

RURAL RELIEF FUND.

26° GEO. V., No. XVII.

No. 17 of 1935.

AN ACT to provide for a Fund to be called "The Rural Relief Fund" and to make provision for the administration of that Fund by trustees; to enable the trustees to issue stay orders to farmers where no voluntary arrangement has been come to between a farmer and his creditors under the Farmers' Debts Adjustment Act, 1930-1934; to amend the said Act, and for other relative purposes.

[Assented to 12th November, 1935.]

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 *Rural Relief Fund Act*, 1935. Short title.

2. In this Act, unless inconsistent with the context, the following terms have the following meanings:— Definitions.

"Crown" includes any body corporate or unincorporate constituted under the law of the Commonwealth or of the State whose funds have been provided wholly or in part by the Commonwealth or by the State or whose obligations are wholly or in part guaranteed by the Commonwealth or by the State, but does not include a municipal corporation or other local governing body, or a health board.

"Director" means the Director appointed for the time being under the Farmers' Debts Adjustment Act, 1930-1934.

“Farmer” means any person, including the legal personal representative of a deceased person or a trustee, who, being the owner or occupier of land, is engaged in rural industry.

“Fund” means the Rural Relief Fund constituted under this Act.

“Rural Industry” means the agricultural, horticultural, pastoral, grazing, and dairying industries carried on in the State, and without affecting the generality of the foregoing provisions, includes dairy farming, poultry farming, and bee farming, and also viticultural operations.

“Trustees” means the trustees of the fund appointed under the Act.

**Rural
Relief Fund.**

3. (a) There shall be a fund, to be kept in a special account at the Treasury, to be called “The Rural Relief Fund ”(hereinafter called “the Fund”).

(b) The Fund shall consist of any moneys provided by the Commonwealth for the purpose of rural relief.

**How Fund
controlled,**

4. (1.) The Fund shall be under the control of three trustees who shall be appointed by the Governor. One at least of such trustees shall be a farmer.

(2.) Two trustees shall form a quorum at any meeting. All or any of the powers of the trustees may be exercised at any duly convened meeting, but whenever the trustees present thereat are equally divided upon any question or matter, the determination thereof shall be postponed to a meeting at which all the trustees are present.

(3.) The Fund shall not be operated on except by order in writing signed by at least two of the trustees.

**Remunera-
tion of
trustees.**

5. (1.) The trustees shall be paid such remuneration as the Governor shall from time to time decide.

(2.) Such remuneration shall be charged on the consolidated revenue.

6. (1.) Where under the provisions of section eleven of the Farmers' Debts Adjustment Act, 1930-1934, as amended by this Act, a farmer or any creditor of a farmer, or the Director, has submitted a scheme which consists of or includes a proposal for the writing down or suspension or both the writing down and suspension of the debts and liabilities of the farmer, and an effective resolution sanctioning the scheme has not been passed under that section; then, if the trustees are of the opinion that—

Trustees may grant stay orders where a deserving farmer cannot make arrangement with his creditors.

(i) the farmer will, if a stay order is granted him, have a reasonable prospect of carrying on his business successfully or of making some arrangement or composition with some or all of his creditors which will enable him successfully to carry on his business; and that

(ii) the farmer in the light of the past conduct in farming operations is deserving of the protection of a stay order under this Act,

they may on application being made by the farmer or by any creditor of the farmer in the prescribed manner suspend any debts or specified debts or portion of any specified debts of the farmer for a period not exceeding three years, and for that purpose may issue a stay order which shall remain in force for the period of suspension, but otherwise shall have the same force and effect as a stay order granted under the provisions of the Farmers' Debts Adjustment Act, 1930-1934, as amended by this Act.

(2.) The trustees may extend the operation of any stay order from year to year, but so that the total period for which any stay order may be extended shall not exceed four years.

Extension of stay order.

(3.) The trustees may at any time cancel a stay order issued under this Act.

Trustees may cancel stay order.

(4.) Subject to the preceding subsection a stay order shall continue in operation notwithstanding the death, lunacy, or unsoundness of mind of the farmer in respect of whom it was granted.

Death or insanity of farmer does not affect stay order.

(5.) Notwithstanding any contract or agreement to the contrary no interest shall be chargeable on any debt or portion of a debt which the trustees decide shall not

Interest not to be charged or accerue on suspended debts.

bear interest while the same is subject to suspension under the provisions of any stay order issued under this Act.

When stay order ceases to operate proceedings may be continued.

(6.) (a) When a stay order has ceased to operate, any proceeding or process pending or in the course of being put into operation against the farmer or his estate or effects at the time when the stay order was made may, subject to any agreement made in the meantime between the farmer and any creditor or creditors of the farmer, be continued and proceeded with and in computing the time for taking any further step in connection therewith, no account shall be taken of the period which has elapsed since the making of the order.

(b) Such period shall not be taken into account in connection with any claim affected by the order for the purpose of any Statute of Limitation.

Consequential amendments of Farmers' Debts Adjustment Act.

(7.) Section eleven of the Farmers' Debts Adjustment Act, 1930-1934 is amended—

(a) by striking out the words "A farmer may at the time of making application for a stay order under this Act" at the commencement of subsection (1) and substituting the words:—

"A farmer or a creditor of a farmer may at the time of making application under section five to call a meeting of the creditors of the farmer";

(b) by adding the words "or the creditor of the farmer" after the word "farmer" wherever it occurs in subsection (2), and in line one of subsections (4), (5), (6), and (9) respectively;

(c) by striking out the words "of his debts and liabilities" wherever they occur in subsections (1), (4), and (9), and substituting the words "of the debts and liabilities of the farmer."

(8.) Section twelve of the Farmers' Debts Adjustment Act, 1930-34, is amended by adding thereto a further subsection as follows, to stand as subsection (5):—

(5.) Notwithstanding anything contained in this section the farmer shall be at liberty, until a receiver is appointed, to continue to operate upon his account at

any bank, whether such account is in credit or not, and a mortgagee holding at the date of the stay order a mortgage or other security over the real or personal estate of the farmer to secure advances and/or further advances shall be at liberty, until a receiver is appointed, to continue to make advances to the farmer, on current account or otherwise, on the security of such mortgage or security, up to the maximum amount covered thereby to the same extent and in all respects as if no such stay order had been made.

7. Subsection (1) of section twelve of the Farmers' Debts Adjustment Act, 1930-1934, is amended—

- (a) by striking out the words, at the beginning of the subsection, "The farmer shall not while subject to this Act" and substituting the words "After the appointment of a receiver and during the continuance of the receivership no farmer shall."
- (b) by inserting after the word "effects" in the fifth line the words "subject to the receivership."

8. It shall be the duty of the trustees to consider applications for advances from the Fund to farmers who are under the operation of a stay order issued under this Act or under the Farmers' Debts Adjustment Act, 1930-1934, and who desire to utilise such advances in order to make compositions or schemes of arrangement with their creditors.

Administra-
tion of the
fund,

9. All applications for advances under this Act shall be placed before the Director in the first instance.

How applica-
tions are dealt
with in first
instance.

The Director shall, after calling for and obtaining such information as he thinks advisable, submit the application to the trustees.

The trustees, in considering any such application, may call for any further information they desire.

To assist and advise farmers in preparing and making applications, and preparing compositions or schemes of arrangement with creditors, the trustees shall appoint a requisite number of persons throughout the South-West Division as described in the Land Act, 1933, and in such other localities as they deem necessary, and such persons when appointed shall be called district debt adjustment officers.

Where the farmer has been so assisted, the application shall be transmitted to the Director by the district debt adjustment officer.

The trustees may, with the consent of the Minister administering any department of the public service, or with the consent of the Commissioners of the Agricultural Bank of Western Australia, make use of the services of any person employed in the department, or by the Commissioners, for the purpose of carrying out the provisions of this section, so far as they relate to district debt adjustment officers.

Powers of
Trustees in re-
lation to
making
advances.

See the Com-
monwealth
Act, No. 23
of 1935.

10. Subject only to the provisions of this section, the trustees shall have unfettered discretion in regard to the advancing of funds to farmers for the purpose of this Act, but no advance shall be made to any farmer—

- (a) who has not, in the opinion of the trustees, a reasonable prospect of carrying on his farming operations successfully if assisted under this Act;
- (b) who has shown by his past conduct in regard to farming operations that he is undeserving of such assistance;
- (c) unless, in the opinion of the trustees, some discharge of the debt or debts in respect of which such advance is made is necessary to ensure that the farmer will continue to carry on farming operations, and to give him a reasonable prospect of carrying on those operations successfully;
- (d) for the payment of a debt or a composition on any debt due to the Crown;
- (e) for the payment of a debt, or a composition on a debt, which is barred by any Statute of Limitation.

Form of
relief.

11. (1.) The relief granted to any farmer shall be in the form of an advance, repayable by instalments over a period of not less than twenty years, but the payments shall not commence earlier than three years from the making of the advance. The advance shall be secured over all the assets of the farmer (including

after acquired assets) by a mortgage or a charge in favour of the Minister in the prescribed form: Provided that the farmer may at his option repay the advance or any instalment thereof at any time before it falls due and notwithstanding that the said period of three years has not elapsed; but this section shall not be deemed to confer any priority over any other encumbrances existing at the date of the stay order.

(2.) The trustees may consent in writing to the postponement of their security in favour of any other encumbrancer on such terms and conditions as the trustees may think fit.

12. (a) It shall not be necessary to register any mortgage or security taken pursuant to this Act under the Transfer of Land Act, 1893, or the Deeds Registration Ordinance, 1856 (19th Victoria, No. 14), or any other enactment relating to the registration of land titles or dealings in land, or the Bills of Sale Act, 1899, and its amendments, but a notification in the prescribed form shall be sent by the Director to the Registrar of Titles, the Registrar of Deeds, and the Registrar of the Supreme Court, who shall record the same in the prescribed manner.

Registration
of security
not necessary.

(b) The receipt of such notification by the Registrar of Titles, the Registrar of Deeds, or the Registrar of the Supreme Court shall be deemed to be sufficient registration for the purpose of the said Acts.

(c) Every such mortgage shall be kept in the office of the trustees, and shall be open to inspection by any member of the public during office hours on payment of the prescribed fee.

13. All advances repaid from time to time under this Act shall be paid into the Fund at the Treasury, and may then be re-employed under the provisions of this Act in granting assistance to farmers.

Repayments
to go into
the Fund.

14. Not later than the fourteenth day of July in each year the trustees shall submit to the Minister, for presentation to Parliament, a report of their operations under this Act during the preceding twelve months.

Annual
report.

Funds for
administra-
tion.

15. The funds necessary for the administration of this Act shall be such as may from time to time be appropriated by Parliament; but no portion of the Fund shall be used for the payment of expenses in connection with such administration.

Power to ad-
minister
oaths, etc.

16. For the purpose of the Act—

- (a) the trustees may summon and compel the attendance of any person or persons before them, in the prescribed manner, to give evidence and produce any documents for their inspection, and may exercise in that regard all the powers of, and be entitled to all immunities of justices in petty sessions;
- (b) administer oaths and affirmations to any such person or persons.

Regulations.

17. The Governor may make regulations for prescribing any matters which, in the opinion of the Governor, are necessary or convenient to be prescribed for the carrying out of the provisions of this Act, and may prescribe penalties for breaches of any of the provisions of the said regulations, provided that such penalties shall not exceed the sum of twenty pounds.