

Queensland



# LAND SALES ACT 1984

**Reprinted as in force on 23 March 1998  
(includes amendments up to Act No. 82 of 1997)**

**Reprint No. 4**

**This reprint is prepared by  
the Office of the Queensland Parliamentary Counsel  
Warning—This reprint is not an authorised copy**

# Information about this reprint

This Act is reprinted as at 23 March 1998. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

Queensland



**LAND SALES ACT 1984**

**TABLE OF PROVISIONS**

Section		Page
<b>PART 1—PRELIMINARY</b>		
1	Short title .....	5
2	Objects of Act .....	5
5	Application of Act .....	5
6	Interpretation .....	6
<b>PART 2—SALE OF PROPOSED ALLOTMENTS</b>		
7A	Part not to apply to large transactions .....	10
8	Restriction on selling .....	10
9	Identification of land .....	11
10	Vendor must tell purchaser about significant variations between disclosure plan and later plans .....	14
10A	Purchaser must be given registrable instrument of transfer and other documents .....	15
11	Contractual requirement re holding of money .....	16
11A	Limit on deposit amount .....	18
12	Trustee's duty .....	18
17	Consequences of avoidance .....	19
18	Declaration of non-application of part in respect of certain State leasehold land .....	19
19	Exemption from part .....	20
<b>PART 3—SALE OF PROPOSED LOTS</b>		
20	Application of part to sale or purchase of proposed lots .....	22
21	Statement identifying proposed lot etc. ....	22
22	Rectification of statement under s 21 .....	24
23	Contractual requirement re holding of money .....	25

24	Trustee's duty . . . . .	26
25	Avoidance of instrument for breach of s 21(1) . . . . .	27
27	Purchaser's rights if not given a registrable instrument of transfer within a certain period . . . . .	28
29	Consequences of avoidance . . . . .	28

### **PART 3A—ENFORCEMENT**

#### *Division 1—Inspectors*

30	Appointment . . . . .	29
30A	Inspector's identity card . . . . .	29
30B	Production of inspector's identity card . . . . .	29

#### *Division 2—Inspectors' powers*

30C	Entry of place by inspector . . . . .	30
30D	Warrants . . . . .	30
30E	Warrants—applications made otherwise than in person . . . . .	31
30F	Inspector's general powers in a place . . . . .	32
30G	Power to require name and address . . . . .	34

#### *Division 3—Other enforcement matters*

30H	Procedure after thing seized . . . . .	34
30I	Obstructing etc. inspectors . . . . .	35
30J	Compensation . . . . .	35

### **PART 4—MISCELLANEOUS PROVISIONS**

31	Contracting out of Act void . . . . .	36
32	Penalties under this Act are in addition to other penalties etc. . . . .	36
32A	Responsibility for acts or omissions of representatives . . . . .	36
32B	Executive officers must ensure corporation complies with Act . . . . .	37
33	Proceedings for offences . . . . .	38
34	Evidentiary provision . . . . .	38
35	Delegations . . . . .	38
35A	Approval of forms . . . . .	39
36	Regulations . . . . .	39

### **ENDNOTES**

1	Index to endnotes . . . . .	40
---	-----------------------------	----

2	Date to which amendments incorporated .....	40
3	Key .....	40
4	Table of earlier reprints .....	41
5	Tables in earlier reprints .....	41
6	List of legislation .....	41
7	List of annotations .....	43



# LAND SALES ACT 1984

[as amended by all amendments that commenced on or before 23 March 1998]

## An Act to regulate certain sales of land

### PART 1—PRELIMINARY

#### Short title

1. This Act may be cited as the *Land Sales Act 1984*.

#### Objects of Act

2. The objects of this Act are—
  - (a) to facilitate property development in Queensland; and
  - (b) to protect the interests of consumers in relation to property development; and
  - (c) to ensure that proposed allotments and proposed lots are clearly identified; and
  - (d) to achieve the objects mentioned in paragraphs (a) to (c) without imposing procedural obligations on local governments in addition to their obligations under the *Local Government (Planning and Environment) Act 1990*.

#### Application of Act

- 5.(1) This Act applies to a sale or purchase of a proposed allotment, or a proposed lot, wherever the agreement under which the sale or purchase was entered upon was made, if—
  - (a) when the proposed allotment becomes an allotment, it will be

situated in Queensland; or

- (b) when the proposed lot becomes a registered lot, it will be situated in Queensland.

(2) A reference in any provision of this Act to a sale or purchase of a proposed allotment or a proposed lot shall be construed as a reference to a sale or purchase entered upon by a vendor or purchaser under an agreement made after the commencement of the provision in which the reference occurs.

## Interpretation

6.(1) In this Act—

“**agreement**” means—

- (a) a written contract of sale, or another instrument, under which a sale or purchase is entered upon; or
- (b) an oral contract of sale under which a sale or purchase is entered upon that is enforceable because of—
- (i) a memorandum or note satisfying the *Property Law Act 1974*, section 59;<sup>1</sup> or
- (ii) the common law doctrine of part performance.

“**allotment**” means a single parcel of land, other than a lot within the meaning of this Act, the boundaries of which are shown on a plan of survey registered under the *Land Act 1994* or *Land Title Act 1994*.

“**approved form**” see section 35A.<sup>2</sup>

“**building units plan**” means a building units plan within the meaning of the *Building Units and Group Titles Act 1980*.

“**disclosure plan**” means a plan given, or to be given, to a purchaser of a proposed allotment under section 9.<sup>3</sup>

---

<sup>1</sup> *Property Law Act 1974*, section 59 (Contracts for sale etc. of land to be in writing)

<sup>2</sup> Section 35A (Approval of forms)

<sup>3</sup> Section 9 (Identification of land)



**“disclosure statement”** means a statement given, or to be given, to a purchaser of a proposed allotment under section 9.<sup>2</sup>

**“group titles plan”** means a group titles plan within the meaning of the *Building Units and Group Titles Act 1980*.

**“leasehold building units plan”** means a leasehold building units plan within the meaning of the *South Bank Corporation Act 1989*.

**“licensed surveyor”** see the *Surveyors Act 1977*, section 5.4

**“lot”** includes a registered lot and a proposed lot.

**“plan”** includes a building units plan, a group titles plan and a leasehold building units plan.

**“Planning Act”** means the *Local Government (Planning and Environment) Act 1990*.

**“proposed allotment”** means a single parcel of land, other than a lot within the meaning of this Act, the boundaries of which are shown, or to be shown, on a plan of survey that is to be registered under the *Land Act 1994* or *Land Title Act 1994*.

**“proposed lot”** means that, which will become a registered lot upon—

- (a) registration of a plan; or
- (b) registration of a plan and recording of a community management statement for a community titles scheme under the *Body Corporate and Community Management Act 1997*.

**“purchase”** includes—

- (a) agree to purchase;
- (b) acquire an option to purchase;
- (c) enter upon a transaction that has as its object the acquisition of a right (not immediately exercisable) to purchase or to be given an option to purchase;
- (d) sign an instrument that is intended to legally bind a signatory to purchase;

---

<sup>4</sup> The *Surveyors Act 1977*, section 5 defines **“licensed surveyor”** as meaning ‘a registered surveyor whose registration is endorsed under this Act to the effect that the registered surveyor may perform cadastral surveys’.

*Land Sales Act 1984*

---

- (e) enter upon a transaction or sign an instrument with a view to any person securing or attempting to secure another's agreement to sell.

**“real estate agent”** means a person licensed under the *Auctioneers and Agents Act 1971* as a real estate agent.

**“registered lot”** means a lot shown on a plan registered under the *Building Units and Group Titles Act 1980* or *South Bank Corporation Act 1989*, or a lot included in a community titles scheme under the *Body Corporate and Community Management Act 1997*.

**“registrable instrument of transfer”** means—

- (a) in respect of land that was a proposed allotment of freehold land at the time when a person entered upon the purchase thereof—a memorandum of transfer of the land in favour of that purchaser capable of immediate registration (subject to its being duly stamped as required by any applicable law relating to stamp duty) in the land registry; or
- (b) in respect of land that was a proposed allotment of State leasehold land at the time when a person entered upon the purchase thereof—an instrument of transfer of the land in favour of that purchaser capable of immediate registration or noting (subject to its being duly stamped as required by any applicable law relating to stamp duty) in the land registry; or
- (c) in respect of a lot that was a proposed lot at the time when a person entered upon the purchase thereof—a memorandum of transfer of the lot in favour of that purchaser capable of immediate registration (subject to its being duly stamped as required by any applicable law relating to stamp duty) in the land registry.

**“registrar”** means the chief executive of the department.

**“sell”** includes—

- (a) agree to sell; and
- (b) grant an option to purchase; and
- (c) enter upon a transaction that has as its object the grant of a right (not immediately exercisable) to purchase or to be given an option

to purchase; and

- (d) procure a person to enter upon a purchase.

**“State leasehold land”** means land leased under the *Land Act 1994* or a miners homestead under the *Land Act 1994*.<sup>5</sup>

**“subdivision application”** means an application made under the Planning Act, section 5.1<sup>6</sup> to subdivide land into proposed allotments (within the meaning of this Act).

**“vendor’s agent”** means a person who procures another to purchase, other than—

- (a) a vendor under a contract for sale of a proposed allotment or of a proposed lot; and
- (b) a person who, if a contract for sale of a proposed allotment or of a proposed lot (the subject of the purchase) were made, would be a vendor thereunder; and
- (c) a person who in the matter of the purchase in question acts only as agent for a purchaser.

(2) For the purposes of this Act—

- (a) a person who signs (personally or by an agent) an instrument that is intended to bind the person (absolutely or conditionally) to purchase a proposed allotment or a proposed lot shall be taken to have entered upon a purchase of the allotment or lot and in this Act is referred to as **“the purchaser”**;

<sup>5</sup> The *Land Act 1994*, section 495 defines a **“miners homestead”** as meaning ‘any of the following held under the *Miners’ Homestead Leases Act 1913*—

- (a) miner’s homestead lease;
- (b) miner’s homestead perpetual lease;
- (c) business area;
- (d) market garden area;
- (e) residence area;

and, to remove any doubt, it is declared that it includes a special perpetual mining purposes lease issued under the *Commonwealth Aluminium Body Corporate Pty Limited Agreement Act 1957*, the *Alcan Queensland Pty Limited Agreement Act 1965* or the *Aurukun Associates Agreement Act 1975*.’.

<sup>6</sup> *Local Government (Planning and Environment) Act 1990*, section 5.1 (Application for subdivision etc.)

- (b) a person who signs (personally or by an agent) an instrument that is intended to bind the person (absolutely or conditionally) to sell a proposed allotment or a proposed lot shall be taken to have entered upon a sale of the allotment or lot and in this Act is referred to as “**the vendor**”.

(3) Subsection (2)(b) shall not be construed to limit the meaning of the expression “sell” as defined in subsection (1).

## **PART 2—SALE OF PROPOSED ALLOTMENTS**

### **Part not to apply to large transactions**

**7A.(1)** This part does not apply to the sale or purchase of a proposed allotment if the sale or purchase is part of a large transaction.

(2) In subsection (1)—

“**large transaction**” means the sale or purchase of 6 or more proposed allotments if—

- (a) the vendor of each proposed allotment is the same person; and
- (b) the purchaser of each proposed allotment is the same person; and
- (c) the sale or purchase is the subject of—
  - (i) a single agreement; or
  - (ii) 2 or more agreements entered into within 24 hours.

### **Restriction on selling**

**8.(1)** A person may sell a proposed allotment of freehold land only if, when the purchaser enters upon the purchase of the allotment—

- (a) local government unconditional approval of the subdivision application for the land is in force under the Planning Act; or
- (b) local government approval of the subdivision application for the land, subject to conditions other than conditions requiring the applicant to construct works on the land, is in force under the

Planning Act; or

- (c) the following approvals are in force under the Planning Act—
- (i) approval of the subdivision application for the land, subject to conditions requiring the applicant to construct works on the land; and
  - (ii) approval of the engineering drawings and specifications for the works mentioned in subparagraph (i).<sup>7</sup>

Maximum penalty—200 penalty units or 1 year's imprisonment.

**(1A)** A person may sell a proposed allotment of State leasehold land only if, when the purchaser enters upon the purchase of the allotment, the lessee has the Minister's approval, under the *Land Act 1994*,<sup>8</sup> to subdivide the land.

Maximum penalty—200 penalty units or 1 year's imprisonment.

**(2)** An agreement made in contravention of this section is void and any person who had paid money thereunder shall be entitled to recover the amount thereof, together with the amount of interest (if any) that has accrued in respect of that amount since the money was so paid, by action as for a debt due and owing to the person by the person to whom the money was paid.

### **Identification of land**

**9.(1)** Before a purchaser enters upon a purchase of a proposed allotment, the vendor must give the purchaser—

- (a) a disclosure plan and disclosure statement for the proposed allotment; or
- (b) a copy of the approved plan of survey for the proposed allotment sealed under the Planning Act, section 5.3.<sup>9</sup>

---

<sup>7</sup> See *Local Government (Planning and Environment) Act 1990*, section 5.1 (Application for subdivision etc.) and section 5.2 (Subdivisions involving works).

<sup>8</sup> See the *Land Act 1994*, section 351 (Minister's approval required for subdivision).

<sup>9</sup> *Local Government (Planning and Environment) Act 1990*, section 5.3 (Sealing of plans for registration)

Maximum penalty—100 penalty units or 6 months imprisonment.

(2) The disclosure plan must include the following—

- (a) the details shown on the proposal plan<sup>10</sup> accompanying the subdivision application for the land;
- (b) the metes and bounds description of the proposed allotment;
- (c) contour maps of the proposed allotment showing the following contours—
  - (i) natural surface contours, with appropriate contour intervals;
  - (ii) final surface contours as specified in the engineering drawings;
- (d) fill levels, and areas to be filled, as specified in the engineering drawings for the proposed allotment.

(3) The disclosure statement must be signed by the purchaser and vendor and state the following—

- (a) the purchaser's full name and address;
- (b) the vendor's full name and address;
- (c) that the vendor or vendor's agent has given the purchaser the disclosure plan for the proposed allotment;
- (d) if the local government approval of the subdivision application for the land is subject to conditions mentioned in section 8(1)(b)—the conditions;
- (e) that the purchaser has—
  - (i) for an allotment capable of being staked by a licensed surveyor—inspected the proposed allotment after it has been staked by the surveyor; or
  - (ii) for an allotment that is not capable of being staked by a licensed surveyor—inspected the proposed allotment; or
  - (iii) been given the opportunity, and declined, to do an inspection mentioned in subparagraph (i) or (ii);

---

<sup>10</sup> The proposal plan is required under the *Local Government (Planning and Environment) Act 1990*, section 5.1(2)(c).

*Land Sales Act 1984*

---

- (f) that the vendor must give the purchaser the registrable instrument of transfer for the allotment, together with the other documents mentioned in section 10A(1), not later than 18 months after the purchaser enters upon the purchase of the allotment;
- (g) that if the vendor or vendor's agent contravenes this section, other than subsection (3)(a), (b) or (h), the purchaser may avoid the instrument relating to the sale by written notice given to the vendor or vendor's agent before the vendor gives the purchaser the registrable instrument of transfer for the allotment;
- (h) the day the statement is signed.

(4) The obligation prescribed by subsection (1) or (3) rests upon the vendor's agent, where it is the agent who procures the signing of the instrument concerned by the purchaser or by the purchaser's agent, and otherwise rests upon the prospective vendor.

(5) If the vendor or the vendor's agent contravenes this section, other than subsection (3)(a), (b) or (h), the purchaser may avoid the instrument relating to the sale by written notice given to the vendor or vendor's agent before the vendor gives the purchaser the registrable instrument of transfer for the allotment.

(6) The staking of a proposed allotment does not require the lodgment of an identification survey plan under the *Surveyors Regulation 1992*, section 30<sup>11</sup> if the only requirement under an Act for the staking is under subsection (3)(e).

(7) In this section—

**“appropriate contour intervals”** means contour intervals of not more than the following—

- (a) for a proposed allotment of not more than 2 000 m<sup>2</sup>—500 mm in height;
- (b) for a proposed allotment of more than 2 000 m<sup>2</sup>—the smallest of the following contour intervals—
  - (i) the contour intervals shown on a local government

---

<sup>11</sup> *Surveyors Regulation 1992*, section 30 (Preparation and lodgment of cadastral plans)

topographic map that includes the allotment;

- (ii) the contour intervals shown on a topographic map that includes the allotment and is held in the department administered by the minister administering the *Land Act 1994* or *Land Title Act 1994*.

### **Vendor must tell purchaser about significant variations between disclosure plan and later plans**

**10.(1)** Subsections (2) and (3) apply if—

- (a) the vendor of a proposed allotment has not given the purchaser of the proposed allotment a registrable instrument of transfer for the allotment; and
- (b) there is a significant variation between the details contained in—
  - (i) the disclosure plan given to the purchaser under section 9(1) and a plan of survey the vendor proposes to register under the *Land Act 1994* or *Land Title Act 1994* (“**survey plan**”) for the proposed allotment; or
  - (ii) the disclosure plan given to the purchaser under section 9(1) and a plan mentioned in section 10A(1)(b) (“**as constructed plan**”) for the proposed allotment.

**(2)** As soon as practicable, but not later than 14 days, after the vendor is given the plan of survey the vendor proposes to register, the vendor must give the purchaser written notice (“**significant variation notice**”)—

- (a) detailing the nature and extent of the significant variation; and
- (b) advising the purchaser that the purchaser may avoid the instrument relating to the sale by written notice given to the vendor within the prescribed period.

Maximum penalty—100 penalty units or 6 months imprisonment.

**(3)** If the vendor gives the purchaser a significant variation notice—

- (a) the purchaser may avoid the instrument relating to the sale by written notice given to the vendor within the prescribed period; and
- (b) the vendor must not, until the end of the prescribed period—



- (i) ask the purchaser to pay the balance of the purchase price; or
- (ii) give the purchaser a registrable instrument of transfer for the allotment.

Maximum penalty for paragraph (b)—100 penalty units or 6 months imprisonment.

**(4)** If the vendor contravenes this section, the purchaser may avoid the instrument relating to the sale by written notice given to the vendor—

- (a) for a contravention of subsection (2)—before the vendor gives the purchaser the registrable instrument of transfer for the allotment; or
- (b) for a contravention of subsection (3)(b)—within 14 days after the end of the prescribed period.

**(5)** In this section—

**“prescribed period”** means—

- (a) 30 days after the vendor gives the purchaser a significant variation notice; or
- (b) the period agreed, in writing, by the vendor and purchaser after the vendor gives the purchaser the significant variation notice.

**“significant variation”** means—

- (a) in the details between a disclosure plan and a survey plan—
  - (i) a variation of more than 2% in details of area; or
  - (ii) a variation of more than 1% in details of linear dimensions; or
- (b) in the details between a disclosure plan and an as constructed plan—a variation of more than 500 mm in height in details of surface contours or fill levels.

### **Purchaser must be given registrable instrument of transfer and other documents**

**10A.(1)** The vendor of a proposed allotment must give the purchaser the registrable instrument of transfer for the allotment, together with the following documents relating to the allotment, not later than 18 months after

the purchaser enters upon the purchase of the allotment—

- (a) a copy of the plan of survey registered under the *Land Act 1994* or *Land Title Act 1994* (“**registered survey plan**”);
- (b) if works were constructed in accordance with an approval under the Planning Act, section 5.2,<sup>12</sup> a copy of the plan showing the constructed works (“**as constructed plan**”);
- (c) a statement certified by a licensed surveyor—
  - (i) that there are no variations between the details of the area or linear dimensions contained in the disclosure plan given to the purchaser under section 9(1)<sup>13</sup> and the registered survey plan for the proposed allotment; or
  - (ii) if there are variations, other than variations of which notice is required to be given under section 10<sup>14</sup>—detailing the nature and extent of the variations.

(2) If the vendor contravenes this section, the purchaser may avoid the instrument relating to the sale by written notice given to the vendor before the vendor gives the purchaser the registrable instrument of transfer for the allotment.

(3) If the vendor contravenes subsection (1)(c), the vendor commits an offence.

Maximum penalty—20 penalty units.

### **Contractual requirement re holding of money**

**11.(1)** Where an instrument, that is intended to bind a person (absolutely or conditionally) to purchase a proposed allotment, provides for the payment of money in respect of the purchase, all moneys the payment whereof the purchaser is bound to make in terms of the instrument, whether by way of deposit or otherwise, without becoming entitled in terms of the

---

<sup>12</sup> *Local Government (Planning and Environment) Act 1990*, section 5.2 (Subdivisions involving works)

<sup>13</sup> Section 9 (Identification of land)

<sup>14</sup> Section 10 (Vendor must tell purchaser about significant variations between disclosure plan and later plans)

*Land Sales Act 1984*

---

instrument to receive a registrable instrument of transfer in exchange therefor shall be paid directly to the public trustee constituted under the *Public Trustee Act 1978* unless the parties to the instrument agree that such moneys shall be paid directly to—

- (a) a solicitor whose name is on the roll of solicitors of the Supreme Court and who practises as a solicitor in Queensland; or
- (aa) a firm of solicitors practising in Queensland; or
- (b) a real estate agent duly licensed under the *Auctioneers and Agents Act 1971*; or
- (c) a real estate agency in which a person licensed under the *Auctioneers and Agents Act 1971* as a real estate agent carries on the business of real estate agent;

specified in the instrument.

Maximum penalty—200 penalty units or 1 year's imprisonment.

**(1A)** Moneys paid to an individual, firm or agency under subsection (1) must be held—

- (a) in the case of an individual—by the individual in a trust account kept for the purposes of this Act by—
  - (i) the individual; or
  - (ii) the firm or agency of which the individual is a member; and
- (b) in the case of a firm or agency—by the firm or agency in a trust account kept for the purposes of this Act by the firm or agency; and
- (c) in the case of the public trustee—by the public trustee in a trust account kept for the purposes of this Act by the public trustee;

and dealt with by the individual, firm, agency, or public trustee in accordance with this part and the law governing the operation of the individual's, firm's, agency's or public trustee's trust account.

Maximum penalty—200 penalty units or 1 year's imprisonment.

**(2)** Any provision of an instrument to which subsection (1) relates or of any other instrument made in connection with such an instrument that provides for money, referred to in that subsection, to be paid contrary to that

subsection shall be void.

(3) Nothing in this section or section 12 shall be construed as requiring money, on payment of which, in terms of an instrument such as is first referred to in subsection (1), the purchaser becomes entitled in terms of the instrument to a registrable instrument of transfer in exchange therefor, to be paid to a person specified in subsection (1) as trustee.

(4) Moneys payable to a trustee pursuant to this part shall, if they are paid to a solicitor or firm of solicitors, be deemed to be trust moneys within the meaning of the *Trust Accounts Act 1973*.

### **Limit on deposit amount**

**11A.(1)** This section applies if the amount payable by a purchaser as a deposit under an instrument relating to the sale of a proposed allotment is more than 10% of the purchase price of the proposed allotment.

(2) The purchaser may, by written notice given to the vendor before the registrable instrument of transfer for the allotment is given to the purchaser, avoid the instrument relating to the sale of the allotment.

### **Trustee's duty**

**12.(1)** A person, firm or agency who receives money as a trustee in accordance with section 11(1)<sup>15</sup> shall retain the money in the person's, firm's or agency's trust account until the purchaser or vendor becomes entitled, in accordance with this part or otherwise according to law, to a refund or payment of the money whereupon the trustee shall dispose of the money in accordance with the law governing the operation of the person's, firm's or agency's trust account.

Maximum penalty—200 penalty units or 1 year's imprisonment.

(1A) Subsection (1) applies despite anything in the instrument under which the money was paid.

(2) Nothing in section 11 or this section shall be construed as prohibiting the investment by the trustee, in the name of the trustee and in accordance with the law in that respect (if any) governing the operation of the trust

---

<sup>15</sup> Section 11 (Contractual requirement re holding of money)

account in question, of money retained in that account in pursuance of those sections in any manner agreed upon by the parties to the instrument under or in relation to which the money was paid and notified to the trustee in writing signed by the parties.

(3) Money invested as specified in subsection (2) continues to be money in the trust account of the trustee notwithstanding that it is so invested and upon the calling in or maturing of such an investment the proceeds thereof shall, if they are not further invested as so specified, be paid forthwith by the trustee into a trust account maintained or established by the trustee for the purposes of this Act.

Maximum penalty—200 penalty units or 1 year's imprisonment.

### **Consequences of avoidance**

17.(1) Where a purchaser has avoided an instrument pursuant to this part any person who, in respect of the transaction evidenced by the instrument, has received money paid by or on behalf of the purchaser shall, subject to the person complying with the law governing the person's trust account if the money is held in a trust account, forthwith refund the amount of that money to the purchaser or as the purchaser directs in writing together with the amount of interest (if any) that has accrued in respect of that amount since the money was so paid.

(2) A person entitled to a refund or payment of money pursuant to this section may recover the money by action as for a debt due and owing to the person by the person by whom it is payable.

### **Declaration of non-application of part in respect of certain State leasehold land**

18.(1) A regulation may declare that, subject to any specified conditions, this part does not have effect in relation to—

- (a) a specified miners homestead under the *Land Act 1994*, chapter 8, part 7, division 2;<sup>16</sup> or
- (b) a specified lease or a specified class of lease under the *Land*

---

<sup>16</sup> *Land Act 1994*, chapter 8, part 7, division 2 (Miners homesteads)

*Act 1994;*

or in relation to any subdivision, or allotment or proposed allotment, of land mentioned in paragraph (a) or (b).

(2) Where a person has contravened or failed to comply with a condition to which a declaration under subsection (1) is subject, the Supreme Court may, on the application of a person who is a purchaser under any sale or purchase of the holding or miner's homestead in question, or any allotment or proposed allotment of the holding or miner's homestead to which the declaration relates, order the person first mentioned in this subsection to comply with the condition.

(3) A declaration made under subsection (1) before the commencement of this subsection continues to have effect, after the commencement, as if it had been made by a regulation.

### **Exemption from part**

**19.(1)** Each of the following persons may apply to the registrar, in the approved form, for exemption from all or any of the provisions of this part in relation to land that is to be subdivided into not more than 5 allotments—

- (a) a person by or for whom the land is to be subdivided;
- (b) a vendor or purchaser of a proposed allotment.

(1A) However, a purchaser may apply for exemption only with the vendor's consent.

(2) Subject to subsection (2B), the registrar must, within 15 days of receipt of the application—

- (a) grant the application by instrument of exemption; or
- (b) refuse it by written notice to the applicant.

(2A) If the registrar grants the application—

- (a) the registrar may grant it subject to any other condition specified in the instrument; and
- (b) the registrar must specify in the instrument the provisions of this part in relation to which the exemption is granted.

(2B) If the application is defective in a way that hampers the registrar's

consideration of the application, the registrar may seek further information from the applicant to cure the defect.

**(2C)** An exemption under this section is given on the condition that the land is subdivided in accordance with the application, subject to any other condition specified in the exemption instrument.

**(3)** The registrar, by written notice, may—

- (a) revoke an exemption given under this section if the conditions to which it is subject are not complied with; and
- (b) change a condition specified in the exemption instrument.

**(3A)** Notice in writing of a revocation or variation shall be given to the person to whose land the exemption related.

**(4)** While an exemption granted under subsection (2) subsists such of the provisions of this part as are specified in the instrument of exemption shall not apply in relation to the sale or purchase of 1 or more than 1 of the proposed allotments in respect of which it was granted.

**(5)** Where a person has contravened or failed to comply with a condition to which an exemption under subsection (2) is subject, the Supreme Court may, on application of a purchaser of a proposed allotment in respect of which the exemption was granted, order the person to comply with the condition.

**(6)** Notwithstanding the provisions of section 8, a person may agree to sell a proposed allotment that is land in respect of which a person is eligible to make an application for exemption under subsection (1) if the instrument that binds a person to purchase the proposed allotment is conditional upon the grant under subsection (2) of an exemption from section 8 or from that section and any other provision of this part.

**(7)** In a case to which subsection (6) applies application for the exemption shall be made within 30 days after the event that marks the entry of a purchaser upon the purchase of the proposed allotment.

**(8)** Where application for exemption for the purposes of subsection (6) is not received by the registrar within the time prescribed by subsection (7) the instrument in question referred to in subsection (6) is void and any person who has paid money thereunder shall be entitled to recover the amount thereof, together with the amount of interest (if any) that has accrued in

respect of the money since it was so paid, by action as for a debt due and owing to the person by the person to whom the money was paid.

## **PART 3—SALE OF PROPOSED LOTS**

### **Application of part to sale or purchase of proposed lots**

**20.(1)** This part applies to the sale or purchase of a proposed lot.

**(2)** Nothing in this part applies to or in relation to any right or interest in or in respect of a proposed lot where the right or interest in question is a right of participation in a time-sharing scheme within the meaning of the Corporations Law.

### **Statement identifying proposed lot etc.**

**21.(1)** Before a person enters upon a purchase of a proposed lot there shall be given to the person (or to the person's agent) a statement in writing, signed by the person who is to become the person's vendor or that person's agent, that—

- (a) clearly identifies the lot to be purchased; and
- (b) states the names and addresses of the prospective vendor and the prospective purchaser; and
- (c) clearly states whether the prospective vendor or the prospective vendor's agent (whether personally or by any employee) has made or offered to the prospective purchaser or the prospective purchaser's agent any representation, promise or term with respect to the provision to the purchaser of a certificate of title that relates to the lot in question only; and
- (d) if any representation, promise or term, such as is referred to in paragraph (c) has been made or offered, clearly states the particulars thereof; and
- (e) states the date on which it is signed.

Maximum penalty—100 penalty units or 6 months imprisonment.



*Land Sales Act 1984*

---

(2) The obligation prescribed by subsection (1) rests upon the prospective vendor's agent, when it is the prospective vendor's agent who procures the signing of the instrument concerned by the purchaser or by the purchaser's agent, and otherwise rests upon the prospective vendor.

(3) The statement in writing referred to in subsection (1) shall be separate from the instrument before the signing of which it is to be given.

(4) Where a prospective vendor is required to give a statement in writing prescribed by subsection (1) and is also a person required by the *Building Units and Group Titles Act 1980*, section 49<sup>17</sup> to give a statement in writing, prescribed by that section and a statement is given in accordance with that section it shall be sufficient compliance with subsection (1) if the particulars prescribed by subsection (1) are included in the statement given in accordance with section 49 aforesaid and in that event subsection (3) shall not apply to the case.

(5) Subsection (6) applies if—

- (a) a prospective vendor for the sale of a proposed lot is required to give a statement in writing under subsection (1); and
- (b) the prospective vendor is also required under the *Body Corporate and Community Management Act 1997*, section 170<sup>18</sup> to give a first statement relating to the proposed lot; and
- (c) the prospective vendor gives the first statement under the section, and incorporates in the first statement the matters prescribed by subsection (1)(a) to (d) of this section.

(6) If this subsection applies—

- (a) there is sufficient compliance with subsection (1); and
- (b) subsection (3) does not apply.

---

<sup>17</sup> *Building Units and Group Titles Act 1980*, section 49 (Duties of original proprietor)

<sup>18</sup> *Body Corporate and Community Management Act 1997*, section 170 (Statement to be given by seller to buyer)

**Rectification of statement under s 21**

**22.(1)** If a statement in writing of particulars referred to in section 21(1) given in accordance with, or pursuant to section 21(4) in sufficient compliance with, section 21(1)—

- (a) is not accurate at the time it is given; or
- (b) contains information that subsequently to the time it is given becomes inaccurate in any respect;

it is the duty of the vendor and the vendor's agent to give to the purchaser or the purchaser's agent a statement in writing signed by the vendor or the vendor's agent of particulars required to be included in a statement given for the purposes of section 21(1) as soon as is reasonably practicable after the proposed lot has become a registered lot.

**(2)** Subsection (1) applies whether the statement in writing is given in due time in accordance with section 21 or at a later time.

**(3)** It shall be sufficient compliance with subsection (1) if 1 of them, the vendor or the vendor's agent, discharges the duty thereby imposed, whereupon the other of them shall be freed of the duty in respect of giving the rectification notice that has been given.

**(4)** Where a vendor or a vendor's agent is required under subsection (1) to give to the purchaser or the purchaser's agent a statement of particulars then—

- (a) the vendor or the vendor's agent shall not deliver to the purchaser or the purchaser's agent a registrable instrument of transfer in respect of the lot the subject of the purchase in question; and
- (b) the purchaser shall not be required to pay the outstanding purchase moneys;

until the expiration of a period of 30 days after the receipt by the purchaser or the purchaser's agent of a copy of the statement of particulars in accordance with subsection (1) or until the time stipulated by the instrument made in respect of the sale and purchase for the payment of those moneys (whichever period is the later to expire) unless it is otherwise agreed in writing between the vendor or the vendor's agent and the purchaser or the purchaser's agent, after receipt by the purchaser or the purchaser's agent of a copy of the statement of particulars in accordance with subsection (1).

**Contractual requirement re holding of money**

**23.(1)** Where an instrument, that is intended to bind a person (absolutely or conditionally) to purchase a proposed lot, provides for the payment of money in respect of the purchase, all moneys the payment whereof the purchaser is bound to make in terms of the instrument, whether by way of deposit or otherwise, without becoming entitled in terms of the instrument to receive a registrable instrument of transfer in exchange therefor shall be paid directly to the public trustee constituted under the *Public Trustee Act 1978* unless the parties to the instrument agree that such moneys shall be paid directly to—

- (a) a solicitor whose name is on the roll of solicitors of the Supreme Court and who practises as a solicitor in Queensland; or
- (aa) a firm of solicitors practising in Queensland; or
- (b) a real estate agent duly licensed under the *Auctioneers and Agents Act 1971*; or
- (c) a real estate agency in which a real estate agent carries on business;

specified in the instrument.

Maximum penalty—200 penalty units or 1 year's imprisonment.

**(1A)** Moneys paid under subsection (1) must be—

- (a) held—
  - (i) if paid to an individual—by the individual in a trust account kept for this Act by—
    - (A) the individual; or
    - (B) the firm or agency of which the individual is a member; and
  - (ii) if paid to a firm or agency—by the firm or agency in a trust account kept for this Act by the firm or agency; and
  - (iii) if paid to the public trustee—by the public trustee in a trust account kept for this Act by the public trustee; and
- (b) dealt with by the individual, firm, agency, or public trustee in accordance with this part and the law governing the operation of

the individual's, firm's, agency's or public trustee's trust account.

(2) Any provision of an instrument to which subsection (1) relates or of any other instrument made in connection with such an instrument that provides for money, referred to in that subsection, to be paid contrary to that subsection shall be void.

(4) Nothing in this section or section 24 shall be construed as requiring money, on payment of which, in terms of an instrument such as is first referred to in subsection (1), the purchaser becomes entitled in terms of the instrument to a registrable instrument of transfer in exchange therefor, to be paid to a person specified in subsection (1) as trustee.

(5) Moneys payable to a trustee pursuant to this part shall, if they are paid to a solicitor or firm of solicitors, be deemed to be trust moneys within the meaning of the *Trust Accounts Act 1973*.

### **Trustee's duty**

**24.(1)** A person, firm or agency who receives money as a trustee in accordance with section 23(1) shall retain the money in the person's, firm's or agency's trust account until the purchaser or vendor becomes entitled, in accordance with this part or otherwise according to law, to a refund or payment of the money whereupon the trustee shall dispose of the money in accordance with the law governing the operation of the person's, firm's or agency's trust account.

Maximum penalty—200 penalty units or 1 year's imprisonment.

(1A) Subsection (1) applies despite anything in the instrument under which the money was paid.

(2) Nothing in section 23 or this section shall be construed as prohibiting the investment by the trustee, in the name of the trustee and in accordance with the law in that respect (if any) governing the operation of the trust account in question, of money retained in that account in pursuance of those sections in any manner agreed upon by the parties to the instrument under or in relation to which the money in question was paid and notified to the trustee in writing signed by the parties.

(3) Money invested as specified in subsection (2) continues to be money in the trust account of the trustee notwithstanding that it is so invested and upon the calling in or maturing of such an investment the proceeds thereof

shall, if they are not further invested as so specified, be paid forthwith by the trustee into a trust account maintained or established by the trustee for the purposes of this Act.

Maximum penalty—200 penalty units or 1 year’s imprisonment.

### **Avoidance of instrument for breach of s 21(1)**

**25.(1)** Where in respect of a purchase to which section 21(1)<sup>19</sup> relates—

- (a) there has not been given to the purchaser or the purchaser’s agent a statement in writing in accordance with, or that pursuant to section 21(4) sufficiently complies with, section 21(1); or
- (b) there has not been given to the purchaser or the purchaser’s agent when required by section 22(1)<sup>20</sup> a statement in writing in accordance with that section; or
- (c) a statement in writing in accordance with, or that pursuant to section 21(4) sufficiently complies with, section 21(1) (whether given in due time in accordance with that section or at a later time) and a statement in writing in accordance with section 22(1), have been given to the purchaser or the purchaser’s agent;

the purchaser may avoid the instrument made in respect of the purchase of the proposed lot by notice in writing given to the vendor or the vendor’s agent if the purchaser has been materially prejudiced by the failure to give a statement in writing referred to in paragraph (a) or (b) or, in the case referred to in paragraph (c), by the inaccuracy of any particular in the statement in writing first mentioned in that paragraph.

**(2)** A notice of avoidance under subsection (1), if it is to be effectual, shall be given—

- (a) before a registrable instrument of transfer that relates to the lot in question has been delivered by the vendor or the vendor’s agent to the purchaser or the purchaser’s agent; or
- (b) where the purchaser seeks to avoid the instrument in question by reason of the inaccuracy of any particular in the statement in

---

<sup>19</sup> Section 21 (Statement identifying proposed lot etc.)

<sup>20</sup> Section 22 (Rectification of statement under s 21)

writing given in accordance with, or pursuant to section 21(4) in sufficient compliance with, section 21(1)—

- (i) before the expiration of a period of 30 days after the receipt by the purchaser or the purchaser's agent of the statement in writing given in accordance with section 22(1); or
- (ii) before the delivery of a registrable instrument of transfer as aforesaid;

whichever occurs sooner.

### **Purchaser's rights if not given a registrable instrument of transfer within a certain period**

**27.(1)** This section applies if—

- (a) a purchaser entered upon the purchase of a proposed lot under an instrument relating to the sale of the proposed lot (the “**instrument**”); and
- (b) the vendor has not given the purchaser a registrable instrument of transfer for the lot within 3<sup>1</sup>/<sub>2</sub> years after the day the instrument was made.

**(2)** The purchaser may avoid the instrument by written notice given to the vendor before the vendor gives the purchaser the registrable instrument of transfer for the proposed lot.

### **Consequences of avoidance**

**29.(1)** Where a purchaser has avoided an instrument pursuant to this part any person who, in respect of the transaction evidenced by the instrument, has received money paid by or on behalf of the purchaser shall, subject to the person complying with the law governing the person's trust account if the money is held in a trust account, forthwith refund the amount of that money to the purchaser or as the purchaser directs in writing together with the amount of interest (if any) that has accrued in respect of that amount since the money was so paid.

**(2)** A person entitled to a refund or payment of money pursuant to this section may recover the money by action as for a debt due and owing to the person by the person by whom it is payable.

## **PART 3A—ENFORCEMENT**

### *Division 1—Inspectors*

#### **Appointment**

**30.(1)** The chief executive may appoint employees of the department as inspectors.

**(2)** The chief executive may appoint a person as an inspector only if, in the chief executive's opinion, the person has the necessary expertise or experience to be an inspector.

#### **Inspector's identity card**

**30A.(1)** The chief executive must issue an identity card to each inspector.

**(2)** The identity card must—

- (a) contain a photograph of the inspector; and
- (b) be signed by the inspector.

**(3)** A person who stops being an inspector must return the identity card to the chief executive as soon as practicable after the person stops being an inspector, unless the person has a reasonable excuse for not returning it.

Maximum penalty for subsection (3)—10 penalty units.

#### **Production of inspector's identity card**

**30B.(1)** An inspector may exercise a power under this Act in relation to a person only if the inspector first produces or displays the inspector's identity card for inspection by the person.

**(2)** If, for any reason, it is not practicable to comply with subsection (1), the inspector must produce the identity card for inspection by the person at the first reasonable opportunity.

***Division 2—Inspectors’ powers*****Entry of place by inspector**

**30C.** An inspector may enter a place if—

- (a) the occupier of the place consents to the entry; or
- (b) it is a public place and the entry is made when the place is open to the public; or
- (c) the entry is authorised by a warrant.

**Warrants**

**30D.(1)** An inspector may apply to a magistrate for a warrant for a place.

**(2)** The application must—

- (a) be sworn; and
- (b) set out the grounds on which the warrant is sought.

**(3)** The magistrate may refuse to consider the application until the inspector gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

*Example—*

The magistrate may require that additional information supporting the application be given by a statutory declaration.

**(4)** The magistrate may issue a warrant only if the magistrate is satisfied there are reasonable grounds for suspecting that—

- (a) there is a particular thing (the “**evidence**”) that may provide evidence of the commission of an offence against this Act; and
- (b) the evidence is, or may be within the next 7 days, at the place.

**(5)** The warrant must state—

- (a) that the inspector is authorised, with assistance and force that may be necessary and reasonable—
  - (i) to enter the place; and
  - (ii) to exercise the inspector’s powers under this Act; and



- (b) the evidence for which the warrant is issued; and
- (c) the hours of the day when entry may be made; and
- (d) the day (within 14 days after the warrant's issue) on which the warrant stops having effect.

### **Warrants—applications made otherwise than in person**

**30E.(1)** An inspector may apply for a warrant by phone, fax, radio or another form of communication if the inspector considers it necessary because of—

- (a) urgent circumstances; or
- (b) other special circumstances, including, for example, the inspector's remote location.

**(2)** Before applying for the warrant, the inspector must prepare an application that sets out the grounds on which the warrant is sought.

**(3)** The inspector may apply for the warrant before the application is sworn.

**(4)** If the magistrate issues the warrant and it is reasonably practicable to fax a copy of it to the inspector, the magistrate must immediately fax the copy to the inspector.

**(5)** If the magistrate issues the warrant but it is not reasonably practicable to fax a copy of it to the inspector—

- (a) the magistrate must—
  - (i) tell the inspector what the terms of the warrant are; and
  - (ii) tell the inspector the date and time the warrant was signed; and
  - (iii) record the reasons for issuing the warrant on the warrant; and
- (b) the inspector must—
  - (i) complete a form of warrant in the same terms as the warrant issued by the magistrate; and
  - (ii) write on the warrant form the name of the magistrate and the

date and time the magistrate signed the warrant.

(6) The facsimile warrant, or the warrant form properly completed by the inspector, is authority for the entry and the exercise of the other powers authorised by the warrant issued by the magistrate.

(7) The inspector must send to the magistrate—

- (a) the sworn application; and
- (b) if a warrant form was completed by the inspector—the completed warrant form.

(8) The sworn application and any completed warrant form must be sent to the magistrate at the earliest practicable opportunity.

(9) On receipt of the application and any warrant form, the magistrate must attach them to the warrant issued by the magistrate.

(10) If—

- (a) it is material for a court to be satisfied that the exercise of a power was authorised by a warrant issued under this section; and
- (b) the warrant is not produced in evidence;

the court must assume the exercise of power was not authorised by a warrant, unless the contrary is proved.

### **Inspector's general powers in a place**

**30F.(1)** After entering a place under section 30C,<sup>21</sup> an inspector may exercise a power mentioned in subsection (2) only if—

- (a) the occupier of the place consents to the exercise of the power; or
- (b) the entry was authorised by a warrant.

(2) The inspector may—

- (a) search any part of the place; or
- (b) if entry was authorised by a warrant—seize the evidence for which the warrant was issued; or
- (c) in any case—seize a thing if the inspector believes on reasonable

---

<sup>21</sup> Section 30C (Entry of place by inspector)

*Land Sales Act 1984*

---

grounds that—

- (i) the thing is evidence of the commission of an offence against this Act; and
- (ii) the seizure is necessary to prevent—
  - (A) the concealment, loss or destruction of the thing; or
  - (B) the use of the thing in committing, continuing or repeating an offence against this Act; or
- (d) inspect, examine, photograph or film anything in or on the place; or
- (e) take extracts from, or make copies of, any documents in or on the place; or
- (f) take into or onto the place any person, equipment and materials that the inspector reasonably requires for the purpose of exercising any powers in relation to the place; or
- (g) require a person in or on the place, or the occupier of the place, to give the inspector reasonable help for the exercise of the powers mentioned in paragraphs (a) to (f).

**(3)** A person who is required by an inspector under subsection (2)(g) to give the inspector reasonable help for the exercise of a power must comply with the requirement, unless the person has a reasonable excuse for not complying with it.

Maximum penalty—60 penalty units.

- (4)** If the help is required to be given by a person by—
- (a) answering a question; or
  - (b) producing a document (other than a document required to be kept by the person under this Act);

it is a reasonable excuse for the person to fail to comply with the requirement on the ground that the information or document might tend to incriminate the person.

**(5)** However, information or a document mentioned in subsection (4) is not admissible in evidence against the person—

- (a) for an individual—in any criminal proceedings; or

- (b) for a person other than an individual—in any criminal proceedings, other than proceedings under this Act.

### **Power to require name and address**

**30G.(1)** An inspector may require a person to state the person's name and address if the inspector—

- (a) finds the person committing an offence against this Act; or
- (b) finds the person in circumstances that lead, or has information that leads, the inspector to suspect on reasonable grounds that the person has committed, or assisted in the commission of, an offence against this Act.

(2) When making the requirement, the inspector must warn the person that it is an offence to fail to state the person's name and address, unless the person has a reasonable excuse.

(3) The inspector may require the person to give evidence of the correctness of the person's name or address if the inspector suspects, on reasonable grounds, that the name or address given is false.

(4) A person must comply with an inspector's requirement under subsection (1) or (3), unless the person has a reasonable excuse for not complying with it.

Maximum penalty—60 penalty units.

(5) The person does not commit an offence against this section if—

- (a) the inspector required the person to state the person's name and address on suspicion of the person having committed an offence against this Act; and
- (b) the person is not proved to have committed the offence.

### ***Division 3—Other enforcement matters***

#### **Procedure after thing seized**

**30H.(1)** As soon as practicable after a thing is seized by an inspector

under section 30F,<sup>22</sup> the inspector must give a receipt for it to the person from whom it was seized.

(2) The inspector must allow a person who would be entitled to the seized thing if it were not in the inspector's possession—

- (a) to inspect it; or
- (b) if it is a document—to take extracts from it or make copies of it.

(3) The inspector must return the seized thing to the person at the end of—

- (a) 1 year; or
- (b) if a prosecution for an offence involving it is started within 1 year—the proceeding for the offence and any appeal from the proceeding.

(4) Despite subsection (3), the inspector must return the seized thing to the person if the inspector is satisfied that—

- (a) its retention as evidence is no longer necessary; and
- (b) its return is not likely to result in its use in repeating the offence.

### **Obstructing etc. inspectors**

**30I.** A person must not obstruct, hinder or resist an inspector in the exercise of a power, unless the person has a reasonable excuse.

Maximum penalty—60 penalty units.

### **Compensation**

**30J.(1)** A person may claim compensation from the State if the person incurs loss or expense because of the exercise or purported exercise of a power under this part.

(2) Payment of compensation may be claimed and ordered in a proceeding for—

- (a) compensation brought in a court of competent jurisdiction; or

---

<sup>22</sup> Section 30F (Inspector's general powers in a place)

- (b) an offence against this Act brought against the person making the claim for compensation.

(3) A court may order the payment of compensation for the loss or expense only if it is satisfied that it is just to make the order in the circumstances of the particular case.

## **PART 4—MISCELLANEOUS PROVISIONS**

### **Contracting out of Act void**

**31.(1)** In this section—

**“avoidance provision”** means a covenant, condition or other provision—

- (a) entered into, or imposed, in or for an agreement intended to bind a person for the sale or purchase of a proposed allotment or a proposed lot; and
- (b) under which it is agreed or acknowledged that a provision of this Act does not apply to the agreement or a transaction under the agreement.

(2) An avoidance provision is void.

### **Penalties under this Act are in addition to other penalties etc.**

**32.(1)** A penalty imposed under this Act is in addition to any other liability or remedy provided by law.

(2) Without limiting subsection (1), the institution of proceedings for an offence against this Act is not a condition precedent to any right to enforce any other liability or remedy provided by law.

### **Responsibility for acts or omissions of representatives**

**32A.(1)** In this section—

**“representative”** means—

- (a) of a corporation—an executive officer, employee or agent of the corporation; or
- (b) of an individual—an employee or agent of the individual.

**“state of mind”** of a person includes—

- (a) the person’s knowledge, intention, opinion, belief or purpose; and
- (b) the person’s reasons for the intention, opinion, belief or purpose.

(2) Subsections (3) and (4) apply in a proceeding for an offence against this Act.

(3) If it is relevant to prove a person’s state of mind about a particular act or omission, it is enough to show—

- (a) the act was done or omitted to be done by a representative of the person within the scope of the representative’s actual or apparent authority; and
- (b) the representative had the state of mind.

(4) An act done or omitted to be done for a person by a representative of the person within the scope of the representative’s actual or apparent authority is taken to have been done or omitted to be done also by the person, unless the person proves the person could not, by the exercise of reasonable diligence, have prevented the act or omission.

### **Executive officers must ensure corporation complies with Act**

**32B.(1)** The executive officers of a corporation must ensure the corporation complies with this Act.

(2) If a corporation commits an offence against a provision of this Act, each of the corporation’s executive officers also commits an offence, namely, the offence of failing to ensure that the corporation complies with the provision.

Maximum penalty—the penalty for the contravention of the provision by an individual.

(3) Evidence that the corporation has been convicted of an offence against a provision of this Act is evidence that each of the executive officers committed the offence of failing to ensure that the corporation complies with the provision.

- (4) However, it is a defence for an executive officer to prove—
- (a) if the officer was in a position to influence the conduct of the corporation in relation to the offence—the officer exercised reasonable diligence to ensure the corporation complied with the provision; or
  - (b) the officer was not in a position to influence the conduct of the corporation in relation to the offence; or
  - (c) that information that tended to incriminate the corporation was obtained under section 30F.<sup>23</sup>

### **Proceedings for offences**

**33.(1)** Proceedings in respect of an offence against this Act shall be had in a summary way under the *Justices Act 1886* upon the complaint of the registrar or a person authorised by the registrar either generally or in a particular case.

(2) It shall not be necessary to prove the appointment of the registrar or the authority of a complainant to lay the complaint in proceedings in respect of an offence against this Act in the absence of evidence that challenges such appointment or authority.

### **Evidentiary provision**

**34.** In proceedings in respect of an offence against this Act a copy of an instrument purporting to relate to the sale or purchase of a proposed allotment or a proposed lot and produced on behalf of the complainant shall be admissible in evidence as if it were the original thereof.

### **Delegations**

**35.** The chief executive of the department may delegate the chief executive's powers under this Act to an officer or employee of the department.

---

<sup>23</sup> Section 30F (Inspector's general powers in a place)



**Approval of forms**

**35A.** The chief executive may approve forms for use under this Act.

**Regulations**

**36.(1)** The Governor in Council may make regulations for the purposes of this Act.

**(2)** A regulation may make provision with respect to—

- (a) the method of verifying any information required by or in approved forms and the completion or preparation of forms in accordance with the directions contained in forms; and
- (b) the matters for which fees, costs and charges are payable under this Act, the amounts of the fees, costs and charges, the persons who are liable to pay fees, costs and charges, when fees, costs and charges are payable, and the recovery of any unpaid amount of fees, costs and charges; and
- (c) prescribing offences for contraventions of a regulation, and fixing a maximum penalty of a fine of 20 penalty units for such a contravention.

---

## ENDNOTES

### 1 Index to endnotes

	Page
2 Date to which amendments incorporated . . . . .	40
3 Key . . . . .	40
4 Table of earlier reprints . . . . .	41
5 Tables in earlier reprints . . . . .	41
6 List of legislation . . . . .	41
7 List of annotations . . . . .	43

### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 23 March 1998. Future amendments of the Land Sales Act 1984 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	(prev)	=	previously
amd	=	amended	proc	=	proclamation
ch	=	chapter	prov	=	provision
def	=	definition	pt	=	part
div	=	division	pubd	=	published
exp	=	expires/expired	R[X]	=	Reprint No.[X]
gaz	=	gazette	RA	=	Reprints Act 1992
hdg	=	heading	reloc	=	relocated
ins	=	inserted	renum	=	renumbered
lap	=	lapsed	rep	=	repealed
notfd	=	notified	s	=	section
om	=	omitted	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered
prev	=	previous			

## 4 Table of earlier reprints

### TABLE OF EARLIER REPRINTS

[If a reprint number includes a roman letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	to Act No. 68 of 1992	20 July 1993
2	to Act No. 58 of 1995	6 June 1996
2A	to Act No. 56 of 1996	15 January 1997
3	to Act No. 40 of 1997	31 October 1997
3A	to Act No. 82 of 1997	16 December 1997

## 5 Tables in earlier reprints

### TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Changed citations and remade laws	2
Changed names and titles	2
Obsolete and redundant provisions	2
Renumbered provisions	1

## 6 List of legislation

### **Land Sales Act 1984 No. 41**

date of assent 9 May 1984

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 1985 (proc pubd gaz 25 May 1985 p 878)

as amended by—

### **Land Sales Act Amendment Act 1985 No. 43**

date of assent 24 April 1985

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 1985 (proc pubd gaz 25 May 1985 p 878)

### **Land Sales Act Amendment Act (No. 2) 1985 No. 105**

date of assent 18 December 1985

ss 1–2 commenced on date of assent

remaining provisions commenced 21 December 1985 (proc pubd gaz 21 December 1985 p 2218)

**Statute Law (Miscellaneous Provisions) Act 1989 No. 103 s 3 sch**

date of assent 25 October 1989  
commenced on date of assent

**Justice Legislation (Miscellaneous Amendments) Act 1991 No. 42 ss 1–3 sch**

date of assent 5 August 1991  
commenced on date of assent

**South Bank Corporation Amendment Act 1991 No. 67 ss 1–2, 29 sch 2**

date of assent 24 October 1991  
ss 1–2 commenced on date of assent  
remaining provisions commenced 5 June 1992 (proc pubd gaz 5 June 1992  
p 1033)

**Justice Legislation (Miscellaneous Provisions) Act 1992 No. 40 pts 1, 3**

date of assent 14 August 1992  
s 124 commenced 2 July 1993 (1993 SL No. 203)  
remaining provisions commenced on date of assent

**Lands Legislation Amendment Act 1992 No. 64 ss 1–3 sch 1**

date of assent 7 December 1992  
ss 1–2 commenced on date of assent  
remaining provisions commenced on 26 March 1993 (1993 SL No. 88)

**Statute Law (Miscellaneous Provisions) Act (No. 2) 1992 No. 68 ss 1–3 sch 2**

date of assent 7 December 1992  
commenced on date of assent

**Consumer Law (Miscellaneous Provisions) Act 1993 No. 82 pts 1, 6, sch 1**

date of assent 17 December 1993  
commenced on date of assent

**Building Units and Group Titles Act 1994 No. 69 ss 1–2, 229 sch 2**

date of assent 1 December 1994  
ss 1–2 commenced on date of assent  
remaining provisions never proclaimed into force and rep 1995 No. 58 s 5(1)  
sch 7

**Land Act 1994 No. 81 ss 1–2, 527 sch 5**

date of assent 1 December 1994  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 July 1995 (1995 SL No. 185)

**Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 1**

date of assent 28 November 1995  
commenced on date of assent

**Consumer Law and Other Justice Legislation (Miscellaneous Provisions) Act  
1996 No. 56 pts 1, 12**

date of assent 20 November 1996  
commenced on date of assent

**Body Corporate and Community Management Act 1997 No. 28 ss 1–2, 295 sch 3**

date of assent 22 May 1997

ss 1–2 commenced on date of assent

remaining provisions commenced 13 July 1997 (1997 SL No. 210)

**Land Sales and Land Title Amendment Act 1997 No. 40 s 1 pt 2**

date of assent 25 August 1997

commenced on date of assent

**Justice and Other Legislation (Miscellaneous Provisions) Act (No. 2) 1997 No. 82  
ss 1–3, sch**

date of assent 5 December 1997

commenced on date of assent

## 7 List of annotations

**Long title** amd R1 (see RA s 37)**Objects of Act****s 2** prev s 2 om R2 (see RA s 37)

pres s 2 ins 1997 No. 40 s 4

**Arrangement****s 3** amd 1989 No. 103 s 3 sch

om R1 (see RA s 36)

**Amendment and citations****s 4** amd 1985 No. 43 s 4; 1989 No. 103 s 3 sch

om 1992 No. 40 s 122

**Application of Act****s 5** amd 1993 No. 82 s 3 sch 1; 1997 No. 40 s 5**Interpretation****s 6** amd 1997 No. 40 s 6(7)–(13)def “**agreement**” ins 1993 No. 82 s 34

amd 1996 No. 56 s 122

def “**allotment**” ins 1997 No. 40 s 6(2)def “**approved form**” ins 1995 No. 58 s 4 sch 1def “**building units plan**” amd 1985 No. 43 s 5

sub 1994 No. 69 s 229 sch 2 (never proclaimed into force and om 1995

No. 58 s 5(1) sch 7)

def “**disclosure plan**” ins 1997 No. 40 s 6(2)def “**disclosure statement**” ins 1997 No. 40 s 6(2)def “**group titles plan**” amd 1985 No. 43 s 5

sub 1994 No. 69 s 229 sch 2 (never proclaimed into force and om 1995

No. 58 s 5(1) sch 7)

def “**land held from the Crown for an estate of leasehold**” ins 1985

No. 105 s 4

amd 1994 No. 81 s 527 sch 5; 1995 No. 58 s 4 sch 1

om 1997 No. 40 s 6(1)

- def “**land registration authority**” ins 1992 No. 40 s 123  
 amd 1992 No. 64 s 3 sch 1
- def “**leasehold building units plan**” ins 1991 No. 67 s 29 sch 2
- def “**licensed surveyor**” ins 1997 No. 40 s 6(2)
- def “**Local Authority**” ins 1985 No. 43 s 5  
 om 1992 No. 40 s 123
- def “**plan**” sub 1991 No. 67 s 29 sch 2
- def “**Planning Act**” ins 1997 No. 40 s 6(2)
- def “**proposed allotment**” ins 1997 No. 40 s 6(2)
- def “**proposed lot**” amd 1997 No. 28 s 295 sch 3
- def “**real estate agent**” ins 1997 No. 40 s 6(2)
- def “**registered lot**” sub 1991 No. 67 s 29 sch 2; 1994 No. 69 s 229 sch 2  
 (never proclaimed into force and om 1995 No. 58 s 5(1) sch 7); 1997  
 No. 28 s 295 sch 3
- def “**registrable instrument of transfer**” ins 1985 No. 43 s 5  
 amd 1985 No. 105 s 4; 1992 No. 40 s 123; 1992 No. 64 s 3 sch 1; 1997  
 No. 40 s 6(3)–(4)
- def “**registrar**” amd 1985 No. 43 s 5  
 sub 1992 No. 40 s 123
- def “**relevant freehold land**” amd 1992 No. 40 s 123; 1992 No. 64 s 3  
 sch 1; 1995 No. 58 s 4 sch 1  
 om 1997 No. 40 s 6(1)
- def “**relevant land**” om 1997 No. 40 s 6(1)
- def “**relevant leasehold land**” amd 1985 No. 105 s 4; 1992 No. 40 s 123;  
 1992 No. 64 s 3 sch 1  
 om 1997 No. 40 s 6(1)
- def “**sell**” amd 1997 No. 40 s 6(5)
- def “**State leasehold land**” ins 1997 No. 40 s 6(2)
- def “**subdivision application**” ins 1997 No. 40 s 6(2)
- def “**vendor’s agent**” amd 1997 No. 40 s 6(6)

## **PART 2—SALE OF PROPOSED ALLOTMENTS**

**pt hdg** amd 1997 No. 40 s 7

### **Construction of certain provisions**

**s 7** amd 1985 No. 105 s 5; 1995 No. 58 s 4 sch 1  
 om 1997 No. 40 s 8

### **Part not to apply to large transactions**

**s 7A** ins 1992 No. 40 s 124  
 sub 1993 No. 82 s 35  
 amd 1997 No. 40 s 9

### **Restriction on selling**

**prov hdg** amd 1997 No. 40 s 10(1)

**s 8** amd 1985 No. 43 s 6; 1985 No. 105 s 6; 1992 No. 40 s 125; 1993 No. 82  
 s 3 sch 1; 1997 No. 40 s 10(2)–(3)

### **Identification of land**

**s 9** amd 1985 No. 105 s 7; 1997 No. 40 s 11

**Vendor must tell purchaser about significant variations between disclosure plan and later plans**

- s 10**      amd 1985 No. 43 s 7  
              sub 1985 No. 105 s 8  
              amd 1992 No. 40 s 126; 1992 No. 64 s 3 sch 1  
              sub 1997 No. 40 s 12

**Purchaser must be given registrable instrument of transfer and other documents**

- s 10A**     ins 1997 No. 40 s 12

**Contractual requirement re holding of money**

- s 11**      amd 1985 No. 43 s 8; 1985 No. 105 s 9; 1995 No. 58 s 4 sch 1; 1996  
              No. 56 s 123; 1997 No. 40 s 13

**Limit on deposit amount**

- s 11A**     ins 1997 No. 40 s 14

**Trustee's duty**

- s 12**      amd 1985 No. 43 s 9  
              sub 1985 No. 105 s 10  
              amd 1996 No. 56 s 124; 1997 No. 40 s 15

**Avoidance of instrument for breach of s 9**

- s 13**      amd 1985 No. 43 s 10; 1985 No. 105 s 11  
              om 1997 No. 40 s 16

**Avoidance of instrument for breach of s 11**

- s 14**      sub 1985 No. 43 s 11  
              amd 1985 No. 105 s 12  
              om 1997 No. 40 s 16  
              amd 1997 No. 82 s 3 sch

**Avoidance of instrument upon ground of lapse of time**

- s 15**      amd 1985 No. 43 s 12; 1985 No. 105 s 13  
              om 1997 No. 40 s 16

**When purchaser's interest disposed of**

- s 16**      om 1985 No. 105 s 14

**Declaration of non-application of part in respect of certain State leasehold land prov hdg**

- s 18**      sub 1985 No. 105 s 15  
              amd 1992 No. 40 s 127; 1994 No. 81 s 527 sch 5; 1995 No. 58 s 4 sch 1;  
              1997 No. 40 s 17(2)–(3)

**Exemption from part**

- s 19**      amd 1985 No. 43 s 13; 1985 No. 105 s 16; 1991 No. 42 s 3 sch; 1992  
              No. 40 s 128; 1992 No. 68 s 3 sch 2; 1995 No. 58 s 4 sch 1; 1996 No. 56  
              s 125; 1997 No. 40 s 18

**Application of part to sale or purchase of proposed lots**

- s 20**      sub 1985 No. 105 s 17  
              amd 1992 No. 40 s 129; 1995 No. 58 s 4 sch 1

**Statement identifying proposed lot etc.**

**s 21** amd 1985 No. 43 s 14; 1994 No. 69 s 229 sch 2 (never proclaimed into force and om 1995 No. 58 s 5(1) sch 7); 1997 No. 28 s 295 sch 3; 1997 No. 40 s 19

**Rectification of statement under s 21**

**s 22** amd 1985 No. 43 s 15; 1985 No. 105 s 18

**Contractual requirement re holding of money**

**s 23** amd 1985 No. 43 s 16; 1985 No. 105 s 19; 1995 No. 58 s 4 sch 1; 1997 No. 40 s 20; 1997 No. 82 s 3 sch

**Trustee's duty**

**s 24** amd 1985 No. 43 s 16A  
sub 1985 No. 105 s 20  
amd 1997 No. 40 s 21

**Avoidance of instrument for breach of s 21(1)**

**s 25** amd 1985 No. 43 s 17; 1985 No. 105 s 21

**Avoidance of instrument for breach of s 23**

**s 26** sub 1985 No. 43 s 18  
amd 1985 No. 105 s 22  
om 1997 No. 40 s 22  
amd 1997 No. 82 s 3 sch

**Purchaser's rights if not given a registrable instrument of transfer within a certain period**

**s 27** amd 1985 No. 43 s 19; 1985 No. 105 s 23  
sub 1997 No. 40 s 23

**When purchaser's interest is disposed of**

**s 28** om 1985 No. 105 s 24

**PART 3A—ENFORCEMENT**

**pt hdg** ins 1996 No. 56 s 126

**Division 1—Inspectors**

**div hdg** ins 1996 No. 56 s 126

**Appointment**

**s 30** prev s 30 om 1985 No. 105 s 25  
pres s 30 ins 1996 No. 56 s 126

**Inspector's identity card**

**s 30A** ins 1996 No. 56 s 126

**Production of inspector's identity card**

**s 30B** ins 1996 No. 56 s 126

**Division 2—Inspectors' powers**

**div hdg** ins 1996 No. 56 s 126

**Entry of place by inspector**

**s 30C** ins 1996 No. 56 s 126



**Warrants**

**s 30D** ins 1996 No. 56 s 126

**Warrants—applications made otherwise than in person**

**s 30E** ins 1996 No. 56 s 126  
amd 1997 No. 82 s 3 sch

**Inspector's general powers in a place**

**s 30F** ins 1996 No. 56 s 126  
amd 1997 No. 82 s 3 sch

**Power to require name and address**

**s 30G** ins 1996 No. 56 s 126

**Division 3—Other enforcement matters**

**div hdg** ins 1996 No. 56 s 126

**Procedure after thing seized**

**s 30H** ins 1996 No. 56 s 126

**Obstructing etc. inspectors**

**s 30I** ins 1996 No. 56 s 126

**Compensation**

**s 30J** ins 1996 No. 56 s 126

**Contracting out of Act void**

**s 31** sub 1993 No. 82 s 36  
amd 1997 No. 40 s 24

**Giving of notices**

**s 31A** ins 1985 No. 43 s 20  
sub 1985 No. 105 s 26  
om 1995 No. 58 s 4 sch 1

**Extension of period specified in s 15 or 27**

**s 31B** ins 1985 No. 43 s 20  
sub 1985 No. 105 s 26  
amd 1995 No. 58 s 4 sch 1  
om 1997 No. 40 s 25

**Penalties under this Act are in addition to other penalties etc.**

**prov hdg** sub 1997 No. 40 s 26(1)  
**s 32** amd 1985 No. 105 s 27  
sub 1992 No. 40 s 130  
amd 1997 No. 40 s 26(2)–(5)

**Responsibility for acts or omissions of representatives**

**s 32A** ins 1997 No. 40 s 27

**Executive officers must ensure corporation complies with Act**

**s 32B** ins 1997 No. 40 s 27

**Evidentiary provision**

**s 34** amd 1985 No. 105 s 28; 1997 No. 40 s 28

**Delegations**

**s 35** amd 1985 No. 105 s 29  
sub 1992 No. 40 s 131  
amd 1993 No. 82 s 3 sch 1

**Approval of forms**

**s 35A** ins 1995 No. 58 s 4 sch 1

**Regulations**

**s 36** ins 1992 No. 40 s 131  
amd 1995 No. 58 s 4 sch 1

**Transitional provision about forms**

**s 37** ins 1995 No. 58 s 4 sch 1  
exp 28 May 1996 (see s 37(3))

**SCHEDULE—AMENDMENTS OF AUCTIONEERS AND AGENTS ACT 1971**

amd 1985 No. 43 s 21  
om 1992 No. 40 s 132