

## RURAL HOUSING (ASSISTANCE).

---

No. 26 of 1976.

---

**AN ACT to facilitate the provision of suitable housing on rural properties for farmers engaged in primary production; to constitute a Rural Housing Authority, and for purposes connected therewith.**

[Assented to 9th June, 1976.]

**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the 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 *Rural Housing (Assistance) Act, 1976.* Short title.

2. This Act shall come into operation on a date to be fixed by proclamation. Commencement.

Interpre-  
tation.

3. In this Act unless the context requires otherwise—

“advance” means an advance made by an approved lending institution to an approved farmer for the purposes of this Act;

“approved farmer” means a person in respect of whom a certificate under section 15 has been issued;

“approved lending institution” means an institution or body appointed to be an approved lending institution under section 11;

“Authority” means the Rural Housing Authority established under this Act;

“Fund” means the Rural Housing Fund established under this Act;

“guarantee” means a guarantee given pursuant to this Act by the Treasurer to an approved institution;

“holding” means—

(a) land of which an approved farmer is the holder of the fee simple estate;  
or

(b) land of which an approved farmer is the lessee under a conditional purchase lease or pastoral lease granted under the Land Act, 1933;

“section” means section of this Act.

Objects of  
Act.

4. The objects of this Act are to facilitate the purchase or building of suitable housing on rural properties for farmers engaged in primary production by—

(a) the establishment of the Authority;

- (b) the provision of guarantees by the Treasurer to approved lending institutions in respect of advances made by those institutions to approved farmers; and
- (c) the provision of funds to be lent to approved farmers, either through approved lending institutions or otherwise in accordance with this Act.

5. (1) For the purposes of this Act an authority to be known as the Rural Housing Authority shall be established. Rural  
Housing  
Authority.

(2) The Authority shall consist of four members of whom—

- (a) one shall be a person who has had comprehensive experience in the planning, provision and management of housing throughout the State;
- (b) one shall be a person who is or has been employed or engaged in a senior capacity by a lending institution the operations of which involve the making of loans to persons engaged in primary production within the State;
- (c) one shall be a person who is or has been engaged in rural industry within the State and whose experience in that industry fits him for appointment to the Authority; and
- (d) one shall be an officer in the Treasury Department of the Public Service of the State.

(3) The members of the Authority referred to in paragraphs (a), (b) and (c) of subsection (2) of this section shall—

- (a) be appointed by the Governor; and

- (b) unless sooner removed by the Governor for cause, be entitled to hold office for such terms not exceeding three years as are specified in the respective instruments of their appointments, but shall be eligible for re-appointment.

(4) The member of the Authority referred to in paragraph (d) of subsection (2) of this section shall be appointed by the Minister on the nomination of the Treasurer and the Minister shall terminate the appointment of any such member at the request of the Treasurer.

(5) The Governor may from time to time appoint one of the members referred to in paragraph (a), (b) or (c) of subsection (2) of this section to be the chairman of the Authority.

(6) The Minister may—

- (a) appoint any person qualified for appointment as a member of the Authority referred to in paragraph (a), (b) or (c) of subsection (2) of this section to be the deputy of such a member of the Authority;
- (b) appoint an officer in the Treasury Department of the Public Service of the State nominated by the Treasurer for that purpose to be the deputy of the member referred to in paragraph (d) of subsection (2) of this section; and
- (c) revoke the appointment of any person as a deputy of a member of the Authority,

and at any meeting of the Authority at which a member is not present, the deputy of the member may exercise all the powers and functions of the member.

(7) The members of the Authority, including the deputies of such members, other than any member or deputy who is an officer of the Public Service of the State, shall be paid such fees and allowances as are from time to time determined by the Governor.

6. (1) The Authority shall hold such meetings as are necessary for the purposes of its functions under this Act, but it shall hold not less than four meetings in any year. Meetings  
of the  
Authority.

(2) The Chairman may at any time convene a meeting of the Authority, and shall convene a meeting of the Authority when so directed by the Minister.

(3) At any meeting of the Authority—

- (a) the Chairman or his deputy, if present, shall preside, but if neither the Chairman nor his deputy is present, the members present at the meeting shall appoint one of their number to preside thereat;
- (b) three members form a quorum;
- (c) all questions arising at the meeting shall be decided by a majority of the votes of the members present;
- (d) each member shall be entitled to one vote; and
- (e) in the event of an equality of votes the question shall be deferred until a subsequent meeting of the Authority.

(4) Subject to this Act the Authority may regulate its procedure in such manner as it thinks fit, but shall cause minutes to be kept of its proceedings and shall, when so requested by the Minister, furnish to the Minister minutes of its proceedings at any meeting.

Authority  
to be  
body cor-  
porate.

7. (1) The Authority shall be—
- (a) a body corporate with perpetual succession and a common seal; and
  - (b) capable in law in its corporate name of suing and being sued and of doing and suffering all things that bodies corporate may do and suffer.

(2) All courts, judges and persons acting judicially shall take judicial notice of the seal of the Authority affixed to any document and shall presume that it was duly affixed.

Authority  
may engage  
services  
of other  
staff.

8. For the purpose of enabling the Authority to carry out its functions it may, with the consent of the Minister having the administration of an Act relating to a department of the Public Service, make use of the services of any officer or officers of that department.

Borrowing  
by  
Authority.

9. (1) The Authority shall have power to borrow money upon the guarantee of the Treasurer of the State for the purposes of carrying out its powers and functions under this Act.

(2) The Authority is authorized with the prior approval in writing of the Treasurer to borrow money upon such terms and conditions only as the Treasurer approves.

(3) The Treasurer is hereby authorized to so approve and to give the guarantee, including the guarantee of interest, in subsection (1), for and on behalf of the Crown in right of the State.

(4) Any moneys borrowed by the Authority under this section may be raised as one loan or as several loans and in such manner as the Treasurer may approve, but the amount of the moneys so borrowed shall not in any one year exceed in the aggregate such amount as the Treasurer approves.

(5) Before a guarantee is given by the Treasurer under this section, the Authority shall give to the Treasurer such security as the Treasurer may require and shall execute all such instruments as may be necessary for the purpose.

(6) The Authority shall use all moneys borrowed under the power conferred by this section for the purposes of carrying this Act into effect.

10. (1) For the purposes of this Act there shall be established and kept in an account in the Treasury a fund to be known as the Rural Housing Fund and that Fund shall, subject to any directions given by the Minister, be administered and controlled by the Authority.

Rural  
Housing  
Fund.

(2) There shall be paid into the Fund—

- (a) all moneys received from time to time by way of repayment of moneys advanced by the Authority to approved lending institutions or to approved farmers for the purposes of this Act;
- (b) moneys borrowed by the Authority under section 9; and
- (c) any other moneys that may be lawfully payable to the Authority or the Fund.

(3) There shall be paid out of the Fund all moneys approved by the Authority to be advanced to approved lending institutions for re-lending to approved farmers and all moneys advanced under section 18 and all moneys necessary to meet the obligations of the Authority in respect of moneys borrowed by it.

11. (1) Any institution or body which desires to be concerned with advancing loans for the purposes of this Act, including—

Approval of  
lending  
institutions.

- (a) any society registered under the Building Societies Act, 1920 or any Act in substitution therefor;
- (b) any bank or savings bank; or
- (c) any other institution the business of which includes the lending of moneys to persons desirous of purchasing or erecting dwelling houses,

may apply in writing to the Minister to become and be an approved lending institution for the purposes of this Act.

(2) If it appears to the Minister that an institution or body which has made an application under subsection (1) of this section is suitable to be an approved lending institution for the purposes of this Act, he may, on such terms and conditions as he imposes, appoint the institution to be an approved lending institution.

(3) Where it appears to the Minister that an approved lending institution has ceased to be suitable to continue to be an approved lending institution, he may, by notice in writing served on the approved lending institution, cancel its appointment as such, and thereupon—

- (a) any guarantee given to the institution or body shall cease to apply to or in respect of the repayment of any loan or advance and interest thereon made by the institution or body after service of the notice; and
- (b) the institution or body shall not be at liberty to, and shall not, because of the service of the notice of cancellation, call up or take any action to enforce repayment or accelerated repayment of any loan or advance or interest thereon made by it to an approved farmer prior to the notice being served, other than in accordance with the terms of the loan agreement entered into between the approved lending institution and the approved farmer as in force immediately prior to service of the notice,

but the provisions of this subsection shall not—

- (c) otherwise affect the operation of any guarantee given by the Treasurer to an approved lending institution prior to service of the notice;
- (d) otherwise affect the operation or terms of any debenture given by the institution or body to the Authority; and



- (e) affect the operation of section 17 in relation to any advance made by the institution or body to an approved farmer prior to the service of the notice.

12. (1) Subject to the provisions of this section, authority is hereby conferred on the Treasurer to execute on behalf of the Crown in right of the State an instrument of guarantee by which the Treasurer in that behalf in that right guarantees to indemnify an approved lending institution against any loss incurred by it in respect of any advance made by it under and for the purposes of this Act to an approved farmer.

Treasurer  
empowered  
to give  
guarantee  
to approved  
lending  
institution.

(2) The instrument of guarantee shall contain such provisions as, subject to the provisions of this Act, are agreed between the Authority and the approved lending institution and are approved by the Treasurer.

(3) The due payment of money payable by the Treasurer under a guarantee given or entered into by him under the authority of this Act is hereby guaranteed by the State.

(4) The Treasurer may from time to time by notice in the *Government Gazette* fix the maximum amount which the Treasurer may guarantee under this Act during any period specified in the notice.

13. The due payment of any money payable—

Appropriation.

- (a) by the Treasurer under a guarantee given or entered into by him under the authority of this Act; or
- (b) by the State pursuant to the guarantee given by section 9 in relation to the repayment of moneys borrowed by the Authority pursuant to that section—

shall be paid out of the money referred to in section 4 of the Audit Act, 1904 as “public moneys” and this section, without any other appropriation, is sufficient authority for making any such payments.

Applications  
for financial  
assistance.

14. (1) Any farmer (being a person whose sole or principal activity is the carrying on of farming operations on his holding) desirous of obtaining financial assistance to enable him to erect a new dwelling house or to effect additions or modernisation to an existing dwelling house, which is to be or is, as the case may be, situated on his holding, may apply to the Authority for approval as an approved farmer for the purposes of this Act.

(2) The Authority may require a farmer making an application under subsection (1) of this section to furnish to it such accounts, documents and other information relevant to his application as it thinks fit.

(3) A person who makes a false or misleading statement to the Authority in or in connection with an application under subsection (1) of this section, commits an offence.

Penalty: One thousand dollars.

Approval of  
applications.

15. (1) The Authority shall consider any application made to it under section 14 and may approve the application on such terms and conditions as it thinks fit or may refuse the application, but in any event, the Authority shall not approve the application unless—

(a) where the applicant is a natural person—  
the Authority is satisfied that the dwelling house in respect of which an advance is required is intended to be used by the applicant as a home for himself and his dependants;

(b) where the applicant is a body corporate—  
the Authority is satisfied that—

(i) the applicant is an exempt proprietary company within the meaning of section 5 of the Companies Act, 1961;

- (ii) the farming operations carried on by the applicant on the holding concerned are solely or principally performed for or on behalf of the applicant by one or more natural persons holding shares in the share capital of the applicant; and
- (iii) the dwelling house in respect of which the advance is required is intended to be used by the person or persons referred to in subparagraph (ii) of this paragraph as a home for him or them and his or their dependants.

(2) Where the Authority approves an application made under this section it shall issue a certificate to the effect that the farmer is an approved farmer for the purposes of this Act, and shall include therein any terms and conditions to which that approval is subject.

16. (1) Where—

- (a) an approved lending institution informs the Authority that it is prepared to make an advance to an approved farmer on condition that that advance would be guaranteed by the State under section 12 but subject to any relevant terms and conditions set out in the certificate of approval issued to that approved farmer;
- (b) the approved lending institution satisfies the Authority that it is not possible to obtain mortgage insurance on reasonable terms from a body carrying out the business of mortgage insurance in the State; and
- (c) the certificate issued under section 15 to the approved farmer was issued within the immediately preceding period of four months or such longer period as the Authority in any particular case allows,

Advances by approved lending institutions may be guaranteed.

the Authority may authorize the approved lending institution to make the advance to the approved farmer, and in that event the approved lending institution shall be indemnified, in accordance with section 12, against any loss incurred by it in respect of the advance.

(2) Where an approved lending institution makes an advance to an approved farmer pursuant to subsection (1) of this section, it shall secure the due repayment to it of the moneys so advanced, together with interest due thereon by the approved farmer by taking or effecting such security as is agreed by the Authority and the approved lending institution to be the most appropriate in the circumstances.

Special  
assistance.

17. (1) Where the Authority is satisfied that—

- (a) an approved farmer would be unable, by reason of his financial circumstances, to meet the usual repayment obligations of an approved lending institution which would arise from the making of an advance of the amount reasonably required to enable him to provide a satisfactory dwelling house on his holding; and
- (b) if the whole or part of the advance by the approved lending institution were to be made from funds provided to it by the Authority under terms which would permit more favourable repayment obligations than those referred to in paragraph (a) of this subsection, the approved farmer would be able to meet those repayment obligations,

the Authority may advance to the approved lending institution such amount as it thinks fit, but subject to—

- (c) the advance by the approved lending institution to the approved farmer being made on such terms and conditions as are agreed between the Authority and the approved lending institution;

- (d) the approved lending institution giving to the Authority a debenture in such terms as the Authority requires securing the repayment to the Authority of the amount advanced by it to the approved lending institution, together with interest due thereon; and
- (e) the approved lending institution securing the due repayment to it of the moneys advanced to the approved farmer together with interest due thereon, by taking or effecting such security as is agreed by the Authority and the approved lending institution to be the most appropriate in the circumstances.

(2) Where an advance has been made by an approved lending institution to an approved farmer of moneys wholly or partly provided by the Authority pursuant to this section, the financial circumstances of the approved farmer shall be reviewed from time to time by the Authority and—

- (a) if the Authority is of opinion that the approved farmer is able to meet higher repayment obligations than those currently provided under the advance to him it shall require the approved lending institution to repay to it the whole or such part of the amount originally provided by the Authority to the approved lending institution when the advance was first made to the approved farmer as the Authority specifies, and the approved lending institution shall comply with that requirement, but may make a corresponding adjustment to the repayment obligations of the approved farmer; and
- (b) if the Authority is of opinion that the financial circumstances of the approved farmer have deteriorated, it may (except where the whole of the amount advanced by the approved lending institution to the

approved farmer is derived from amounts advanced by the Authority to the approved lending institution for that purpose) advance a further amount to the approved lending institution, and in that event—

- (i) the approved lending institution shall adjust the repayment obligations of the approved farmer to such extent as is agreed between the approved lending institution and the Authority; and
- (ii) the approved lending institution shall give to the Authority a further debenture of the kind referred to in paragraph (d) of subsection (1) of this section.

(3) Where an advance has been made by an approved lending institution to an approved farmer of moneys wholly or partly provided by the Authority pursuant to this section, the holding to which the advance related shall not, without the consent in writing of the Authority, be transferred or otherwise disposed of until the approved lending institution has repaid to the Authority all moneys advanced to the approved lending institution by the Authority in connection with the advance, together with all interest payable thereon.

Authority may make advances direct to approved farmers in special circumstances.

18. (1) Where an approved farmer satisfies the Authority that—

- (a) he would be unable, by reason of his financial circumstances, to meet the usual repayment obligations of an approved lending institution which would arise from the making of an advance of the amount reasonably required to enable him to provide a satisfactory dwelling house on his holding;

- (b) if the whole or part of such an advance by an approved lending institution were to be made from funds provided to it by the Authority under terms which would permit more favourable repayment obligations than those referred to in paragraph (a) of this subsection, he would be able to meet such repayment obligations; and
- (c) for reasons unrelated to his financial circumstances, the approved lending institution from which he has sought an advance or from which he would ordinarily be expected to seek an advance is unwilling to make an advance to him, the whole or part of which would be made from funds provided to it by the Authority,

the Authority may advance to the approved farmer an amount not exceeding that reasonably required to enable him to provide a satisfactory dwelling house on his holding.

(2) Any advance made by the Authority pursuant to subsection (1) of this section shall be made on such terms and conditions as are agreed between the Authority and the approved farmer and the Authority shall secure the due repayment to it of the moneys so advanced together with interest due thereon by the approved farmer by taking or effecting such security as is the most appropriate in the circumstances.

19. A society registered under the Building Societies Act, 1920 or any Act in substitution therefor is by force of this section lawfully entitled to make an advance to an approved farmer where the society is indemnified under this Act against any loss incurred in respect of the advance, notwithstanding that, by virtue of the provisions of that Act, or any provision in the rules, articles or constitution of the society, such an advance would, for any reason or reasons, otherwise be unlawful or *ultra vires* the powers of the society.

Additional powers of building societies to make advances under this Act.

Authority  
to have  
access to  
certain  
documents,  
etc.

20. The manager, secretary, accountant or other executive or administrative officer of an approved lending institution or any bank at which any account, record or document of an approved lending institution is kept shall, whenever requested by the Authority to do so, make available to the Authority, or a person appointed in writing by the Authority, all documents and records, including records of accounts, which relate to or are connected with any advance, the subject of an indemnity given under this Act, and which are in the custody or under the control of the person or bank so requested, and permit the Authority or person so appointed to examine and take copies or extracts from them.

Penalty: Two thousand dollars.

Annual  
report and  
audit.

21. (1) The Authority shall, as soon as practicable after the thirtieth day of June in each year, prepare and furnish to the Minister a report in writing of its operations during the period of twelve months ending on that thirtieth day of June, together with full financial statements appertaining to those operations.

(2) Before furnishing its report and the financial statements to the Minister, the Authority shall submit the financial statements for examination and report by the Auditor General.

(3) The Minister shall cause the report of the Authority, the financial statements, and the Auditor General's report thereon to be laid before each House of the Parliament as soon as practicable after receiving them from the Authority.

Regulations.

22. The Governor may make regulations not inconsistent with this Act prescribing all matters that by this Act are contemplated, required or permitted to be prescribed.