

FOREIGN OWNERSHIP OF LAND REGISTER ACT AMENDMENT ACT

No. 3 of 1989

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Queensland



ANNO TRICESIMO OCTAVO

ELIZABETHAE SECUNDAE REGINAE

No. 3 of 1989

An Act to amend the Foreign Ownership of Land Register
Act 1988 in certain particulars

[ASSENTED TO 21ST MARCH, 1989]

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:—

1. Short title. This Act may be cited as the *Foreign Ownership of Land Register Act Amendment Act 1989*.

2. Principal Act and amended citation. (1) In this Act the *Foreign Ownership of Land Register Act 1988* is referred to as the Principal Act.

(2) The Principal Act as amended by this Act may be cited as the *Foreign Ownership of Land Register Act 1988-1989*.

3. Amendment of s. 4. Interpretation. Section 4 of the Principal Act is amended—

(a) by omitting from subsection (1) the definitions “foreign corporation”, “foreign person”, “interest in land”, “last accounting date” and “registering authority”;

(b) by inserting in subsection (1) the following definitions in their respective appropriate alphabetical positions (determined on a letter-by-letter basis):—

“foreign corporation” means a body (whether incorporated or unincorporated) that is formed outside Australia and its external Territories;

“foreign person” means—

- (a) a foreign natural person;
- (b) a foreign corporation;
- (c) a corporation in which, on its last accounting date, a foreign natural person or a foreign corporation holds a controlling interest;
- and
- (d) a corporation in which, on its last accounting date, 2 or more persons, each of whom is either a foreign natural person or a foreign corporation, hold an aggregate controlling interest;

“foreign trust” means—

- (a) a unit trust in which—
 - (i) a foreign person holds a controlling interest;
 - or
 - (ii) 2 or more foreign persons hold an aggregate controlling interest,
 on the last accounting date of the trust;
- and
- (b) a trust (other than a unit trust)—
 - (i) in respect of which—
 - (A) not less than 15 per cent of the total income of the

trust was paid to or applied for the benefit of a foreign person, alone or together with any associate or associates of the foreign person;

or

- (B) not less than 40 per cent of the total income of the trust was paid to or applied for the benefit of 2 or more foreign persons, together with any associate or associates of any of them,

during the most recent year of income in respect of the trust;

or

- (ii) in respect of which—

- (A) not less than 15 per cent of the capital of the trust is held by the trustee of the trust for a foreign person, alone or together with any associate or associates of the foreign person;

or

- (B) not less than 40 per cent of the capital of the trust is held by the trustee of the trust for 2 or more foreign persons, together with any associate or associates of any of them,

on the last accounting date of the trust;

“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*;
 - (d) subject to paragraph (m), in a lease or licence granted under section 64 of the *Harbours Act 1955-1987*;
 - (e) in a licence for a market-garden area granted under regulation 63 of the *Mining Regulations of 1971*;
 - (f) in a business area and a residence area within the meaning of the *Mining Act 1968-1986*;
 - (g) in a miner’s homestead lease and a miner’s homestead perpetual lease within the meaning of the *Miners’ Homestead Leases Act 1913-1986*;
 - (h) in a lease granted under the *Mining Titles Freeholding Act 1980-1986*;
- and
- (i) in a special mining purposes lease and a special perpetual mining purposes lease granted under the *Commonwealth Aluminium Corporation Pty. Limited Agreement Act of 1957*, the *Alcan Queensland Pty. Limited Agreement Act of 1965* or the *Aurukun Associates Agreement Act 1975* and deemed for the purposes of any of those Acts to be

a miner's homestead perpetual lease under the *Miners' Homestead Leases Act 1913-1986*;

but does not include—

- (j) a security interest in land;
- (k) an estate or interest in an easement over land;
- (l) 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;
- (m) an estate or interest in a lease or licence granted under section 64 of the *Harbours Act 1955-1987* over less than 1000 square metres of the bed, shore or banks of the sea or of any harbour (including any tidal navigable river) within the meaning of that Act for the mooring of vessels;
- (n) an estate or interest in the minerals (within the meaning of the *Mining Act 1968-1986*) or in the crude oil, natural gas, petroleum or petroleum deposits (within the meaning of the *Petroleum Act 1923-1988*) contained in or beneath any land;
- (o) any estate or interest in land (other than a market-garden, business or residence area) granted under "*The Mining Acts, 1898 to 1967*", the *Coal Mining Act 1925-1981*, the *Mining Act 1968-1986*, the *Petroleum Act 1923-1988* or the *Petroleum (Submerged Lands) Act 1982*;

or

- (p) any estate or interest (other than an estate or interest referred to in paragraph (i)) granted under any agreement, authorized to be made for and on behalf of the State of Queensland and specifically given the force of law by an Act of Parliament as though the agreement were an enactment of that Act, for the purpose of the development of mineral deposits or purposes incidental thereto and consequent thereon;

"last accounting date" means—

- (a) in relation to a corporation, the date of the expiration of the most recent period in relation to which a profit and loss account of the corporation has been or is required to be by section 269 of the *Companies (Queensland) Code* (or a corresponding law in force in any other State or Territory of the Commonwealth) laid before it in general meeting, including an account so laid before it before the commencement of this Act;
- (b) in relation to a trust, the date of the expiration of the most recent year of income in respect of the trust, including a year of income so expired before the commencement of this Act;

“registering authority” in relation to a particular interest in land, means—

- (a) the Registrar of Titles appointed under the *Registrar of Titles Act of 1884*;
- (b) the Registrar of Dealings appointed under the *Land Act 1962-1988*;
- (c) the Queensland Housing Commission constituted under the *State Housing Act 1945-1988*;
- (d) the Harbours Corporation constituted under the *Harbours Act 1955-1987*;
- (e) the relevant Harbour Board constituted or deemed to have been constituted under the *Harbours Act 1955-1987* or other relevant statutory body which has the powers, authorities, functions and duties of a Harbour Board conferred or imposed on it by any Act;

or

- (f) the relevant warden or mining registrar appointed under the *Mining Act 1968-1986*,

as the tenure and location of the particular interest in land may require;

“statutory declaration” means a declaration made under the *Oaths Act 1867-1988* or a corresponding law in force in any other State or Territory of the Commonwealth or other country where the declaration is made;

“year of income” means a year of income within the meaning of the *Income Tax Assessment Act 1936* (as amended from time to time) of the Commonwealth.”;

(c) by omitting from subsection (5) the word “purchaser” and substituting the words “person acquiring the interest”;

(d) by omitting subsection (6) and substituting the following subsection :—

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

4. Repeal of and new s. 6. Substantial and controlling interests in corporations. The Principal Act is amended by repealing section 6 and substituting the following section:—

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

- (a) a person shall be taken to hold a substantial interest in a corporation or unit trust 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 attached to the issued units in the unit trust, as the case may be;

and

- (b) 2 or more persons shall be taken to hold an aggregate substantial interest in a corporation or unit trust 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 attached to the issued units in the unit trust, as the case may be.

(2) Where—

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

or

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

that person shall be taken to hold a controlling interest in the corporation or unit trust, or those persons shall be taken to hold an aggregate controlling interest in the corporation or unit trust, as the case may be, unless the Minister declares 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 or unit trust, as the case may be.

(3) Where—

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

and

- (b) that corporation is in a position to control all or any of the voting power 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.

(4) An officer of a corporation or the manager or trustee of a unit trust, as the case may be, referred to in subsection (2) may apply to the Minister, at any time prior to the expiration of the periods referred to in sections 17 (1), 18 (1), 18 (3), 19 and 20, seeking a declaration that for the purposes of subsection (2) a person referred to in subsection (2), together with the associate or associates (if any) of that person, is not in a position to determine the policy of the relevant corporation or unit trust, as the case may be.

(5) For the purposes of calculating whether or not a notification has been lodged within the time limits specified in

sections 17 (1), 18 (1), 18 (3), 19 and 20, the period of time during which an application made under subsection (4) is in the office of the Minister to the date of the notification to the applicant of the Minister's declaration shall be excluded from that calculation."

5. Amendment of s. 7. Voting Power. Section 7 of the Principal Act is amended—

(a) by inserting after the words "in a corporation" the words "or a unit trust";

(b) by inserting after the words "of the corporation" the words "or the unit-holders of the unit trust, as the case may be".

6. Repeal of and new s. 8. Control of voting power. The Principal Act is amended by repealing section 8 and substituting the following section:—

"8. Control of voting power. A reference in this Act to control of the voting power in a corporation or attached to the issued units in a unit trust is a reference to control by the shareholders or unit-holders recorded in the share register or unit-holders register of the corporation or the unit trust, as the case may be."

7. Amendment of s. 9. Associates. Section 9 of the Principal Act is amended—

(a) by redesignating existing paragraphs (b) to (l) (both inclusive) respectively as paragraphs (d) to (n) (both inclusive) respectively;

(b) by inserting after paragraph (a) the following paragraphs:—

"(b) any trustee for the person;

(c) any trustee of a unit trust in which the person is a unit-holder;"

8. Repeal of and new s. 10. Interests in shares. The Principal Act is amended by repealing section 10 and substituting the following section:—

"10. Trustee company common funds. For the purposes of this Act, where the legal estate of an interest in land held at the commencement of this Act or acquired after the commencement of this Act by a trustee company (within the meaning of the *Trustee Companies Act 1968-1984* or a corresponding law in force in any other State or Territory of the Commonwealth) was acquired through the investment of moneys forming part of a common fund established by the trustee company pursuant to section 36 of the *Trustee Companies Act 1968-1984* (or a corresponding provision of a corresponding law in force in any other State or Territory of the Commonwealth) the interest in land held or acquired, as the case may be, shall be deemed not to be held or acquired by a foreign person."

9. Amendment of s. 11. Register. Section 11 of the Principal Act is amended by omitting from subsection (1) all words from and including the words “in which he shall cause” to the end of the subsection.

10. Amendment of s. 14. Access to information in register. Section 14 of the Principal Act is amended by omitting from paragraph (c) the words “statistical data” to the end of the paragraph and substituting the words “from the Registrar copies of any statistical data available from the computerized information recorded in the register.”.

11. Amendment of s. 17. Disclosure of present interest. Section 17 of the Principal Act is amended—

(a) by omitting from subsection (2) the words “complied with subsection (1)” and substituting the words “duly completed the Notification of Ownership”;

(b) by inserting after the words “foreign person” in subsection (3) the words “or foreign trust”;

(c) by omitting subsection (4).

12. Amendment of s. 18. Disclosure of acquisition. Section 18 of the Principal Act is amended—

(a) by omitting from subsection (2) the words “complied with subsection (1)” and substituting the words “duly completed the Notification of Ownership”;

(b) by omitting from subsection (6) the words “complied with section 18 (1)” and substituting the words “duly completed the Notification of Ownership in respect of the relevant interest in land”.

13. Repeal of and new s. 19. Notification upon ceasing to be a foreign person. The Principal Act is amended by repealing section 19 and substituting the following section:—

“**19. Notification upon ceasing to be a foreign person.** (1)

Where the legal estate of an interest in land is registered or recorded in the register or records of a relevant registering authority—

(a) in the name of a foreign person (other than as trustee) and he ceases to be a foreign person;

or

(b) in the name of a trustee for a foreign person or a foreign trust and that foreign person or foreign trust ceases to be a foreign person or foreign trust, as the case may be,

the person in whose name the legal estate is registered or recorded 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 the cessation took place.

Penalty : 20 penalty units.

(2) Where the agent of a person required to lodge a notification under subsection (1) duly completes and lodges a notification in the prescribed form on behalf of that person, that person shall be deemed to have duly completed the notification in respect of the relevant interest in land.”.

14. Repeal of and new s. 20. Notification upon becoming a foreign person. The Principal Act is amended by repealing section 20 and substituting the following section:—

“20. Notification upon becoming a foreign person. (1) Where the legal estate of an interest in land is registered or recorded in the register or records of a relevant registering authority—

(a) in the name of a person (other than as trustee) who becomes a foreign person;

or

(b) in the name of a trustee for a person or trust who becomes a foreign person or a foreign trust, as the case may be,

the person in whose name the legal estate is registered or recorded shall, in respect of that interest, lodge a duly completed notification in the prescribed form with the Registrar not later than 90 days after that person or trust became a foreign person or a foreign trust, as the case may be.

(2) Where the agent of a person required to lodge a notification under subsection (1) duly completes and lodges a notification in the prescribed form on behalf of that person, that person shall be deemed to have duly completed the notification in respect of the relevant interest in land.”.

15. Amendment of s. 21. Other registries and transitional. Section 21 of the Principal Act is amended—

(a) by omitting from subsection (2) (c) the words “of compliance with section 18” and substituting the words “that a Notification of Ownership or Trustee Notification of Ownership has been lodged with the Registrar”;

(b) by omitting from subsection (5) the words “verified in the prescribed manner by that registering authority and”;

(c) by omitting subsection (6).

16. Amendment of s. 22. Registrar may require additional information. Section 22 of the Principal Act is amended in subsection (2) by omitting the words “made under the authority of the *Oaths Act 1867-1988*”.

17. Amendment of s. 25. False or misleading statements. Section 25 of the Principal Act is amended—

(a) by inserting in subsection (3) after the words “A person” the words “(including the agent of a foreign person)”;

(b) by adding at the end of the section the following subsection:—

“(6) For the purposes of this Act, a Notification of Ownership, Trustee Notification of Ownership or other prescribed form that is incorrectly completed in a material particular is not a duly completed form.”.

18. **Repeal of and new ss. 29, 30 and 31.** The Principal Act is amended by repealing sections 29, 30 and 31 and substituting the following sections:—

“29. Show cause, Minister’s determination and appeal procedures. (1) In this Part, unless the contrary intention appears—

“Land Appeal Court” means the Land Appeal Court constituted by and under section 44 of the *Land Act 1962-1988*.

(2) Where in respect of an interest in land—

(a) a foreign person has the legal estate of an interest in land vested in him at the commencement of this Act or acquires the legal estate of an interest in land after the commencement of this Act (other than as trustee);
or

(b) a foreign person has the beneficial interest of an interest in land at the commencement of this Act or acquires the beneficial interest of an interest in land after the commencement of this Act,

and the foreign person, where he has completed or is deemed to have completed the Notification of Ownership, or the person who completed the Trustee Notification of Ownership in respect of the interest in land beneficially held or acquired by the foreign person, is convicted of an offence (in this Part called a “prescribed offence”)—

(c) against section 17 or 20;

or

(d) where it is incorrectly stated that the person beneficially entitled to the interest in land is not a foreign person, against section 18,

the Minister may, by notice in writing—

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

or

(f) where the person convicted of the offence 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 the person who has the legal estate of the interest in land (in this Part called a “prescribed person”) to show cause, in writing and within 60 days of the date of the issue of the notice, why that interest should not be forfeited to the Crown in accordance with this Part.

(3) Where the Minister issues a notice under subsection (2), he shall, in writing, forthwith—

- (a) notify each person who has a registered security interest in that interest in land;
- and
- (b) upon receiving written advice pursuant to subsection (5) in respect of any person who has an unregistered security interest in that interest in land, notify each such person,

of the issue of the notice.

(4) Where the Minister is of the opinion that—

- (a) a prescribed offence in respect of an interest in land has been committed without the knowledge or connivance of the public officer of a corporation, or a person in Queensland who manages or acts or takes part in the management or administration of the business of that corporation in Queensland;
- and
- (b) the public officer or that person, as the case may be, had used his best endeavours to ascertain the correct percentage, for the purposes of section 6, of the interest in land owned by foreign persons,

he shall forthwith notify those persons whom he notified pursuant to subsections (2) and (3) that he does not intend to take any further action under this Part in respect of the notice given under subsection (2).

(5) A person (or his agent) who receives notification under subsection (2) shall, within 30 days of the date of the issue of the notice or such extended period as the Minister may allow, advise the Minister in writing of the full and correct names and addresses of all persons who have an interest (whether a security interest or otherwise and whether registered or unregistered) in the interest in land.

(6) Where the Minister pursuant to this Part has issued a notice under subsection (2) in respect of an interest in land he shall, having considered the written response (if any) to that notice and within 90 days of the issue of that notice, determine whether or not that interest in land should be forfeited to the Crown.

(7) Where the Minister pursuant to subsection (6) determines that an interest in land should be forfeited to the Crown, he shall—

- (a) in writing, forthwith notify those persons whom he notified pursuant to subsections (2) and (3) of his determination;
- and
- (b) within 14 days after his determination advertise the determination in the Gazette and in a newspaper

circulating in the locality where the interest in land is situated.

(8) Where the Minister pursuant to subsection (6) determines that an interest in land should not be forfeited to the Crown he shall forthwith notify those persons whom he notified pursuant to subsections (2) and (3) that he does not intend to take any further action under this Part in respect of the notice given under subsection (2).

(9) A prescribed person may appeal to the Land Appeal Court from a determination of the Minister made pursuant to subsection (7) by serving notice of appeal on the Minister not later than 42 days after he has been advised of the Minister's determination.

(10) Service of the notice of appeal on the Minister shall be effected by serving it on the Registrar.

(11) Not later than 7 days before the hearing of an appeal, the appellant shall notify the Minister and the Registrar of the Land Appeal Court whether he intends to rely on the written response, if any, to the notice given pursuant to subsection (2) or whether he proposes to adduce further evidence on the appeal.

(12) Subject to subsections (9), (10) and (11), an appeal made under this section shall be deemed to be an appeal made under section 44 (11) of the *Land Act 1962-1988* and for that purpose the relevant provisions of that Act shall apply, subject to all necessary adaptations.

(13) Jurisdiction is conferred on the Land Appeal Court to hear and consider matters referred to it under this Part and to make determinations thereon.

30. Authorization to sell or recommended forfeiture. (1)

Where—

(a) a prescribed person has not lodged an appeal under section 29 (9) against the determination of the Minister made pursuant to section 29 (7);

or

(b) a prescribed person has appealed under section 29 (9) against the determination of the Minister made pursuant to section 29 (7) and on the final determination of that appeal the appeal is dismissed,

the Minister shall, forthwith, notwithstanding any other Act to the contrary—

(c) where there is a registered security interest in the interest in land, without any other authority than this Act authorize the holder of the security interest, in writing, to sell the interest in land in accordance with the procedures set forth in this Part;

or

(d) where there is no registered security interest in the interest in land, recommend to the Governor in

Council that the interest in land be forfeited to the Crown.

(2) Where the Minister takes action under subsection (1), he shall forthwith notify—

(a) the person who has the legal estate of an interest in land, the subject of the determination;
and

(b) any person (other than the person authorized under subsection (1) (a) to sell the interest in land) whom he has been advised in writing has a security interest in the interest in land,

of the course of action adopted.

(3) Where the Minister pursuant to subsection (1) authorizes the holder of a registered security interest in a relevant interest in land to sell the interest in land, the holder may—

(a) where he has advised the Minister in writing within 30 days (or such extended period as the Minister may allow) of receiving written authorization pursuant to subsection (1) (c) that he wishes to sell the interest in land;

and

(b) upon production of a statutory declaration to the Minister that the holder of the registered security interest was not aware and had no knowledge of the prescribed offence, the subject of the determination of the Minister pursuant to section 29 (6), at the time of the execution of the relevant security interest,

without further notice whatsoever to the person who has the legal estate of the interest in land, the subject of the determination, sell the interest in land.

31. Sale of relevant interest in land. (1) A person who is authorized pursuant to section 30 (1) to sell a particular interest in land shall arrange for the sale of the interest in land within 6 months of the date of the Minister's written authorization to that person to sell the interest in land.

(2) Notwithstanding subsection (1), where the Minister is of the opinion that it would be more appropriate, having regard to market forces or other circumstances, that the sale of an interest in land pursuant to subsection (1) should be delayed, he may, from time to time, extend the period referred to in that subsection.

(3) Where a person—

(a) does not advise the Minister pursuant to section 30 (3) (a) that he wishes to sell the relevant interest in land;

or

- (b) does not sell the interest in land within the period of time referred to in subsection (1), or such extended period as the Minister may allow pursuant to subsection (2),

the Minister, without any other authority than this Act, shall sell the interest in land at the earliest occasion the Minister considers appropriate.

(4) Every sale or attempted sale of an interest in land pursuant to this section shall, in the first instance, be by public auction.

(5) For the purposes of transferring an estate or interest in an interest in land sold pursuant to this Part, an instrument in the form prescribed or required by the relevant registering authority and executed—

- (a) by the person authorized under this Part to sell the relevant interest in land;

or

- (b) by the Minister pursuant to subsection (3),

shall vest in the purchaser, free of all security interests (but subject to all other existing interests whether registered or unregistered), the legal estate of the interest in land sold as completely and effectually as if the instrument had been executed by the registered owner of the interest in land.

(6) A relevant registering authority shall, upon production of an instrument of transfer executed in accordance with subsection (5) and where necessary a request for substitute title, record particulars thereof in the relevant register and where necessary issue a new title in the form required by the registering authority for the interest in land notwithstanding section 38 (7) and that an instrument of title to the land is not produced.”.

19. Repeal of and new ss. 32, 33 and 34. The Principal Act is amended by repealing sections 32, 33 and 34 and substituting the following sections:—

“32. Application of and accounting for proceeds of sale. (1)

Where an interest in land is sold under the authority of this Part, the person receiving the proceeds of the sale shall forthwith apply those proceeds—

- (a) firstly—in payment of all costs, charges and expenses properly incurred as incidental to the sale, or any attempted sale;
- (b) secondly—in payment, in order of priority, of any registered security interests in the interest in land;
- (c) thirdly—subject to subsection (3), in payment of all claims made under that subsection;

and

- (d) fourthly—in payment of the balance to Consolidated Revenue.

(2) The Minister may recover by action in a court of competent jurisdiction any proceeds of sale to be applied pursuant to subsection (1) (d) as a debt due to the Crown.

(3) A person who claims an unregistered security interest in an interest in land sold pursuant to this Part, may, within 90 days of the date of the sale of that interest, make application to the Minister for a declaration under subsection (4).

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

(5) A claim by a person for an estate or interest in an interest in land forfeited or sold under this Part shall be of no effect against the Crown unless an application in respect of that estate or interest is made in accordance with subsection (3) and then only to the extent to which the proceeds of sale available under subsection (1) shall permit.

(6) Where a sale referred to in subsection (1) of an interest in land is made by the holder of a registered security interest, the holder shall give to the Minister a full written accounting of—

- (a) the debt due to the holder and any other holder of a registered security interest in the relevant interest in land;
 - (b) the costs, charges and expenses properly incurred as incidental to the sale or any attempted sale;
- and
- (c) the disbursement of the proceeds of the sale.

33. Declaration of forfeiture. (1) The Governor in Council may, upon the recommendation of the Minister made under section 30 (1) (d), declare by Order in Council that the relevant interest in land is forfeited to the Crown and section 34 shall apply.

(2) Every declaration of forfeiture made under subsection (1) shall take effect from the date of its publication in the Gazette.

(3) Where the Governor in Council pursuant to subsection (1) declares an interest in land forfeited to the Crown, the Minister shall forthwith notify the person who had the legal estate of the interest in land the subject of the declaration of forfeiture.

34. Effect of declaration of forfeiture. Upon the making of a declaration of forfeiture under section 33 all existing interests (whether registered or unregistered) in the interest in land to

which the declaration relates shall be preserved and continued in existence in respect of that interest in land as if the declaration had not been made and the interest in land to which the declaration relates shall be sold by the Minister as if it were a disposal of an interest in land by the Minister pursuant to section 31 (3).”.

20. Repeal of and new ss. 35 and 36. The Principal Act is amended by repealing sections 35 and 36 and substituting the following sections:—

“35. Documents of title. (1) A person who, in respect of an interest in land sold pursuant to section 31, is in possession of documents of title to the interest in land 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.

36. Recording of authorized sales and forfeiture declarations.

(1) A registering authority, in respect of an interest in land sold pursuant to this Part, shall—

(a) upon lodgement with the registering authority of an instrument of transfer executed in accordance with section 31 (5);

and

(b) upon production to him of sufficient evidence of the sale,

record particulars of the sale in accordance with this Part in the register in his keeping and shall do so notwithstanding any other Act to the contrary or that any relevant document of title to that interest is not produced to him.

(2) Every Order in Council and authorization of the Minister made under this Part shall be conclusive evidence of the matters contained therein.”.

21. Amendment of s. 38. Restraining orders. Section 38 of the Principal Act is amended—

(a) by omitting from subsection (1) the words “an acquisition of” and the words “by a foreign person”;

(b) by omitting from subsection (3) the words “and dispose of” and substituting the words “(other than to dispose of)”;

(c) by omitting from subsection (4) all words from and including the words “knowledge, is holding as trustee” to the end of the subsection and substituting the following words:—

“knowledge—

- (a) has the legal estate of the relevant interest in land;
and
- (b) has a registered security interest in the interest in land.”;

(d) by inserting after the words “with respect to that interest” in subsection (7) the words “without the written consent of the Minister”.

22. Amendment of s. 40. Variation, revocation, discharge of order.

Section 40 of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:—

“(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) 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;
- (c) 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;
- (d) if the Minister gives a notice under section 29 (4) or 29 (8);
- (e) if an appeal pursuant to section 29 (9) to the Land Appeal Court is upheld;
- (f) upon lodgement with the relevant registering authority of an instrument of transfer executed in accordance with section 31 (5).”.

23. Amendment of s. 45. Regulations. Section 45 of the Principal Act is amended—

(a) by numbering the existing provision as subsection (1);

(b) by adding at the end of the section the following subsections:—

“(2) To assist in the computerized printing of information required on prescribed forms, whether or not there are multiple holdings or multiple acquisitions in respect of a single transaction, the Registrar may give approval to a person to use a style of form which for the purposes of its intended use contains all the required elements of the prescribed form it is intended to replace.

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(3) A person who for the purposes of this Act uses a form approved pursuant to subsection (2) shall be deemed to have used a prescribed form.”