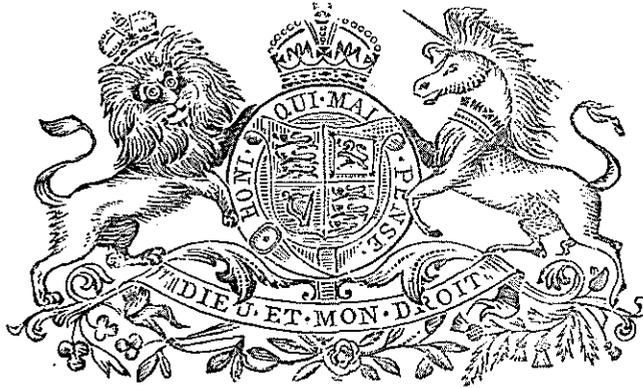


WESTERN AUSTRALIA.



ANNO SECUNDO

GEORGI QUINTI REGIS,

XVI.

No. 8 of 1912.

AN ACT to enable the Government to erect and dispose of Workers' Dwellings, and to make Advances to People of Limited Means to provide Homes for themselves.

[Assented to 9th January, 1912.]

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:—

PART I.—PRELIMINARY.

- 1. This Act may be cited as the *Workers' Homes Act*, 1911. Short title.
- 2. This Act is divided into Parts, as follows:— Division
 - PART I.—PRELIMINARY.
 - PART II.—ADMINISTRATION.
 - PART III.—WORKERS' DWELLINGS.
 - PART IV.—ADVANCES FOR HOMES.
 - PART V.—GENERAL PROVISIONS.
- 3. In this Act, unless a contrary meaning appears— Interpretation.
 - “Advance” means an advance made under this Act; See S.A. No. 1018, s. 2.
 - “Applicant” means an applicant for a worker's dwelling, or for an advance; Q. 10, 1909. s. 2.

“Board” means the Workers’ Homes Board, constituted under this Act;

“Borrower” means a person who has obtained an advance under Part IV.;

N.S.W. Bill of 1911,
c. 2.
See N.Z. 1910, No.
62, s. 2.

“Capital value” means the capital value fixed by the Board, with the approval of the Minister, after appraisalment, and includes the unimproved capital value of the land, the value (if any) of the improvements on the land, a proportionate part (to be fixed by the Board) of the cost of survey and subdivision of the estate of which the land forms part, and of the cost of all road-making, draining, and other works and operations done on such estate, together with a proper proportion (fixed by the Board) of the value of so much of the estate as is absorbed by roads or streets (but not including any portion set aside for parks, recreation areas, and other public purposes), and also a due proportion (fixed as aforesaid) of the estimated cost of administration;

“Dwelling-house” includes the house and its appurtenances, necessary outbuildings, fences, and permanent provision for lighting, water supply, drainage, and sewerage, but does not include any land;

“Estate” means any lands dedicated for the purposes of this Act, under Part III. thereof, which shall be declared by proclamation to form one residential estate;

“Family” includes the wife or husband and the children of, and the parents or other relatives dependent upon, the applicant or borrower;

See N.Z., No. 39,
1906, s. 3 (1).
S.A. No. 1018, s. 2.

“Holding” means land of which an applicant or borrower is the beneficial owner in possession, and includes Crown land (in which term is included any land vested in the Board) held by an applicant or borrower for his own benefit under a lease or agreement; and includes Residential Leases, Miners’ Homestead Leases, and Residence Areas;

“Minister” means the Colonial Treasurer, or such other responsible Minister of the Crown as is charged for the time being with the administration of this Act;

“Prescribed” means prescribed by regulations made under this Act;

“Proclamation” means a proclamation by the Governor published in the *Government Gazette*.

“Regulations” means regulations made under this Act;

“The Fund” means the Workers’ Homes Fund constituted by this Act;

“This Act” includes any regulations;

“Worker” means every person, male or female, who is employed in work of any kind or in manual labour, and who at the time of his application is not in receipt of more than three hundred pounds per annum;

See N.Z., 1910, No. 62, s. 2.
N.S.W. Bill of 1911, c. 2.
See *Ibid.*

“Worker’s dwelling” means any dwelling-house erected on land dedicated under this Act; and includes the land on which the same is erected, or held therewith; and also includes all outbuildings and sanitary and drainage arrangements on such land necessary for such dwelling.

PART II.—ADMINISTRATION.

4. (1.) There shall be constituted a Board, to be called the Workers’ Homes Board.

Workers’ Homes Board.
See Q., 1909, No. 10, s. 3.
N.S.W. Bill of 1911, c. 3.

(2.) The Board shall consist of three members to be appointed, from time to time, by the Governor from the officers employed in the public service of the State.

(3.) The members of the Board shall hold office during the Governor’s pleasure.

(4.) One of such members shall be appointed by the Governor as chairman of the Board.

(5.) In the case of the illness, inability, or absence of any member of the Board, the Governor may appoint some other public officer to act as the deputy of such member during such illness, inability, or absence; and every such person shall, while he acts as such deputy, have all the powers and perform all the duties of a member of the Board.

(6.) The Board under the name of the Workers’ Homes Board shall be a body corporate with perpetual succession and a common seal, and shall be capable in law of suing and being sued, and of holding and disposing of land under and subject to the provisions of this Act, and of doing and suffering all such other acts and things as bodies corporate may by law do and suffer.

(7.) Subject to the Minister, this Act shall be administered by the Board.

5. The Governor may, from time to time, appoint such inspectors, valuers, and other officers as may be necessary for the effectual execution of this Act.

Officers.
Q., 1909, No. 10, s. 3.

Funds.

6. (1.) The funds necessary for the effectual execution of this Act shall be such moneys as may be raised by the issue of debentures as hereinafter provided, and such other moneys as may from time to time be appropriated by Parliament for the purpose.

See 1906, No. 15, s. 15, 16.
Q., 1909, No. 10, s. 4, 5.

(2.) The Governor may raise, by the issue of such debentures, any sum or sums which, together with any moneys appropriated by Parliament, shall not exceed in the whole the sum of two hundred and fifty thousand pounds.

(3.) All such moneys shall be placed to the credit of an account at the Treasury, to be called the Workers' Homes Fund, and applied to the purposes of this Act; and such account may be operated upon in the prescribed manner.

(4.) The provisions expressed in the schedule to this Act shall apply to all debentures issued under this Act.

PART III.—WORKERS' DWELLINGS.

Dedication of land.
See N.Z. 1910, No. 62, s. 3.
N.S.W. Bill of 1911, c. 8.

7. (1.) The Governor may, from time to time, by notice in the *Government Gazette*, dedicate any Crown land to the purposes of this Act.

(2.) The Minister may, from time to time, on the recommendation of the Board, purchase any land, or land and buildings, for the purposes of this Act.

(3.) Any land, or land and buildings, so purchased shall vest in His Majesty, and be dedicated in manner aforesaid to the purposes of this Act.

Erection of workers' dwellings.
See N.Z. 1910, No. 62, s. 4.
N.S.W. Bill of 1911, c. 12.

8. On any land dedicated to the purposes of this Act the Minister may, upon the recommendation of the Board, cause dwelling-houses to be erected, or may convert any buildings into dwelling-houses, and may from time to time alter, enlarge, repair, rebuild, and improve such dwelling-houses: Provided that the cost of such erection or construction shall not, in the case of any dwelling-house, exceed five hundred and fifty pounds.

The plans and specifications for such dwelling-houses shall be subject to the approval of the Government Architect or some other officer appointed by the Minister.

Expenditure on area for surveying, etc.
N.S.W. Bill, of 1911, c. 13.

9. Upon any land dedicated as aforesaid, the Minister may expend moneys from the Fund on surveying, road-making, draining, subdividing, and other works and operations for the purpose of making such land suitable for the purposes of this Act.

Areas set apart for parks, etc.
N.S.W. Bill of 1911, c. 14.

10. The Minister may set apart any portion or portions of such land for parks, recreation grounds, and other public requirements, and may expend thereon moneys from the Fund.

Disposal of dwellings by lease.
N.S.W. Bill of 1911, c. 15.

11. Subject to the provisions of this Act, the Board may, with the approval of the Minister, dispose of workers' dwellings in the following manner:—

- (a) The land on which the dwelling-house is erected shall, after appraisalment, be let to the applicant under a perpetual lease, subject to re-appraisalment every twenty years. Such appraisalment and re-appraisalment shall be based on the capital value, less the value of the dwelling-house. The rent payable shall be three per centum per annum on such appraisalment or re-appraisalment as the case may be.
- (b) The capital cost of the dwelling-house, with interest thereon at five per centum per annum, shall be paid by the lessee by instalments extending over thirty years or such other period as the Minister may direct; such instalments to be paid by way of an addition to the rent payable as hereinbefore provided; but the interest shall be payable only on the balance outstanding of such capital cost:

Provided that, subject to the regulations, a lessee may at any time pay the whole of such capital cost, or such portion as may for the time being remain unpaid.

12. (1.) Every application for a worker's dwelling shall be in the prescribed form, and shall contain the prescribed particulars.

Application.
See N.Z. 1910, No. 62, sec. 8.
N.S.W. Bill of 1911, c. 17, 18.

(2.) The applicant shall—

- (a) satisfy the Board that he is a worker within the meaning of this Act, and that he is not the owner of any dwelling-house in Western Australia;
- (b) deposit with the Board the sum of ten pounds;
- (c) pay to the Board a fee of five shillings.

(3.) If an application is approved the deposit shall be placed to the credit of the applicant, and applied in part payment of the cost of the dwelling-house; but if the application is not approved the deposit shall be repaid to the applicant.

13. (1.) Where more persons than one apply for the same worker's dwelling, preference may be given to the applicant who has the lesser income, provided he is of good character, and the Board is satisfied as to his ability to pay the rent and instalments of purchase money:

Where more than one application made.
N.S.W. Bill of 1911, c. 19.

Provided that where it appears to the Board to be desirable, a ballot shall be held, and the procedure in regard to such ballot shall be as prescribed.

(2.) Any applicant may appeal to the Minister, who may order such a ballot to be held.

14. With respect to every lease under this Part of this Act, the following provisions shall apply:—

Conditions of lease.
See N.S.W. Bill of 1911, s. 20.

(1.) The lease shall be granted by the Board, under the authority of the Minister, and in the prescribed manner.

(2.) The lease shall be in the prescribed form, and shall contain—

(a) Covenants by the lessee—

(i.) to pay the annual rent thereby reserved by quarterly or half-yearly instalments as prescribed;

(ii.) to pay the capital cost of the dwelling-house, with interest thereon, by weekly, fortnightly, or monthly instalments as stipulated;

(iii.) to pay all rates, taxes, and assessments;

(iv.) to repay to the Board on demand all premiums paid by the Board for insuring the dwelling-house from fire;

(v.) to keep and maintain the dwelling-house in good repair and condition to the satisfaction of the Board;

(vi.) not to transfer, sublet, mortgage, charge, or otherwise dispose of the worker's dwelling, otherwise than in accordance with this Act;

(vii.) to continuously reside in the dwelling-house.

(b) Provisos—

(i) for the forfeiture of the lease and re-entry on breach of covenant by the lessee, or other sufficient cause specified in the lease;

(ii.) that the Minister, on the advice of the Board, may on application by the lessee, suspend the operation of the covenant to reside in the dwelling-house from time to time, for such period as in his discretion he may think fit.

Worker's dwelling exempt from land tax.

15. Every worker's dwelling under this Part shall be exempt from assessment under the Land and Income Tax Assessment Act, 1907.

Terms under which lessee shall receive certificate of purchase.
N.S.W. Bill, 1911 c. 22.

16. When a lessee has paid the full amount of the capital cost of the dwelling-house, with interest thereon, as provided by section eleven, and the lease is subsisting and unforfeited, the lessee shall be entitled to receive from the Board under the authority of the Minister a certificate of purchase of the dwelling-house, in the prescribed form.

Interest of lessee personal and indefeasible.
See S.A., No. 640, s. 30 (4).

17. The estate and interest of the lessee in a worker's dwelling shall, subject to this Act, continue personal, absolute, indefeasible, and unaffected, notwithstanding any bankruptcy, insolvency, judgment, order, execution, or deed of assignment.

18. Subject to the provisions of this Act the rights and obligations of a deceased lessee with respect to any worker's dwellings shall be transmissible by will, or vest in the legal personal representative if the lessee dies intestate; but if any person becoming entitled under any will or intestacy is unable to fulfil the obligations under this Act he shall transfer to the Board, as provided in the next following section.

Rights transmissible by will, etc.
N.S.W. Bill, 1911,
c. 24.

19. (1.) No disposition of any worker's dwelling shall be made by the lessee or any person lawfully claiming under a deceased lessee, except to the Board.

Conditions of disposal by lessee of his interest.
N.S.W. Bill, 1911,
c. 25.

(2.) If a lessee, or any person lawfully claiming under a deceased lessee, is desirous of selling his interest in the worker's dwelling, the Board shall purchase the same at the value at the date of such purchase.

Provided that no refund shall be made of any moneys paid by way of interest or rent.

(3.) If any lessee, or any person lawfully claiming under a deceased lessee, is dissatisfied with the amount, he may appeal to the Minister within fourteen days after notice thereof, and the Minister, if he thinks fit, may appoint a valuer to act jointly with a valuer nominated by the applicant to fix the amount of such purchase money. If such valuers are unable to agree they shall mutually appoint an arbitrator whose decision shall be final. The fees payable to each valuer and the arbitrator shall not exceed ten guineas, and the cost of the proceeding shall be borne equally by the applicant and the Board.

20. The Board shall, as soon as possible, dispose of any interest acquired under the last preceding section, in such a manner as to ensure the continuation of the land and buildings as a worker's dwelling.

Board to dispose of any interest acquired by them.
N.S.W. Bill, 1911,
c. 26.

21. On forfeiture of a lease and re-entry on the part of the Board—

Consequence of forfeiture.

(a) The lease shall determine and the certificate of purchase (if any) shall become void; and

(b) Such lease and certificate of purchase (if any) shall on demand be delivered up to the Board for cancellation:

Provided that, with the approval of the Minister, the Board may, in its discretion, refund to the lessee any portion of the capital cost of the dwelling-house paid by the lessee, or of any improvements made by him on the land with the approval of the Board; but no refund of any rent, interest, or other moneys shall be made.

22. Every lease granted under this Part of this Act shall be deemed to be a Crown Lease, and shall be issued in duplicate and

Lease to be registered.

be forwarded by the Board direct to the Registrar of Titles for registration under the Transfer of Land Act, 1893.

Holdings may be surrendered and workers' dwellings acquired.

23. (1.) Any person being the holder of land for an estate in fee simple may, with the approval of the Minister, upon the recommendation of the Board, surrender such land to His Majesty at a price to be agreed upon between such person and the Board, and thereupon such land shall be dedicated in manner aforesaid to the purposes of this Act.

(2.) The Minister may, under and subject to Part III. of this Act, erect a dwelling-house on any such land, and dispose of the same as a workers' dwelling to the person by whom the land was surrendered.

PART IV.—ADVANCES FOR HOMES.

Advances for Homes.

See S.A., No. 1018, s. 11.

N.Z., No. 72, 1908, s. 48.

Q., No. 10, 1909, s. 7.

24. (1.) Subject to the provisions of this Act and the regulations, the Board may, with the approval of the Minister, make advances to any worker on the prescribed security for the purpose of enabling him—

- (a) To erect a dwelling-house on his holding as a home for himself and his family (if any); or, after erection or partial erection of a dwelling-house on his holding, to enlarge or complete the same; or
- (b) To purchase a dwelling-house, and the land enclosed or occupied therewith, as a home for himself and his family (if any); or
- (c) To discharge any mortgage already existing on his holding.

Provided that at no time shall the total advance made to any person and for the time being remaining unrepaid exceed the sum of five hundred and fifty pounds.

(2.) Any advance may, subject to the regulations, be made by instalments, and in such case the total of the amounts advanced up to any given time shall not exceed the value of the progress theretofore made with the building, as certified in writing by a valuer to the satisfaction of the Board.

Application for advance and evidence thereunder.

See S.A., No. 1018, s. 12.

N.Z., No. 72, 1908, s. 48.

Q., No. 10, 1909, s. 7.

25. (1.) Every application for an advance shall—

- (i.) Be made to the Board and in the prescribed form, and shall contain such particulars as are prescribed, and a fee of five shillings shall be paid therewith;
- (ii.) Be accompanied by a statutory declaration by the applicant in the prescribed form that he is a worker within the meaning of this Act;
- (iii.) Be supported by such evidence (if any) as is prescribed, or as the Board requires.

(2.) The Board shall in no case make an advance for the purpose of erecting a dwelling-house unless it is shown to their satisfaction that the proposed buildings will be substantial and durable, nor unless the plans and specifications thereof have been approved by the Board, and comply with the regulations made in that behalf.

(3.) Whenever any question arises whether any applicant is the owner or lessee of the land in respect of which his application is made, or is a worker within the meaning of this Act, the decision of the Board on such question shall be final and conclusive for all purposes of this Act.

26. If at any time, in the opinion of the Board, any money advanced under this Act has not been applied for the purpose for which it was advanced, or has not been carefully and economically expended, the Board may refuse to pay any further instalment of the proposed advance, and may at once call in the whole amount already advanced, whereupon the borrower shall forthwith repay the same, and in default the Board shall have the same remedies for the recovery of the same as are provided by this Act for the recovery of sums payable by the borrower.

Advances by instalments.
See S.A., No. 1018, s. 13.

27. No advance shall be made except upon the security of a mortgage or mortgages in the prescribed form to the Board of the borrower's estate and interest in his holding, as well as of the improvements already thereon, and the improvements (if any) with respect to which such advance is made, with or without such additional security as to the Board may seem fit. The borrower may, notwithstanding anything to the contrary in any enactment or law, or in the lease, agreement or occupation certificate under which he holds, lawfully execute such mortgage or other security.

Advance to be secured by mortgage.
See S.A., No. 1018, s. 14.

28. No advance shall be made on any property which is encumbered by any previous mortgage or charge, other than a mortgage or charge under this Act, or a charge in favour of the Crown; but a second mortgage may be taken as collateral security.

Advances only to be made on first mortgages.
See S.A., No. 1018, s. 15.

29. With respect to every mortgage under this Act the following provisions shall apply—

Provisions relating to mortgages.
See S.A., No. 1018, s. 16.

(a) The loan shall be for a term of years to be agreed between the Board and the mortgagor: Provided that if the buildings are to be or are of—

- (i.) Stone or brick, or stone and brick, the term shall not exceed thirty years;
- (ii.) Ordinary concrete, ferro-concrete, reinforced concrete, or other similar material, the term shall not exceed twenty years;
- (iii.) Ordinary wood and iron, or wood, the term shall not exceed fifteen years.

- (b) The term of the loan, if made in one sum, shall date as from the first day of the next month following that in which it is made, and if made by instalments, shall date as from the first day of the next month following that in which the final instalment is made;
- (c) Interest at the rate of six per centum per annum (but subject to a rebate, as provided by section thirty) shall be paid on the loan or each instalment thereof, computed from the date when the loan or instalment is made.
- (d) If the loan is made in one sum, interest computed from the date when the same is made to the first day of the next following month, shall be paid to, or may be deducted by, the Board at the time when the loan is made;
- (e) If the loan is made by instalments, then, until and including the first day of the next month following that in which the final instalment is made, interest shall be paid to the Board on the first day of each month on all instalments theretofore made, computed from the dates of making the same respectively; or such interest may be deducted by the Board from any instalment of the loan;
- (f) After the first day of the next month following that in which the loan or the final instalment thereof is made, the principal, with interest thereon as provided by paragraph (c) hereof, shall be repaid to the Board by equal instalments, which shall be quarterly or monthly, as agreed between the Board and the mortgagor;
- (g) Every such instalment shall consist partly of principal and partly of interest, and shall be of the amount fixed by the Table of repayments applicable to the case prescribed by the regulations;
- (h) Irrespective of the prescribed instalments, the mortgagor may from time to time pay to the Board any sum being not less than ten pounds, and being either ten pounds or a multiple of ten pounds, in reduction of the mortgage debt, and thereafter the instalments shall be proportionately smaller by a readjustment of the amounts of interest included therein;
- (i) Notwithstanding anything in this section, where it has been agreed to repay by quarterly instalments, the loan, or any part thereof, may be repaid by the prescribed monthly instalments.

Rebate of interest
when instalments
paid punctually.
Sec S.A., No. 1018,
s. 17.
N.Z., No. 39, 1906,
s. 39.

30. In order to encourage the early payment of the prescribed instalments of principal and interest the following provisions shall apply with respect to every instalment:—

- (a) If the mortgagor (not being in arrear with any previous instalments or other payment under the mortgage) pays the instalment on or before its due date, or not later than the seventh day thereafter, he shall be entitled to a rebate of a proportionate part of so much thereof as consists of interest, thereby reducing the rate of such interest to five and a-half per centum in lieu of six per centum per annum;
- (b) Such rebate may be deducted and retained by the mortgagor from the full nominal amount of the instalment when making the payment.

31. (1.) The Board shall, during the subsistence of any mortgage under this Act over any land, be entitled to hold the borrower's documents of title to such land.

Board to hold title.
Provision in case of issue of fresh lease.
See S.A., No. 1018, s. 18.

(2.) When an advance has been made upon the security of a mortgage of a lease over a holding no fresh lease of the holding shall be issued while such mortgage is in existence unless it bears an indorsement showing that it is subject to the mortgage.

(3.) When a fresh lease has been indorsed, as mentioned in this section, such lease shall be subject to the mortgage as if it were expressly charged thereby; and notwithstanding the provisions of the Transfer of Land Act, 1893, or the Land Act, 1898, the Registrar of Titles or the Under Secretary for Lands, as the case may be, shall make any entry in the Register Book which may be necessary for the purpose of showing that the fresh lease is subject to the mortgage.

32. (1.) Where an advance has been made upon the security of a mortgage of a holding the freehold whereof may under any Act be acquired from the Crown, the Board may, at any time and notwithstanding the provisions of any Act, acquire the freehold of the holding on behalf of the mortgagor or his successor in interest, and for that purpose may make all such payments to the Crown and otherwise as are necessary.

Power for Board to acquire freehold.
See S.A., No. 1018, s. 19.

(2.) All payments so made by the Board shall be added to and become part of the mortgage debt, notwithstanding that the amount of the advance is thereby increased to more than five hundred and fifty pounds, as if the mortgage had originally provided for the making of such payments as a further advance on the security thereof, subject as hereinafter provided.

(3.) The provisions of section twenty-nine shall be applicable to any amount paid by the Board hereunder, but so that the term for repayment shall not extend beyond the term originally fixed in respect of the rest of the mortgage debt and the instalments

(fixed on the basis of the appropriate table) shall be payable monthly or quarterly according to the agreement between the Board and the mortgagor with regard to the original advance.

Remedies for recovery of loan.
See S.A., No. 1018, s. 20.
Q., 1909, No. 10, s. 12.

33. (1.) If at any time—

- (a) default is made by a borrower in the due payment of any instalment by way of repayment of the loan with interest as aforesaid, and such default continues for three calendar months, although no legal demand may have been made for the payment thereof; or
- (b) the borrower commits any breach of any covenant or condition to be performed or observed by him under the mortgage or this Act;
 - (i.) the whole of the loan then remaining unrepaid, with interest thereon as aforesaid, shall forthwith become due and payable by the borrower to the Board, and may be sued for and shall be recoverable by the Board accordingly; and
 - (ii.) the Board may enter upon and take possession of the holding with respect to which the loan has been made, and may sell the estate and interest of the mortgagor therein, either by private sale or public tender or auction, and subject to any conditions of sale the Board may think expedient, and after such notice of the time, place, terms, and conditions of sale as the Board thinks just and expedient, and may transfer such holding to the purchaser and give a good and valid title thereto.

Application of proceeds of sale.

(2.) The Board shall apply the proceeds derived from such sale in payment, in the first instance, of all moneys due in respect of such holding, and in redemption of any amount charged thereon in favour of the Board, or of so much thereof as remains unpaid, and of all expenses incurred by the Board in relation to such sale or otherwise with respect to such holding, and shall pay the balance (if any) to the persons appearing to the Board to be entitled to receive the same.

Mortgagor to effect necessary repairs.
See S.A., No. 1018, s. 21.
Q., 1909, No. 10, s. 13.

34. (1.) The borrower over whose holding a mortgage or other security has been given under the provisions of this Act shall, during the continuance of the same, to the satisfaction of the Board, keep in good and tenantable repair all buildings, fences, fixtures, and improvements upon the holding comprised in such mortgage or other security.

(2.) If after the expiration of two months' notice in writing by or on behalf of the Board any borrower has not complied with the requirements of this section—

- (a) The like consequences shall follow as are provided by section thirty-three in case of breach of the terms or conditions of the mortgage or other security, or default made in the payment of any interest or instalment payable under the provisions of this Act; or
- (b) Any person acting with the authority of the Board may enter upon the holding and effect all repairs which the Board deems necessary; and the expense thereby incurred, with interest at the rate of six per centum per annum, shall be repaid to the Board by the borrower on demand, and until repayment shall be a charge under the mortgage or other security upon the holding, notwithstanding that the amount of the advance is thereby increased to more than five hundred and fifty pounds.

35. (1.) Whenever under this Part of this Act power is conferred on the Board to cause any land to be sold by reason of any default, or breach of covenant or condition or otherwise, the Board may, if it thinks fit, in lieu of exercising such power of sale, lease such land, with all improvements thereon, for any term not exceeding thirty years.

Power to lease in lieu of selling.
Q., 1909, No. 10,
s. 15.

(2.) Every such lease shall contain a covenant to pay such rent and observe such conditions as the Board in each case thinks fit.

(3.) The rents and profits from time to time derived from any such lease shall be applied—

- (a) in payment of the costs and expenses from time to time incurred in connection with the lease;
- (b) in payment of the instalments and other payments (if any) due under this Act;
- (c) in payment of the balance (if any) to the borrower.

36. (1.) With respect to any holding on which an advance has been made, the following conditions shall be imposed so long as such holding is subject to any charge in favour of the Board, namely:—

Conditions annexed to land while subject to advances.
See S.A., No. 1018,
s. 22.

- (a) Such holding shall not be transferred, let, or sublet by such borrower without the consent of the Board;
- (b) Every transfer, lease, sub-lease, or agreement contrary to the provisions of this section shall be void and of no effect;
- (c) If such borrower purports to transfer, let, or sublet such holding or any part thereof in contravention of the provisions of this section, or if the borrower's title to the holding as owner or lessee is divested from him

under any law relating to bankruptcy or insolvency, the Board may forthwith exercise the powers conferred by section thirty-three.

- (d) When the borrower's title to the holding as owner or lessee is divested from him under any law relating to bankruptcy or insolvency, the Board may cause his estate and interest in the holding and in any lease or agreement under which he holds the same to be sold.

(2.) The provisions of section thirty-three as to sale and application of proceeds of sale shall apply to every sale made under the provisions of this section.

Restraint on power of alienation during mortgage.
See S.A., No. 1018, s. 23.

37. (1.) Whilst a holding is subject to a mortgage or other security to secure the repayment of an advance no transfer, conveyance, assignment, or surrender of such holding, or of any estate or interest therein, shall have any force or effect, nor shall it be registered in the Land Titles Office or the Registry of Deeds, or in the Department of Lands and Surveys or the Department of Mines, unless such transfer, conveyance, assignment, or surrender—

- (a) Arises through the operation of any law relating to bankruptcy or insolvency; or
(b) Is made to a devisee or other beneficiary by a person acting in the capacity of executor or administrator; or
(c) Is made with the consent in writing of the Board.

(2.) Such consent shall not be granted within five years after the making of an advance, unless it is proved to the satisfaction of the Board that the refusal thereof would inflict great hardship.

Rights given to Board as mortgagee by this Act to be in addition to other rights.

38. The rights, powers, and remedies given to the Board as mortgagee under this Act shall be in addition to and without prejudice to any rights, powers or remedies given by or under the mortgage instrument or any Act applicable thereto or any rules or regulations made under any such Act.

Extension of time for repayment.
See S.A., No. 1018, s. 24.

39. In cases of hardship, the Board may extend the time for making any payment required by this Act: Provided that the deferred payments shall bear interest at the rate of five per centum per annum.

Receipts for instalments exempt from stamp duty.
See S.A., No. 1018, s. 25.

40. All receipts for instalments, or parts thereof, paid to the Board in or towards repayment of advances shall be exempt from all stamp duties chargeable upon receipts under the Stamp Act, 1882, or any Act amending or substituted for that Act.

41. The Board from time to time shall obtain reports from the inspectors and valuers of the Board as to the manner in which advances and instalments of advances have been expended and used by the respective borrowers, and as to the state and condition of the improvements for the purpose of which such advances and instalments have respectively been paid, and generally as to the state and condition of the holdings in respect of which such advances and instalments have been paid.

Board to obtain reports as to expenditure of advances.

See S.A., No. 1018, s. 27.

42. The Board shall keep a register or list of all advances, with the names of the persons to whom the advances have been made, and also an alphabetical index of the names of such persons. Such register or list and index shall be open to public inspection on the payment of a fee of one shilling.

Register of advances to be kept for inspection.

See S.A., No. 1018, s. 28.

43. No judgment, order, or decree of any court of law, and, in the case of land held under a residential lease, a miner's homestead lease or as a residence area, no act or default on the part of the borrower or any other person whereby a forfeiture might result, shall in any way affect the security for any advance made under this Act; and until all instalments and interest payable in respect of the advance have been paid, no process of law or declaration of forfeiture shall interfere with the security for the same.

Judgment of court not to affect security.

See Q., No. 10 of 1907, s. 17.

44. If—

- (a) in the opinion of the Board an advance has been obtained by a borrower contrary to the provisions of this Act; or
- (b) the borrower is or becomes a trustee, agent, partner, or co-owner in respect of a holding on which an advance has been made and remains wholly or in part unrepaid; or
- (c) the borrower, unless he transfers, lets, or sublets his holding with the approval of the Board, ceases to occupy the holding on which an advance has been made under this Act, and remains wholly or in part unrepaid,

Board may require repayment forthwith on contravention of Act.

the Board may require the borrower to repay the amount of the advance forthwith; and in default of repayment may cause the holding to be sold, and the provisions of section thirty-three shall apply.

PART V.—GENERAL PROVISIONS.

45. Every appraisalment or reappraisalment of the capital value of land for the purposes of this Act shall be made by the Board or some person appointed, with the approval of the Minister, by the Board:

Appraisalment of capital value
See N.S.W. Bill, 1911, c. 27.

Provided that any lessee who may think himself aggrieved by a re-appraisal may, subject to the regulations, require the matter to be submitted to arbitration under the provisions of the Arbitration Act, 1895.

Audit.
1906, No. 15, s. 40.

46. (1.) The accounts of the Board shall, once at least in every year, and also whenever so directed by the Governor, be audited by the Auditor General, or such other auditor as the Governor may appoint for the purpose.

(2.) The Auditor General and any auditor so appointed shall, in respect of such accounts, have all the powers conferred on the Auditor General by any law in force relating to the audit of public accounts.

Report to be laid
before Parliament.
1906, No. 15, s. 41.

47. In every year the Board shall furnish a financial statement and report to the Minister upon the operation of this Act, and every such financial statement and report, together with the report of the auditor, shall be laid, as soon as possible, before both Houses of Parliament.

Financial state-
ment—Particulars.
See S.A., No. 1018,
s. 30.

48. The annual financial statement required by virtue of section forty-seven shall show, in respect of the previous financial year—

- (a) The financial position of the Fund;
- (b) The financial results of the year's operations;
- (c) The cost of management during the year;
- (d) The gross and net profits made during the year;
- (e) The whole cash receipts and expenditure during the year;
- (f) Such other accounts and records (if any) as are prescribed.

Protection of
Board and
officers from
personal
liability.
Q., No. 10 of 1909,
s. 3 (7).

49. No matter or thing done and no agreement entered into by the Board or any member thereof, and no matter or thing done by any officer or other person acting under the authority or direction of the Board, shall, if the matter or thing was done or the agreement was entered into *bona fide* for the purposes of this Act, subject the Board or any member thereof, or any such officer or person to any personal liability in respect thereof.

An action shall not be brought against the Board or any member thereof, or any officer or person acting under the direction or authority of the Board, for anything done or intended or omitted to be done under this Act, until the expiration of one month after notice in writing has been served on the Board or person to be sued, clearly stating the cause of action and the name and place of abode of the intended plaintiff and of his solicitor or agent.

On the trial of any such action the plaintiff shall not be permitted to go into evidence of any cause of action which is not stated in the notice so served.

Unless such notice is proved, the court shall find for the defendant.

Every such action shall be commenced within six months next after the accruing of the cause of action, and not afterwards.

The Board or any person to whom any such notice of action is given may tender amends to the plaintiff, his solicitor, or agent at any time within one month after service of the notice, and, in case the same is not accepted, may plead such tender.

50. The Governor may from time to time make regulations for the objects and purposes of this Act.

Regulations.
See S.A., No. 1018,
s. 31.

51. (1.) All such regulations shall—

- (a) Be published in the *Government Gazette*;
- (b) Take effect from the date of such publication, or from a later date to be specified therein; and
- (c) Be laid before both Houses of Parliament within fourteen days after publication, if Parliament is then in session, and if not, then within fourteen days after the commencement of the next session.

Publication and
effect of regu-
lations.
See S.A., No. 1018,
s. 32.

(2.) Notwithstanding any publication thereof, no regulation shall continue to have any force or effect if the same is disapproved by resolution of either House of Parliament within thirty sitting days after such regulation has been laid before Parliament, if Parliament is so long in session: Provided that if Parliament is not in session for thirty sitting days after such regulation has been laid before Parliament, then such regulation shall not continue to have any force or effect if disapproved by either House of Parliament within thirty sitting days after the commencement of the next session of Parliament.

THE SCHEDULE.

PROVISIONS APPLICABLE TO DEBENTURES ISSUED UNDER THIS ACT.

1. Debentures—

- (a) shall be made out at the Treasury in such manner, form, and denominations as the Governor may direct; and
- (b) shall be signed by the Colonial Treasurer, and registered in the Treasury and by the Auditor General; and
- (c) shall be payable to the bearer to the order of the person named in the debenture on presentation at or after the due date thereof (being a period not greater than thirty years from the date of the debenture); and
- (d) shall bear interest at a rate not exceeding four pounds per centum per annum, to be computed from the day on which the debenture shall be issued and bear date, and such interest shall be payable half-yearly on presentation of the coupon for same.

2. The principal sum and interest for which any debenture may be issued shall be a charge upon and be paid out of moneys arising from the operation of this Act, and so far as funds for the payment of any such principal sum and interest shall not be available under the operations of this Act, any such sum or interest shall be chargeable upon and paid out of the Consolidated Revenue Fund.

3. All the said debentures when due, and all interest thereon, shall be payable by the Colonial Treasurer at the place mentioned for such payment on the face of the debenture.

4. All interest, income, and repayments received by the Board under this Act shall, subject as hereinafter provided, be held by the Colonial Treasurer in trust to repay the principal and interest moneys secured by such debentures.

5. (1.) After providing for the payment of interest due on the debentures issued under the authority of this Act, and for the expenses of administration, all moneys received by the Board in respect of leases, and in repayment of advances with interest, or otherwise under this Act, shall be carried to a Redemption Account, and the said funds shall be applied in the following manner to the redemption of the debentures issued under this Act:—

- (a.) The debentures shall be redeemed by annual drawings in every year after the expiration of six years from date of first issue thereof.
- (b.) A day shall be appointed by the Colonial Treasurer for the said drawing, of which not less than fourteen days' notice shall be given by advertisement in two daily papers published in the State, and the said notice shall specify the day on which, and the hour and place at which, the drawing will take place, and the nominal value of the debentures to be redeemed at that drawing.
- (c.) On the day and at the hour and place so specified the Colonial Treasurer shall, in the presence of any debenture holders who may think fit to attend, draw by lot out of the whole number of debentures that have been in circulation six years, debentures of the nominal value specified in the said notice.
- (d.) The Colonial Treasurer shall thereupon declare the distinguishing numbers of the debentures drawn for redemption, and shall, as soon as possible, give notice thereof in two daily papers published in the State; and the principal moneys secured by the said debentures so distinguished, together with the interest due thereon, shall be payable on demand to the holders thereof, at the Treasury, on the day on which the then current half-year's interest is payable.

(2.) The moneys standing to the credit of the Redemption Account shall be invested by the Colonial Treasurer in such securities as trust funds may be lawfully invested by trustees, and in the meantime shall bear interest at a rate to be fixed from time to time by the Governor.

(3.) Except as herein provided it shall not be necessary to contribute to any sinking fund in respect of the debentures issued under the authority of this Act.

(4.) So far as the funds applied to the execution of this Act are moneys appropriated by Parliament for the purpose, a proportionate part of the moneys for the time being standing to the credit of the Redemption Account shall be allocated by the Governor to such moneys appropriated by Parliament as aforesaid; and the interest on, and contribution to the sinking fund in respect of, such moneys appropriated by Parliament as aforesaid, paid from time to time out of Consolidated Revenue, shall be re-imbursed out of the Redemption Account accordingly.

6. From and after the day appointed for the repayment of any debentures, all interest on the principal moneys secured thereby shall cease and determine, whether payment of the principal has or has not been demanded.

7. Upon the repayment of the principal moneys secured by the debentures which have been withdrawn from circulation in the manner aforesaid, the said debentures shall be forthwith forwarded by the Colonial Treasurer to the Auditor General, who shall, in the presence of the Colonial Treasurer, cause the said debentures to be destroyed.

8. Any such debentures may be negotiated, sold, or disposed of by the Colonial Treasurer, who may fix the limit of price below which the said debentures shall not be negotiated, sold, or disposed of.

9. (1.) In case any debenture shall by any accident be defaced, the Colonial Treasurer may, on such debenture being delivered to him, cause a new debenture to be issued and delivered to the holder of such defaced debenture in lieu of the debenture so defaced, and the debenture so defaced shall be cancelled by the Colonial Treasurer in the presence of the Auditor General.

(2.) The debenture so to be issued in lieu thereof shall have a like currency, and shall in all respects be subject to the same rules, regulations, and provisions as by this Act are declared of and concerning the debentures in substitution for which such new debenture shall be issued as aforesaid, and shall bear the same number, date, and amount, and bear the like interest as the debenture so cancelled bore respectively.

10. In case proof shall be made to the satisfaction of the Colonial Treasurer, by statutory declaration or otherwise, that any debenture has by casualty or mischance been lost, or destroyed, the Colonial Treasurer may cause the principal and interest moneys due upon such debenture so lost or destroyed to be paid, as the same respectively become due, to the person claiming to have been the last holder of the said debenture, in like manner as if the original debenture had been brought in and paid off:

Provided that the person so receiving the principal money and interest in respect of such debenture alleged to have been lost or destroyed shall give security to the satisfaction of the Colonial Treasurer against any lawful claim that may be made upon the Colonial Treasurer or the Government in respect of the debenture so alleged to have been lost or destroyed.