufficient.

(3) Upon an application for revocation of a restraining order, the applicant shall cause notice of the application to be given to—

- (a) the manager of the interest in land to which the restraining order relates;  
and
- (b) such other person as the Supreme Court considers should be informed of the proceedings,

and the manager and such other person shall be entitled to be heard with respect to the matter of the application.

#### PART VI—MISCELLANEOUS

**41. Searches.** Every officer having the charge of records which are available for search by the public shall permit the Registrar and any person authorized by him in that behalf, free of charge, to make searches of and to make copies of or extracts from any documents of title, or records in the department, registry or office relating to any acquisition of an interest in land or matter in which the Registrar is or may, for the purposes of this Act, be interested.

**42. Service of documents.** (1) Where under this Act, a document or notice is required or permitted to be given to or served on a person, the document or notice may be given or served—

- (a) where the person is a natural person—by giving it to or serving it personally on the person or by sending it by post

to the person at his usual or last known place of abode or business;

- (b) where the person is a corporation—by leaving it at or sending it by post to the registered office of the corporation.

(2) If a document left at or sent by post to the address of the registered office of a corporation will not be, or is not likely to be, received by the corporation, a document may be served on the corporation by delivering a copy of the document personally to each of 2 directors of the corporation who reside in the State or by sending a copy of the document by post to each of 2 such directors at the address of those directors last known to the person sending the copy of the document.

(3) In subsections (1) and (2), “registered office” means—

- (a) the office of the corporation that is the registered office or principal office in accordance with the law of the State or Territory by or under which the corporation is incorporated;
- (b) where the corporation is not incorporated in Australia, an office registered under the law of a State or Territory as a registered office of the corporation;

or

- (c) in the case of a corporation that has no such registered office or principal office, the principal place of business of the corporation in the State or, if it has no place of business in the State, its principal place of business in Australia.

**43. Evidentiary provisions.** In any proceedings under this Act—

- (a) it shall not be necessary to prove the appointment of the Minister, the Registrar or a delegate of the Registrar to do an act or take a proceeding;
- (b) a signature purporting to be that of the Minister, the Registrar or a delegate of the Registrar shall be taken to be the signature it purports to be until the contrary is proved;
- (c) a document purporting to be a copy of or an extract (certified by the Registrar) from a document lodged in the office of the Registrar shall upon its production in that proceeding be evidence and, in the absence of evidence to the contrary, conclusive evidence of—
  - (i) in the case of an office copy—the lastmentioned document and its contents;
  - or
  - (ii) in the case of an extract—of the matters contained therein;
- (d) a certificate purporting to be that of the Registrar as to the time when a document of or from which an office copy or extract has been produced in evidence, was lodged in the office of the Registrar shall be evidence and, in the absence

of evidence to the contrary, conclusive evidence of the fact and time of the lodgement of the document;

- (e) proof of exemption from a provision of the Act shall be upon the person who relies thereon;
- (f) it shall not be necessary to prove the authority of a person to do an act or take a proceeding in the absence of evidence to the contrary.

**44. Protection from liability.** Liability at law shall not attach to the Crown or any person on account of any act or thing—

- (a) done or omitted to be done pursuant to this Act;
- or
- (b) done or omitted to be done bona fide for the purposes of this Act and without negligence.

**45. Regulations.** The Governor in Council may make regulations, not inconsistent with this Act, with respect to—

- (a) regulating the duties of the Registrar and other officers employed in the administration of this Act;
- (b) regulating the form of reports under this Act, and the procedure to be followed in respect of those reports;
- (c) the form of the register and the particulars to be entered in the register;
- (d) fees payable under this Act and the purposes for which the respective fees are to be payable;
- (e) all matters required or permitted by this Act to be prescribed and in respect of which no other means of prescription are provided;
- (f) all matters that in his opinion are necessary or convenient for the proper administration of this Act or to achieve the objects and purposes of this Act.