

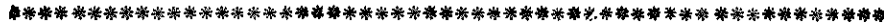
WESTERN AUSTRALIA.



ANNO SEPTIMO

GEORGII QUINTI REGIS,

XXXVI.



No. 16 of 1917.

ACT to further amend the Industries Assistance Act, 1915.

[Assented to 28th March, 1917.]

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

1. This Act may be cited as the *Industries Assistance Act Amendment Act, 1917*, and shall be read as one with the Industries Assistance Act, 1915, hereinafter referred to as the principal Act. Short title.

2. Section two of the principal Act is hereby amended by inserting, after the interpretation of the term "Board," the following words:— Amendment of section 2.

"Minister" means the Minister for Industries or other responsible Minister of the Crown appointed to control the administration of this Act.

3. Part 2 of the principal Act shall be administered by the Industries Assistance Board under and subject to the control of the Minister, and the powers thereby conferred on the Colonial Treasurer may, subject as aforesaid, be exercised by the Board. Administration by Board subject to control of Minister.

The principal Act, except Part 3 thereof, shall have effect as if the words "the Board" were inserted in place of the "Colonial Treasurer," and all securities of the Colonial Treasurer for advances made or deemed to have been made under the principal Act, except Part 3 thereof, are hereby vested in and may be enforced by the Board.

Where advance made pursuant to application, acknowledgment, and contract not essential.

4. Notwithstanding anything contained in the principal Act to the contrary, where advances have been made or are deemed to have been made or may hereafter be made under Part 2 of the principal Act to an applicant, it shall not be essential for an acknowledgment and contract to be signed by the applicant; but the provisions of section fifteen of the principal Act shall apply, and the charge upon the lands, crops, and chattels of the applicant to secure repayment of all advances with interest shall have effect, and the powers of a mortgagee of such lands, crops, and chattels shall be conferred on the Colonial Treasurer and the Board, to all intents and purposes as if an acknowledgment and contract had been signed by the applicant, and a mortgage of the lands and a bill of sale of the crops and chattels of the applicant had been executed by him and duly registered.

Provided that a caveat in the form set out in the Schedule to the Industries Assistance Act, 1915, or to the effect thereof, shall be lodged against any land in respect of which the applicant is registered as lessee or proprietor.

Amendment of section 9.

5. Paragraph (b) of section nine of the principal Act is hereby amended by adding the words "and generally for any other object or purpose that the Board may approve."

Amendment of section 12.

6. Paragraph (c) of section twelve of the principal Act is hereby amended by adding the words "or for any other object or purpose which the Board may approve."

Amendment of section 14

7. Subsection (2) of section fourteen of the principal Act is hereby repealed.

In subsection (4) of section fourteen of the principal Act the words "with the consent of the Board but not otherwise" are inserted after the word "time" in the proviso.

Amendment of section 15.

8. A section is hereby inserted in the principal Act in place of section fifteen thereof, as follows:—

Advances to be a first charge on land, crops, etc., of applicant.

15. (1.) Notwithstanding any provisions of the Land Act, 1898, the Transfer of Land Act, 1893, or any Act or law to the contrary, the principal and interest of all advances made, or deemed to have been made, under this Part of this Act

shall be, and until fully paid shall remain, a first charge in favour of the Board in priority to all other encumbrances—

- (a) upon the estate or interest of the applicant in all lands held or occupied by him for agricultural, farming, or grazing purposes, including all such lands held by him under lease or contract for the purchase thereof, or as a homestead farm, or otherwise; and
- (b) upon all crops to be sown in or grown upon such lands and the produce thereof, and the share or interest of the applicant in any other crops wheresoever grown; and
- (c) upon all implements, live stock, and the progeny thereof, and other chattels supplied to the applicant under this Act.

Provided that when the holding of any applicant is already mortgaged by a registered instrument or is subject to the knowledge of the Board to a vendor's lien for unpaid purchase money; notice in the prescribed form of the proposed advances shall be given to the mortgagee or vendor, and if within fourteen days after such notice the mortgagee or the vendor, by notice to the Board in writing, objects to the proposed advances, or if such notice as aforesaid shall not have been given, the Board shall only be entitled to make such advances subject to such mortgage or vendor's lien as regards the applicant's land, and on the security of a first charge upon all the crop of the next ensuing harvest and the two succeeding crops to be grown upon such land.

(2.) Any advance made or deemed to be made under the principal Act shall have the effect of a mortgage and bill of sale of the lands, crops, and chattels charged as aforesaid, to secure the repayment of all such advances with interest, and shall confer on the Board all the powers and remedies of a mortgagee under an instrument of mortgage or bill or sale duly registered.

Provided that the Board may, in its discretion, exempt from the operation of its security the whole or any portion of the crops and chattels of the applicant for such period as it may think fit.

(3.) No stamp duty or registration fee shall be payable in respect of any instrument under this Part of this Act.

(4.) Notwithstanding the provisions of section thirty-one of the Agricultural Bank Act, 1906, a charge created under this Part of this Act shall not preclude advances under the first-mentioned Act on the security of the land so charged.

9. Section twenty-one of the principal Act is hereby amended by omitting the words "in the order set out in the third schedule to this Act or in such other order as may from time to time be prescribed by regulations under this Act," and the Third Schedule to the principal Act is hereby repealed.

Amendment of
section 21 and
repeal of third
schedule.

Provided that where any land of an applicant is mortgaged in priority to the security of the Colonial Treasurer, it shall not be obligatory on the Colonial Treasurer to apply the proceeds of the crops of such mortgaged land to the liquidation of the indebtedness of the applicant, and the Colonial Treasurer in the exercise of his discretion to distribute the surplus proceeds as aforesaid may exempt from such distribution the proceeds of crops raised on such mortgaged lands.

Amendment of section 22.

10. Section twenty-two of the principal Act is hereby amended by omitting the words "with an alphabetical index of the names of such persons."

Interest of settler in mortgaged land, crops, and chattels not to be alienated.

11. The interest of any settler or other person indebted for advances under the principal Act and its amendments, in the land, crops, and chattels charged as security for such advances, shall not be alienated, either voluntarily or involuntarily, or be subject to distress, execution, or other legal process, without the consent in writing of the Minister, so long as such settler or other person continues indebted for advances made under the said Act.

Powers of a mortgagee vested in Board.

12. If an applicant to whom advances have been made or are deemed to have been made shall make default in payment of such advances or any instalment thereof on demand, the Board may, by force of this Act, in respect of the applicant's land, exercise the powers of a mortgagee under the Transfer of Land Act, 1893, by virtue of an instrument of mortgage duly registered, and if in possession may, without the concurrence of the applicant, lease such land and the chattels thereon, pending a sale thereof, for any term not exceeding seven years, and may make advances to the lessee, and such advances shall be a charge on the land, and the crops thereof, and the said chattels.

A lease granted under the powers conferred by this section shall have the same effect as if both the Board and the applicant were parties to it.

Produce of crops, etc., not to be sold without consent of Board.

13. It shall be unlawful for any person indebted to the Colonial Treasurer or the Board for advances made under the principal Act or its amendments to sell or otherwise dispose of the product of his crops or any chattels charged with the repayment of such advances without the consent in writing of the Board.

Any such person as aforesaid who sells or otherwise disposes of the product or his crops or any such chattels as aforesaid, and any person who receives the same knowing that such person as aforesaid is indebted for advances under the principal Act or its amendments, shall be guilty of an offence.

Penalty: One hundred pounds, or imprisonment for six months.

Provision for repayment by instalments.

14. (1.) The Board may cause the accounts of all settlers and other persons to whom advances have been made under Part 2

of the principal Act to be balanced on a date to be fixed by the Board, and may in its discretion permit the amount due on any such account to be repaid by instalments extending over a period of five years.

(2.) During such period the proceeds of the crops of each season of every settler or other person as aforesaid may be distributed by the Board in manner following:—

- (a) In payment of accrued interest and one-fifth of the liability of the settler or other person to the Board, and the cost of bags for his wheat;
- (b) By retaining and placing to the credit of the ordinary account of such settler or other person so much of such proceeds then remaining as the Board may think fit to apply towards his operations during the then current or next following season, and in payment of his land rents, rates, taxes, and insurance premiums and other obligations mentioned in paragraph (c) of section nine of the principal Act; and
- (c) By distributing the surplus (if any) among the other creditors of such settler or other person on a *pro rata* basis, and the Board may in its discretion allow interest or claims at a rate not exceeding eight per centum per annum.

(3.) If the land of the settler or other person as aforesaid is subject to a mortgage in priority to the Board's security this section shall not apply without the consent of the mortgagee, but if such consent is given interest payable to the mortgagee may, so far as the Board in its discretion thinks fit, be paid under paragraph (a) of subsection two.

(4.) The surplus proceeds of the harvest of the season 1915-16 received by the Board after the first day of March, 1917, may be distributed under this subsection.

(5.) The indebtedness of settlers and other persons as aforesaid to any Government department for supplies or advances under the Grain and Foodstuff Act, 1914, or otherwise prior to the commencement of the principal Act, shall be deemed a liability to the Board, and may be brought into account in arriving at such balance as aforesaid.

15. Section thirteen of the Industries Assistance Act Amendment Act, 1915, is hereby repealed, and the following provision shall have effect in lieu thereof:—

Amendment of Sec.
13 of Act No. 52 of
1915.

No commodities shall be supplied or money advanced under the principal Act or its amendments after the 31st day of March, 1918, except under the provisions of section fourteen of this Act.

Effect of amend-
ments.

16. The amendments made by this Act shall have effect as from the commencement of the principal Act.

Provided that no such amendment shall affect the priority of any encumbrance given previous to the coming into operation of this Act.

Consent of Mort-
gagee to advance
and

17. Notwithstanding anything contained in the principal Act and its amendments to the contrary the following provisions shall have effect:—

(1.) No advance shall be made after the commencement of this Act to any settler or other person not already in receipt of assistance from the Board whose land, chattels, or crops are subject to a registered mortgage or charge, without the consent in writing of the mortgagees or encumbrancer.

Discharge of
Securities.

(2.) Any settler or other person indebted to the Board for advances may, subject as hereinafter provided, at any time repay the amount of such advances with interest, and the receipt of the Board for such payment shall operate as a discharge of all charges, liens, and encumbrances created by the principal Act or its amendments in favour of the Board: Provided that the Board may, as a condition of such discharge, require the consent of all creditors of such settler or other person as aforesaid, so far as such creditors have given notice to the Board of their claims, or the payment by such settler or other person as aforesaid to the Board of such further amount as shall be sufficient to satisfy such claims, and the release of the Board from all guarantees.