

AGRICULTURAL BANK.

25° GEO. V., No. XLIV.

No. 45 of 1934.

AN ACT to consolidate and amend the law relating to the Agricultural Bank of Western Australia ; to re-constitute that body under the title Commissioners of the Agricultural Bank of Western Australia ; to transfer to the new body the administration of certain Acts relating to advances to persons engaged in Rural Industry, and for other relative purposes.

[Assented to 5th January, 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 *Agricultural Bank Act*, Short title. 1934, and shall come into operation on a date to be fixed by proclamation.

2. This Act is divided into parts and divisions as Arrangement of Act. follows:—

PART I.—PRELIMINARY (Sections 3 and 4).

REPEAL OF CERTAIN ACTS (Section 3).

DEFINITIONS (Section 4).

PART II.—THE COMMISSIONERS: CONSTITUTION AND
POWERS OF THE COMMISSIONERS (Sections 5
and 6).

Division 1—Constitution of new Body (Section 5).

Division 2.—Powers of Commissioners (Section 6).

PART III.—FINANCE—(Sections 7 to 30).

*Division 1.—Financial adjustment of Liabilities taken
over* (Sections 7 to 9).

Funds—Parliamentary Appropriation
(Section 10).

Borrowing Powers—Debentures (Sections
11 to 29).

Division 2.—Assets (Section 30).

PART IV.—ADMINISTRATION (Sections 31 to 71).

Division 1.—Staff (Sections 31 to 36).

*Division 2.—Administration of certain Acts trans-
ferred to Commissioners* (Section 37).

*Division 3.—Applications for Advances—Form and
extent of Security* (Sections 38 to 54).

Division 4.—Enforcement of Securities (Sections 55
to 62).

*Division 5.—Indebtedness under old Securities to
Bank or to transferred Activities—
Suspending payment of Indebtedness
of Borrowers—Writing down Value of
overcapitalised Properties—Consolida-
tion of Securities* (Sections 63 to 67).

Division 6.—Accounts and Audit (Sections 68 to 71).

PART V.—OFFENCES AND PENALTIES (Section 72).

PART VI.—REGULATIONS (Section 73).

PART VII.—MISCELLANEOUS (Section 74).

FIRST SCHEDULE.—REPEALED ACTS.

SECOND SCHEDULE.—COVENANTS AND PROVISOS TO BE
IMPLIED IN CERTAIN MORTGAGES.

PART I.—PRELIMINARY.

3. The Acts mentioned in the First Schedule are hereby ~~repealed~~ ^{Repealed Acts.}

4. In this Act the following terms, unless inconsistent with ^{Definitions.} the context, shall have the following meanings, namely:—

“Advance” includes any monetary accommodation, or the amount of any accommodation furnished in money’s worth or goods, and any liability undertaken on behalf of a borrower either immediately or under the terms of any guarantee or indemnity.

“Bank” means the Agricultural Bank of Western Australia as established under the Agricultural Bank Act, 1906, and its amendments.

“Borrower” means any person under any liability (immediate or contingent) for the payment of any sum of money to the Commissioners of the Agricultural Bank of Western Australia under the provisions of this Act.

“Commissioners” means the body corporate styled the Commissioners of the Agricultural Bank of Western Australia constituted under the provisions of this Act.

“Minister” means the Minister for the time being charged by the Governor with the carrying out of any duties or powers vested in the Minister under this Act.

“Repealed Acts” means the Acts specified in the First Schedule to this Act.

“Rural industry” includes the agricultural, horticultural, pastoral, grazing, and dairying industries carried on in the State, and such other industries carried on in the State as the Governor may from time to time by proclamation declare to come within the definition of rural industry.

“Security” includes a statutory lien or charge.

“Transferred activities” means the several activities the administration of which is transferred to the Commissioners under Division 2 of Part IV. of this Act.

PART II.—THE COMMISSIONERS : CONSTITUTION AND POWERS OF THE COMMISSIONERS.

Division 1.—Constitution of new Body.

Commissioners of the Agricultural Bank of Western Australia.

5. (a) A body corporate is hereby constituted under the name of the Commissioners of the Agricultural Bank of Western Australia.

A body corporate.

(b) The Commissioners shall have perpetual succession and a common seal, and shall be capable of holding and acquiring real and personal property; of suing and being sued; and of doing and suffering all things which bodies corporate may by law do or suffer.

Three members appointed by Governor.

(c) The Commissioners shall consist of three members; one of such members shall be the Under Treasurer *ex officio* or his deputy; the remaining two members shall be appointed by the Governor, and shall be persons who in the opinion of the Governor have a sound knowledge of the rural industries of the State and are suited to control the administration of the business of the Commissioners.

The Governor shall appoint one of the members to be chairman.

Tenure of office : 7 years.

(d) Subject as hereinafter mentioned the two members appointed by the Governor shall hold office for the term of seven years from the date of their appointment, and at the expiration of his or their term of office shall be eligible for re-appointment for a like term.

Chairman's deliberative and casting vote.

(e) The chairman shall have a deliberative as well as a casting vote.

Quorum.

(f) Two members shall form a quorum.

Remuneration of members.

(g) The members shall be paid such remuneration as may be fixed by the Governor from time to time, and such remuneration shall be paid out of the consolidated revenue.

Members must give whole attention to business ;

(h) The two members appointed by the Governor shall devote the whole of their time and attention to the business of the Commissioners, and the Under Treasurer or his deputy shall attend and take part in the meetings of the Commissioners.

Compare 15 of 1906, s. 13.

(i) No person shall be qualified to hold office as a member while he is or if he becomes an officer of any bank, firm, or institution which carries on the business of making

advances on the security of any lands used in connection with rural industry in Western Australia.

(j) The Governor may suspend any member appointed by him at any time on grounds of misbehaviour or incompetence, or if in the opinion of the Governor any such member becomes incapable of carrying out his office: Provided that—

Suspension of member by Governor for misbehaviour or incompetence.

(i) a statement of the grounds of such suspension shall be laid by the Minister before both Houses of Parliament within seven days of such suspension, if Parliament is then in session and actually sitting, or if Parliament is not then in session or actually sitting, within seven days after the commencement of the next session of Parliament or of the next sitting;

but the Minister must put grounds before Parliament.

(ii) if within fourteen sitting days after such statement has been laid before each House respectively each House passes a resolution that the member be dismissed from office, he shall be deemed to have been dismissed from office as from the date of such suspension, but in default of such resolutions being duly passed the suspended member shall be restored to office as from the date of his suspension.

Unless both Houses confirm suspension member is restored.

(k) A member shall be deemed to have vacated his office if he—

Member automatically vacates if:

(i) commits a breach of the provisions of paragraphs (h) or (i) of this section; or

neglects business of Commissioners, etc.;

(ii) becomes bankrupt, or takes any relief under the law relating to insolvent debtors; or

becomes bankrupt;

(iii) absents himself from the business of the Commissioners for more than two weeks without the approval of the Governor in writing; or

is absent without leave of Governor;

(iv) becomes insane or incapable of managing his affairs; or

becomes insane, etc.;

(v) has any direct or indirect pecuniary interest in any agreement with the Commissioners otherwise than as a member of and in common with the other members of an incorporated company consisting of at least twenty members.

has an interest in contract with Commissioners.

(l) A member may resign his office by notice in writing addressed to the Governor.

Resignation.

Division 2—Powers of Commissioners.

6. Subject to this Act the Commissioners shall exercise the following powers and authorities, namely:—

Take over the Bank.

(a) to take over and assume the conduct of the business formerly carried on by the Bank.

Deal with advances in connection with rural industry

(b) to consider and determine applications for advances under this Act, and to make advances to persons engaged in rural industry subject to the prescribed security;

Enforce securities, including existing securities to Bank, L.A. Board, Discharged Soldiers' Land Settlement Board, etc.

(c) in its corporate name to enforce payment of moneys or securities for money (including any statutory lien or security) in favour of the Commissioners, and to enforce payment of any moneys or securities for money (including any statutory lien or security) in favour of—

(i) the Bank; or

(ii) any of the transferred activities; or

(iii) vested in the Finance and Development Board and vested in the Commissioners by virtue of this Act;

and for that purpose to exercise in relation thereto, in addition to any powers conferred by this Act, all the rights, powers and remedies conferred on any person or body corporate under the repealed Acts, the Industries Assistance Act, 1915-1931, the Discharged Soldiers' Settlement Act, 1918, and amendments, the Group Settlers' Advances Act, 1925, and the Wire and Wire Netting Act, 1926.

Takes over special settlements.

(d) in its corporate name take over and assume the administration of any special settlements, or special activities in connection with rural industry which the Governor may from time to time entrust to the Commissioners with the approval of the Commissioners.

See Part III., Div. 1, ss. 11-29 of this Act.

(e) to borrow moneys as hereinafter mentioned with the consent of the Governor on the security of the funds, undertaking and revenue of the Commissioners;

See Part IV., Div. 1, ss. 31-36 of this Act.

(f) engage and dismiss officers and servants for the purpose of carrying out the provisions of this Act;

- (g) to inquire into the suitability of any district or of any lands for rural industrial development and as to whether it is advisable to make advances on the security thereof under this Act; Inquire as to suitability of lands for rural industry.
- (h) with the approval of the Treasurer to suspend or postpone payment and, with the approval of the Treasurer and the consent of the Governor, to release payment of the whole or any portion of the indebtedness of any borrower from the Bank or any of the transferred activities; and in relation thereto to join in and be bound by any mutual scheme, arrangement or composition between any such borrower and his creditors for the adjustment of his affairs, whether made voluntarily or under the provisions of any Act of Parliament; See Div. 5 of Part IV., ss. 63-67. of this Act.
- (i) to appoint valuers as hereinafter mentioned, with general or local knowledge, for the purpose of advising the Commissioners in regard to any application to suspend, postpone or release payment of any amount owing under any advance; See Div. 5 of Part IV., s. 66 of this Act.
- (j) to expend moneys in order to provide suitable premises in which to carry on the business of the Commissioners or as residential quarters for officers; Procure establishment and provide premises for officers.
- (k) generally to exercise all such other general or specific powers and authorities as are conferred on the Commissioners by this Act; Generally.
- (l) whenever the Commissioners in the course of carrying out the powers and functions vested in the Commissioners by this Act deem it necessary to hold any inquiry or make any investigation into any matter whatsoever, the Commissioners may compel the attendance of witnesses and take evidence on oath or affirmation. Powers to take evidence on oath.

PART III.—FINANCE.

Division 1.—Financial Adjustment of Liabilities taken over.

7. The Commissioners shall take over and assume the liability for all obligations of the Bank as existing at the time of the commencement of this Act. New body takes over liabilities of Bank

8. (a) From and after the commencement of this Act, the aggregate indebtedness of the Bank to the Treasury taken over by the Commissioners may be reduced by the Gov- Governor may grant relief from liability to Treasury.

error on the recommendation of the Treasurer, from time to time, by such sum or sums as after investigation and audit represent lost capital of the Bank.

(b) The Governor may, on the recommendation of the Treasurer, suspend the liability of the Commissioners to the Treasury in respect of any sum or sums forming part of such aggregate indebtedness, and grant the Commissioners relief from interest payment to the Treasury during such period of suspension, or grant the Commissioners relief from interest payments on any sum or sums forming part of such aggregate indebtedness, whether payment of such sum or sums is suspended or not: provided that nothing herein contained shall be construed as relieving the Commissioners from making any sinking fund payments which the Commissioners are bound to make under the next section.

9. (1) Subject to the making of any sinking fund payments at the times and in manner prescribed by the Finance and Development Board Act, 1930, to provide for the redemption of any loan made to the Finance and Development Board, and to the due payment of all moneys borrowed by that Board under the said Act, all moneys received by the Commissioners for or in the administration of this Act shall be paid to a special account of the Commissioners to be kept at the Treasury, and from that account the Commissioners shall draw all sums needed for the conduct of the operations of the Commissioners from time to time.

(2) After the commencement of this Act no further moneys shall be borrowed by the said Board.

Funds—Parliamentary Appropriation.

10. The funds of the Commissioners for the purpose of the administration of this Act shall be such moneys as are from time to time appropriated by Parliament for that purpose and such other moneys as the Commissioners may borrow under and subject to the provisions of this Act.

Borrowing Powers: Debentures.

11. (1.) Subject to and without affecting the priority of any charge created by the Finance and Development Board under the Finance and Development Board Act, 1930, the Commissioners may, with the approval of the Governor, borrow money for the purpose of raising funds for the adminis-

All moneys received or disbursed to be from special Treasury account; saving special obligations in connection with borrowing by Finance and Development Board

Finance and Development Board not to borrow any more moneys.

Funds—Parliamentary appropriation.

Power to raise money by debentures subject to protection of all loans raised by Finance and Development Board.

tration of this Act not exceeding one million pounds, or such further sum as Parliament may authorise under the provisions of the next subsection.

(2.) The Commissioners may, when furnishing their annual report to the Minister under the provisions of section seventy of this Act, make application for leave to borrow, under the preceding subsection, a specified sum of money in excess of the sum of one million pounds therein mentioned, and authority may then be given to the Commissioners by Act of Parliament to borrow such specified sum or such other sum as Parliament may think fit.

12. All money borrowed by the Commissioners may be raised by the issue of debentures payable to bearer, with or without interest coupons attached, and charged and secured upon the assets and revenue of the Commissioners.

Borrowed money
a charge on assets
and revenue.

13. Every debenture shall be in the prescribed form, sealed with the seal of the Commissioners, and numbered consecutively; and every debenture with interest coupons (if any) annexed thereto, and every coupon, after being detached therefrom, shall pass by delivery and without any assignment or indorsement; and the bearer of every debenture or detached interest coupon shall have the same rights as if he were expressly named as payee therein.

Form of debentures.

14. Before the raising of any loan by the Commissioners is approved by the Governor, a proposal, showing the term and particulars of the loan and the rate of interest to be paid thereon, shall be submitted by the Commissioners to and be approved by the Treasurer.

Proposal to be put
up.

15. So long as any debentures remain outstanding, the Commissioners shall in each half-year ending respectively on the thirty-first day of December and the thirtieth day of June, appropriate out of the funds of the Commissioners a sum equal to the interest due on such debentures calculated up to the end of such half-year.

Interest appro-
priations.

16. (a) The Commissioners shall in every half-year, after the issue of debentures for any loan, pay a sum to a special account to be kept at the Treasury in the name of the Commissioners and the Treasurer (being such percentage of the principal sum secured by such debentures as is named therein as will be sufficient to liquidate the loan at date of

Sinking fund
payments.

maturity) to be invested in the name of the Commissioners and the Treasurer and to accumulate at compound interest for the redemption of such debentures.

(b) If at the maturity of any loan there is any balance after liquidating the loan that balance shall be transferred to the general administration account of the Commissioners and may be used accordingly.

Purchase of debentures

17. Any moneys required to be invested in the formation of a sinking fund to liquidate any loan may in lieu thereof be invested in the purchase of any of the debentures by the issue and sale of which the loan was raised; and the debentures with the coupons belonging thereto so purchased shall be forthwith cancelled.

Sinking fund payments continue notwithstanding purchase of debentures.

18. During the period for which debentures purchased by the Commissioners under the authority of the preceding section would have been current if the same had not been so purchased, a sum equal to the half-yearly interest and contribution to the sinking fund which such debenture would have carried or entailed if not so purchased shall be provided by the Commissioners half-yearly and invested as aforesaid and paid to the credit of the sinking fund.

Loans charged on sinking fund in order of priority.

19. The accumulated sinking fund formed for the redemption of any loan shall be charged in priority with payment, at their due date, of the principal owing on or secured by the debentures in respect of which such sinking fund was created. Provided that the accumulated sinking fund in respect of any debentures which are redeemed by the issue and sale of other debentures shall be held or used on account of the sinking fund for such other debentures:

Provided also, that nothing herein contained shall affect the obligation to provide the prescribed sinking fund for such other debentures.

Place of payment.

20. All debentures when due, and interest payable in respect of debentures, shall be payable out of the funds of the Commissioners at the place mentioned for such payment on the face of the debentures.

State guarantees borrowings.

21. The payment of all moneys borrowed by the Commissioners is guaranteed by the State.

22. The Governor may authorise the sale or disposal of any debentures beyond the limits of the State, and, in such case, the Commissioners may appoint agents to negotiate such sale on behalf of the Commissioners.

Debentures may be disposed of beyond State.

23. The Commissioners, with the approval of the Governor, may exercise the following powers and authorities or any of them:—

Power to create new debentures.

(a) Create and issue debentures in exchange for the securities held for any loan or loans previously raised by the Commissioners;

Issuing fresh debentures in exchange for old debentures.

(b) Create and sell any such debentures for the purpose of raising money for redeeming any outstanding loans and paying any expenses incurred in the creation of debentures, and otherwise carrying out the provisions of this Act on such conditions as the Commissioners may determine;

Paying off old debentures by the issue of fresh debentures.

(c) Any such conversion may be effected either by arrangement with the holders of existing securities or by the purchase thereof out of moneys raised by the sale of debentures, or partly in one way and partly in the other;

Power to make arrangements with holders.

(d) Any power conferred by this section may be exercised from time to time, and the Commissioners, with the approval of the Governor, may as often as occasion shall require, alter any conditions, provided that no contract or engagement previously entered into shall be prejudicially affected thereby.

Variation of conditions.

24. The Commissioners shall keep, or cause to be kept, in one or more books, a register of debentures, and within a reasonable time after the sale of any debenture, shall cause to be made an entry in the register specifying the number, date, and amount of the debenture; and the register may be inspected at all reasonable times by any person on payment of the prescribed fee for each inspection. Such register shall be evidence of any matters required or authorised by the Act to be entered therein.

Register to be kept.

25. Any person shall be entitled to obtain from the Commissioner copies or extracts, certified by the officer in whose custody any register is kept, to be true copies of or extracts

Search

from such register, upon payment of the prescribed fee; and any copy or extract so certified shall be admissible in evidence.

No notice of trust.

26. No notice of any trust, expressed or implied or constructive, shall be received by the Commissioners, or by any officer of the same, in relation to any debentures issued under this Act.

Lender not bound to see to application of moneys

27. A person advancing money and receiving in consideration thereof any debenture issued under this Act shall not be bound to inquire into the application of the moneys advanced, or be in any way responsible for the non-application or misapplication thereof.

Defaced debenture.

28. (1.) In case any debenture shall by accident be defaced, the Commissioners may from time to time, on such debenture being delivered to the Commissioners, cause a new debenture to be issued and delivered to the holder of such defaced debenture in lieu thereof, and thereupon the debenture so defaced shall be cancelled.

(2.) The debenture so to be issued in lieu of the defaced debenture 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 debenture 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 said defaced debenture bore respectively.

Debentures lost or destroyed, etc.; new debentures may be issued in lieu.

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

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

Division 2.—Assets.

30. There shall be vested in the Commissioners by force of this Act—

Assets vested in
Commissioners

- (a) all assets, funds, or securities which by virtue of section twelve of the Finance and Development Board Act, 1930, are at the commencement of this Act vested in the Finance and Development Board, and all assets, funds, or securities vested in or held by the Bank, the Discharged Soldiers' Land Settlement Board, or the Industries Assistance Board in trust for the said Finance and Development Board subject, however, to any existing liability of the last-mentioned Board for any moneys borrowed and to the performance by the Commissioners of all obligations imposed on the said Board under that Act;
- (b) the amounts due to the Minister for Lands in respect of group settlement advances made by the said Minister under the provisions of section five of the Group Settlers' Advances Act, 1925;
- (c) the amounts due by settlers to the Crown or any agency of the Crown for advances and interest in connection with any special settlements, the administration of which is undertaken by the Commissioners with the consent of the Governor;
- (d) all sums of money and all securities for money vested in the Minister for Lands under the Wire and Wire Netting Act, 1926.

PART IV.—ADMINISTRATION.

Division 1.—Staff.

31. All officers of the Commissioners shall, as regards engagement and dismissal, and the terms and conditions of their service, be under the immediate control of the Commissioners and the provisions of the Public Service Act, 1904, and its amendments except as hereinafter mentioned, shall not apply.

Staff not under
Public Service Act,
1904

32. The Commissioners may engage those officers in the employ of the Bank at the commencement of this Act whose services the Commissioners desire to retain, and the remaining officers of the Bank who were formerly under the Public Service Act, 1904, and its amendments shall continue to be subject thereto and remain under the control of the Public Service Commissioner.

Members of staff
engaged and sub-
ject to dismissal by
Commissioners.

Preservation of
existing rights.

33. Any officer of the Bank so engaged by the Commissioners shall be entitled to receive any leave and any payment, pension, or gratuity as if he had remained an officer within the Public Service Act, 1904, or the Superannuation Act, 1871, as the case may be, and any amendments thereof from time to time, and for such purposes his service under the Commissioners shall be deemed to be service for the purpose of such Acts.

Protection in case
office abolished.

34. Any officer of the Public Service in the employ of the Bank at the commencement of this Act, and engaged by the Commissioners shall, subject to the provisions of the Public Service Act, 1904, and its amendments, in the event of his office as an officer of the Commissioners being discontinued or abolished, be eligible for and shall be appointed to any vacancy in the division of the Public Service from which he was transferred, and which is not lower in classification and salary than that which he held at the date of his appointment as an officer of the Commissioners.

No member of staff
to obtain an
advance.

35. No officer or servant of the Commissioners, or wife of any officer or servant of the Commissioners, shall be eligible to obtain any advance under this Act.

Officer to be
appointed in con-
nection with dis-
charged soldiers.

36. The Commissioners shall appoint, and at all times have upon the staff of the Bank, an officer who is a discharged soldier within the meaning of the Discharged Soldiers' Settlement Act, 1918, to assist the Commissioners and other persons who are discharged soldiers within the meaning of the said Act in transactions between the Bank and such persons.

*Division 2.—Administration of Certain Acts Transferred
to Commissioners.*

Administration of
certain Acts trans-
ferred to Com-
missioners.

37. (a) After the passing of this Act the administration of the following Acts shall, to the extent hereinafter mentioned, be transferred to the Commissioners, that is to say:—

The Industries Assistance Act, 1915-1931;

The Discharged Soldiers' Settlement Act, 1918, and its amendments;

The Group Settlement Act, 1925;

The Group Settlers' Advances Act, 1925;

The Wire and Wire Netting Act, 1926.

(b) Subject to this Act, and without affecting any powers conferred on the Commissioners by this Act, the Commissioners shall exercise, in the corporate name of the Commissioners, all powers, functions, and rights vested in or exercisable by—

Commissioners exercise powers of the several bodies corporate or Ministers formerly controlling transferred activities.

- (i) the Industries Assistance Board under the Industries Assistance Act, 1915-1931;
- (ii) the Discharged Soldiers' Land Settlement Board under the Discharged Soldiers' Settlement Act, 1918, and amendments;
- (iii) the Bank under the Group Settlement Act, 1925, and by the Minister for Lands under the Group Settlers' Advances Act, 1925;
- (iv) the Minister for Lands under the Wire and Wire Netting Act, 1926.

(c) The control of any register of debentures or inscribed stock, and all duties imposed on the Finance and Development Board under the Finance and Development Board Act, 1930, in respect of any moneys borrowed by that Board and owing at the commencement of this Act shall devolve on the Commissioners by virtue of this Act.

Division 3.—Applications for Advances—Form and Extent of Security.

38. Subject to this Act the Commissioners may make advances to any person engaged in rural industry on the security of any lands owned and used or intended to be used by him in such industry—

Power to make advances—
and see Sections 40 and 42.

- (a) in order to enable such person to effect permanent improvements on such lands so as to render the same productive or more productive in such industry; or
- (b) to enable him to buy machinery, stock and/or plant to work the said lands; or
- (c) to enable him to use or put the said lands to better use or advantage in any other branch of rural industry than that in which he has been previously engaged; or
- (d) to enable him to erect a dwelling-house thereon; or
- (e) for any other purpose where, in the opinion of the Commissioners, it is necessary or desirable to make an advance in order to conserve or protect any security of the Commissioners.

for improvement or to increase production;

machinery, stock and plant;

to enable applicant to use lands for other rural purposes;

dwelling-house.

to protect security.

Form of application.

39. Every application for an advance shall be in the prescribed form.

Persons over 16 may obtain advances—

40. Any person over the age of sixteen years who is the owner of an estate or interest in any lands, may make application for an advance under this Act, and, if such advance is granted to him, shall be capable of mortgaging his lands and contracting with the Commissioners to the same extent as if he were of full age.

Commissioners must be satisfied as to certain conditions before making advances, i.e., purpose—

41. Before making any advance the Commissioners shall be satisfied—

- (a) that the advance is required for all or any of the purposes set out in section thirty-seven;
- (b) that the applicant has reasonable prospects of developing his lands successfully; and that he is deserving of such advance.

prospect of success of applicant and whether deserving of advance.

Security—

must be first mortgage of land;

42. No advance shall be made—

- (a) except on the security of a mortgage or mortgages to the Commissioners of the land and improvements with respect to which such advance is made, with or without such additional security, as the Commissioners may think fit;
- (b) on any property which is encumbered by any previous mortgage or charge other than a mortgage or charge under this Act, or a mortgage or charge to the Bank, or to any of the transferred activities, or a mortgage or charge in favour of the Crown, but a second mortgage may be taken as collateral security;
- (c) where an advance is required to enable the applicant to purchase machinery, stock, and/or plant, or to excavate a dam to an amount in excess of the value or reasonable cost of such machinery, stock, and/or plant or dam, and where an advance is required for improvements other than for the excavation of a dam as aforesaid, to an amount in excess of 70 per cent. of the reasonable cost of the improvements proposed to be carried out;
- (d) in excess of the sum of two thousand pounds, but where the applicant is already indebted to the Bank or to any of the transferred activities, he shall be eligible only to receive advances equal to

for improvements must not exceed 70 per cent of cost;

for stock and plant not to exceed value

limit of advances £2,000.

the amount (if any) by which the sum of two thousand pounds exceeds his said indebtedness: provided that, where the Commissioners are of opinion that it is necessary to exceed such limit to enable a borrower already indebted to the Bank or to any of the transferred activities—

- (i) to put his lands to better advantage in some branch of rural industry other than that in which such lands have been previously used, and the Commissioners are satisfied that the security of the Commissioners would be likely to be enhanced thereby; or
- (ii) to re-establish himself on other lands of the Commissioners; or
- (iii) to purchase machinery, stock, and/or plant, the Commissioners may, with the approval of the Governor, make advances to any such borrower exceeding the limits prescribed by this paragraph.

43. An advance which has been granted to any borrower may be made in one sum, or in progress payments, from time to time, at the discretion of the Commissioners.

Advances may be made in progress payments.

44. If at any time in the opinion of the Commissioners any moneys advanced have not been applied for the purpose for which they were advanced, or have not been carefully and economically expended, the Commissioners may refuse to pay any further instalment of the advance, and may at once call in the whole amount already advanced, whereupon the borrower shall forthwith repay the same, and in default the Commissioners shall have the same remedies for the recovery of the same as are provided by this Act for the recovery of advances on default being made by a borrower in payment of principal and/or interest under the terms of any security.

If progress payments wasted hereon may be called for.

45. All sums borrowed from the Commissioners shall be repayable by equal half-yearly instalments, or, in the case of loans for improvements, by such graduated instalments as may be prescribed, to commence at such time and to be payable in such manner as the Commissioners may determine: provided that the instalments shall not commence later than ten years after the date of the advance, and the period over

Terms of repayment.

which an advance shall be repayable shall not exceed twenty years: provided further, that subject to regulations, nothing herein contained shall prevent the borrower, if he so desires, from paying off the advance sooner than provided by the term of the advance.

Interest payable
half-yearly.

46. So long as any money remains owing in connection with any advance, the borrower shall, on the first day of January and the first day of July in each year, pay to the Commissioners, interest on the amount of the said advance, or on so much thereof as shall from time to time remain unpaid, at such rate or at such differential rates per annum as may from time to time be prescribed: provided that the Commissioners may in their discretion reduce the rate of interest payable in connection with any advance.

Interest on interest
in arrear.

47. If any instalment of interest payable under any mortgage is in arrear for such period that the power of sale of the mortgaged lands is exercisable, such interest so in arrear shall, as from the due date thereof, bear interest at the prescribed rate for the time being.

Form of security.

48. Before making any advance under this Act, the Commissioners shall take security by way of mortgage, as hereinbefore mentioned, in the prescribed form, with such additions or variations as the Commissioners may consider necessary in the circumstances, and with or without such additional or collateral security as the Commissioners may require.

Implied covenants
in mortgages.

49. In every mortgage made under this Act the covenants and provisos set out in the Second Schedule to this Act shall be implied as fully as if set out at length in the mortgage, subject to any modifications and exceptions and to any additions which may be set out in such mortgage.

As to special forms
of mortgages.

50. In all cases where a special form of mortgage is prescribed by any act affecting lands used in rural industry, the fact that a mortgage of such lands under this Act is not in such form shall not in any way hinder its registration or limit its effect as a valid mortgage.

Statutory charge.

51. (1.) Where—

- (a) any interest is due by any borrower on any account to the Commissioners; or
- (b) any instalment of principal or interest has been re-funded to a borrower under section fifty-three; or

- (c) any advance has been made by the Commissioners to any borrower other than to effect permanent improvements or other than to purchase machinery, plant or stock

a first charge is hereby created in favour of the Commissioners in respect of all or any such sums in priority to all other encumbrances upon all crops, wool, or wool clips, butter-fat produce, livestock and the increase in progeny of all livestock from time to time derived from or in connection with or being or depasturing on any lands of any tenure (including a homestead farm) held, occupied or used by such borrower in connection with rural industry.

Provided that—

- (i) Where the interest due exceeds the interest payable for one year, the maximum charge for interest against the crops, wool or wool clips, butter-fat produce, livestock, or increase in progeny thereof of any one season shall be in respect of one year's interest.

- (ii) Insofar as any livestock are subject to a *bona fide* mortgage or encumbrance for value duly registered under and complying with the Bills of Sale Act, 1899, and its amendments, any such charge as aforesaid on the livestock and increase in progeny shall be subject to such mortgage and encumbrance and the rights, powers and remedies of the mortgage or encumbrancee.

(2.) Any charge in favour of the Commissioners under this section shall rank after any statutory charge in favour of the Industries Assistance Board under the Industries Assistance Act, 1915-1931.

(3.) Any charge in favour of the Commissioners under this section shall be without prejudice to any other powers conferred on the Commissioners by this Act or by the terms of any security.

(4.) Provided, however, that the Commissioners may at any time agree in writing with any borrower, or with any creditor of a borrower, to waive such charge wholly or in part, in any case where the Commissioners are of opinion that it is desirable to do so.

52. In addition to the charge created by the Group Settlers' Advances Act, 1925, for advances made under and within the meaning of that Act all such advances shall until repaid with interest be and remain and are hereby charged—

- (a) on all the estate and interest of the borrower in any lands in respect to which or in connection with the working of which such advances were made; and
- (b) on all the goods, chattels, and effects of the borrower which may at any time be on or about or be brought on the said lands.

This section shall apply to advances within the meaning of the said Act whether made before or after the commencement of this Act, but the same shall not be construed so as to affect the title of any person who may acquire any estate or interest in the said lands or any interest in any such chattels in good faith before the commencement of this Act.

Commissioners may
refund any instal-
ment of principal
or interest paid.

53. The Commissioners may in any year in which a borrower has experienced a failure of crops, or of seasonal operations, or has sustained any fortuitous loss in connection with such operations, refund to the borrower the whole or any part of any instalment of principal or interest, or of principal and interest, which may become due to the Commissioners under the provisions of any security, but subject to the liability of the borrower to repay to the Commissioners such refunded instalment or any part thereof, together with interest thereon at the rate provided for the principal sum, at such future date as may be required by the Commissioners, and the same shall continue a charge under the security held by the Commissioners as if the refunded instalment or part thereof had not been paid to or received by the Commissioners:

Provided that no such refund shall be valid as against the security of any subsequent mortgagee unless such mortgagee shall consent in writing to every such refund.

Commissioners may
acquire Crown
grant.

54. (1) When an advance has been made under the repealed Acts, or under any of the Acts relating to the transferred activities or under this Act, upon the security of a mortgage or transfer of a holding the freehold whereof may under any Act be acquired from the Crown, the Commissioners may, at any time and notwithstanding the provisions of any Act, acquire the freehold of the holding on behalf of

the borrower or his successor in interest, and for that purpose may make all such payments to the Crown and otherwise as are necessary.

(2) All payments so made by the Commissioners shall be added to and become part of the mortgage debt.

(3) The deed of grant of the holding shall be delivered to the Commissioners.

Division 4.—Enforcement of Securities.

55. (1) If at any time any half-yearly payment of principal or interest or any part thereof is unpaid for twenty-one days next after the time appointed for the payment thereof, then, although no legal demand has been made for the payment thereof, the Commissioners may enter and distrain on the land charged, or any part thereof, and dispose, according to law, of any distress found to the intent that the half-yearly payments and all other arrears thereof due at the time of such entry, and all costs and expenses occasioned by non-payment thereof, may be fully paid. Power of distress.

(2) If at any time any half-yearly payment of principal or interest, or any part thereof, is unpaid for two calendar months next after the time appointed for the payment thereof, then, although no legal demand has been made for the payment thereof, the Commissioners may enter upon and take possession and/or sell the whole or any part of the land with respect to which the advance has been made, either by private sale or public tender, or auction, and, subject to any conditions of sale, the Commissioners may think expedient, and after such notice of the time, place, terms, and conditions of sale as the Commissioners may think just and expedient, and may transfer or convey such land to the purchaser and give a good and valid title thereto. Power of sale.

(3) When the Commissioners have taken, and so long as the Commissioners retain possession of any property under this section, the Commissioners shall have power to do whatever is necessary to provide for the maintenance and upkeep of the property, and to crop and/or otherwise work the same for such time and in such manner as the Commissioners shall deem expedient, with a view to an advantageous sale, and may expend such moneys as the Commissioners may consider necessary for any of the purposes aforesaid. To maintain property after seizure—and pending sale,

to work the lands;

And any moneys so expended shall, with interest thereon at the rate stipulated for payment of interest on the princi-

pal moneys in the Commissioners' security, be repayable by the borrower to the Commissioners on demand, and all such moneys and interest shall be a charge on the property comprised in the security.

Application of
proceeds of sale.

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

Borrower to keep
buildings, etc., in
repair.

56. (1.) Every borrower shall, so long as any principal, interest, or other moneys remain owing in respect of any advance keep in good and tenantable repair all buildings, fences, fixtures, and improvements upon the land comprised in such mortgage or other security, to the satisfaction of the Commissioners, or the authorised agent of the Commissioners.

In default Com-
missioners may—

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

(a) sell, etc.

(a) the like consequences shall follow as are provided in case of default made in the payment of any sum of money payable under the provisions of this Act; and

(b) do the repairs
and charge the cost
against the security.

(b) the Commissioners, and any person acting with the authority of the Commissioners may, without prejudice to the powers of distraint and sale exercisable by the Commissioners on default, enter upon the mortgaged premises and effect all repairs the Commissioners or such person deem necessary, and the expense thereby incurred, with interest at the rate payable in respect of the principal moneys secured by the mortgage shall be repaid to the Commissioners by the borrower on demand, and, until repayment, shall be a charge under the mortgage or other security upon the mortgaged property.

The provisions of
the Transfer of
Land Act, 1893,
also apply to
mortgages.

57. (1.) Save as expressly modified by this Act the provisions of the Transfer of Land Act, 1893, and its amendments shall apply to any mortgage executed under this Act.

(2) On the Commissioners becoming the proprietor of land by virtue of an order of foreclosure, such land may be sold, leased, or otherwise disposed of on such terms and conditions as the Commissioners may think fit.

58. (1.) On or for the purpose of any sale made by the Commissioners under this Act, or under the provisions of any mortgage or security given under any of the repealed Acts, or to any of the transferred activities, the Commissioners may—

Certain specific powers given in connection with selling on default—

- (a) sell the mortgaged property or premises, the subject of the security, in one or in several lots; to sell in one or more lots ;
- (b) subdivide any lands, the subject of any such mortgage or security;
- (c) effect any improvements thereon which the Commissioners consider may be necessary in order to attract buyers and obtain a better realisation; to effect improvements ;
- (d) sell such property or any lot into which it is divided for the purpose of sale with any other property mortgaged or charged collaterally or in conjunction with such property; to sell security with other securities ;
- (e) allow time for the payment of the whole or any part of the purchase money, with or without interest in the meantime. to allow time to buyers.

(2.) Any moneys expended in effecting improvements under paragraph (c) of this section shall be a charge on the mortgaged lands and be repayable by the borrower, together with interest at the rate stipulated in the mortgage or security, and shall be recoverable in like manner as the principal moneys. Charge for moneys expended.

(3.) The Commissioners shall not be liable to account, where they have effected a sale and allowed time to a buyer, except for such sums as the Commissioners actually receive in cash. Commissioners liable to account only for moneys actually received in cash.

59. (1.) The Commissioners as mortgagee of land, while in possession, as against the borrower and all persons claiming under him, including every encumbrancer, may— Further powers :—

- (a) from time to time lease the mortgaged land, or any part thereof, with or without any plant, stock, or machinery over which the Commissioners may have security for the principal, interest, and other moneys or any part thereof owing on the security of the mortgage, for any term not exceeding seven (a) to lease ;

years, at such rent and subject to such conditions as to the Commissioners may seem fit;

(b) to appoint managers on share crop.

- (b) from time to time agree with any person to crop, work, or maintain the said land, with or without plant, stock, and machinery thereon over which the Commissioners may have any security for the principal, interest, and other moneys, or any part thereof owing on the security of the mortgage, on such terms and conditions as the Commissioners think fit.

Provided that, if the mortgaged land is subject to a mortgage registered in priority to the Commissioners' security, such lease shall not be binding on the prior mortgagee without his consent.

The Commissioners may advance money to lessees.

- (2.) The Commissioners may make advances to the lessee or any such person, and the repayment of such advances with interest shall, by force of this Act, be charged upon the fee simple or other lesser interest of the borrower, and all persons claiming under him, as well as upon a leasehold interest of the lessee.

Lease binding on mortgagor ;

- (3.) A lease granted under this section shall have the same effect as if both the borrower and the Commissioners as mortgagee were parties to it.

Provided that the Commissioners may—

but the Commissioners are free to vary any terms

- (a) accept a surrender of any such lease, or agree to the cancellation or determination of any such agreement, on such terms as the Commissioners think fit; or
- (b) agree to a modification or variation of the terms thereof

Certain restrictions placed on borrower
i.e. :—

60. (1.) As between the Commissioners and the owner or occupier for the time being of any land with respect to which an advance under this Act has been made, the following conditions shall be imposed so long as such land is subject to any charge in favour of the Commissioners, namely:—

not to sell or lease without consent of Commissioners ;

- (a) such land shall not be let by such owner or occupier, or cropped on shares with any other person, nor shall the equity of redemption be transferred without the consent of the Commissioners;

sale or lease in contravention void ;

- (b) every lease, agreement, and transfer contrary to the provisions of this section shall be void and of no effect;

- (c) If such owner or occupier lets such land, or any part thereof, or enters into any such cropping arrangement, or transfers the equity of redemption in contravention of the provisions of this section, the Commissioners may cause the land to be sold; power of sale on contravention ;
- (d) when the title to the land is divested from the owner or occupier under any law relating to bankruptcy the Commissioners may cause the land to be sold; power of sale on bankruptcy :
- (e) when on the decease of the owner or occupier the land would, by reason of any devise, bequest, intestacy, or otherwise, become subdivided, the Commissioners may require the land to be sold or otherwise disposed of within twelve months after the death of the owner or occupier to some one person, and in default the Commissioners may cause the same to be sold.

(2.) In exercising the power of sale conferred by this section the Commissioners may exercise the same powers and to the same extent as they are entitled, in the case of default in payment of any instalment of principal or interest under the preceding provisions of this Act. Extent of power of sale.

61. If the borrower refuses to deliver up quiet possession of any lands, or to give vacant possession of any lands of which the Commissioners desire to take possession in exercise of the powers conferred on the Commissioners by this Act, or under the terms of any mortgage or security, the Commissioners may eject the borrower from such lands by force, if necessary, and all officers of police are hereby authorised to assist the Commissioners in ejecting the borrower. Power to forcibly eject borrower.

62. The term "owner" in the Road Districts Act, 1919-1933, shall not extend to the Commissioners as mortgagee in possession or otherwise. Commissioners not to be "owner" within Road Districts Act, 1919-1933.

Division 5.—Indebtedness under old Securities to Bank or to transferred Activities—Suspending payment of Instalments—Writing down the Value of over-capitalised Properties—Consolidation of Securities.

63. Where the Commissioners are satisfied that any borrower who is the owner of any lands or chattels the subject of any security to the Bank, or to any of the transferred activities, is unable to meet his indebtedness thereunder and Power to postpone payment of advances.

any interest payable in respect thereof, according to the terms of the borrowing, the Commissioners may, subject to the consent of the Treasurer, if the Commissioners are satisfied that the borrower is deserving of assistance, paying due regard to his relationship to the Bank or any of the transferred activities, suspend or postpone payment of the whole or any portion of the indebtedness of the borrower, as the Commissioners think fit, and during the period of such suspension the Commissioners may relieve the borrower from payment of interest on such suspended amount, and make any necessary adjustment in regard to the payment of instalments, in order to give effect to any such suspension or postponement: provided that such suspension or postponement shall be subject to review by the Commissioners from time to time as the Commissioners may determine but at least once in every two years: provided that no period of time during which any indebtedness is suspended under the authority of this Act shall be taken into account for the purpose of any statute of limitation.

The Commissioners may require other creditors to postpone claims before postponing Commissioners' claim.

64. The Commissioners may make it a condition of agreeing to any such suspension or postponement, that the other creditors of the borrower, secured and unsecured, enter into any mutually binding scheme or arrangement between themselves, the Commissioners and the borrower for the suspension or postponement of their claims, on such terms and conditions as the Commissioners consider reasonable.

65. Where the Commissioners are satisfied—

- (a) that the value of any security or securities formerly vested in the Bank or any of the transferred activities, and vested in the Commissioners by this Act is insufficient to cover the aggregate amount due by any borrower on all accounts secured by such security or securities; and
- (b) that there is no reasonable likelihood of the securities appreciating in value so as to cover such amount and of the borrower being able to meet his indebtedness; and
- (c) that the borrower is deserving of assistance, paying due regard to his past relationship with the Bank or any of the transferred activities

Power to write-down over-capitalised securities.

the Commissioners may, subject to the consent of the Treasurer, and with the approval of the Governor—

- (a) write off and reduce the aggregate indebtedness of the borrower on such accounts to such sum as the Commissioners consider the security or securities may reasonably be expected to carry;
- (b) adjust the payment thereof over such period or periods as the Commissioners think fit and, where there are several securities carrying varying rates of interest, fix a uniform rate of interest to be paid by the borrower;

but the Commissioners may make it a condition of agreeing to any such writing off and reduction that the other creditors of the borrower, secured and unsecured, enter into any mutually binding scheme or arrangement between themselves, the Commissioners and the borrower for the reduction and adjustment of their claims on such terms and conditions as the Commissioners consider reasonable.

66. The Commissioners may employ valutors with general or special local knowledge, in order to assist the Commissioners in making a determination under the preceding sections. Such valutors shall have power to examine witnesses, and administer oaths and affirmations in order to obtain any evidence they deem necessary for the purpose of any such valuation.

Commissioners may employ valutors.

67. The Commissioners may, in any case where a borrower is indebted to the Commissioners on a number of different securities or accounts, and where it is convenient and practicable to do so, combine the whole of the accounts and securities in one account or security, and fix a uniform rate of interest and terms of repayment with the borrower.

Commissioners may consolidate securities where convenient.

Division 6.—Accounts and Audit.

68. The Commissioners may appoint internal auditors, whose duty it shall be to conduct a continual audit of the accounts of the Commissioners.

Appointment of internal auditors.

69. The Commissioners shall, as soon as possible and not later than three months after the thirtieth day of June in each year, cause to be prepared—

Accounts :—

- (a) a balance sheet as at the said thirtieth day of June of the affairs of the Commissioners, showing all

(a) balance sheet ;

the assets and all the liabilities of the Commissioners, either immediate or contingent, and making due allowance for bad debts or depreciated securities;

- (b) revenue account ; (b) a revenue account, giving particulars of the revenue derived by the Commissioners and the charges made thereon for the preceding twelve months ending on the thirtieth day of June and showing the net profit or net loss made or incurred for such period;
- (c) analysed cash account. (c) an analysed cash account, in such form as may be prescribed, showing particulars of receipts and disbursements made by the Commissioners for the period covered by the said revenue account.

Appointment of special auditor by Auditor General.

70. (1.) The Auditor General shall from time to time appoint an officer of his staff to audit the affairs and accounts of the Commissioners.

Reports.

(2.) Such officer shall from time to time report to the Auditor General in writing on the affairs and accounts of the Commissioners.

Comments by Auditor General.

(3.) (a) The Auditor General shall make whatever written comments he thinks necessary on the position as disclosed by the said accounts and the report or reports of his officer.

(b) Such comments, together with the report or reports of his officer, shall be forwarded to the Commissioners and by the Commissioners to the Minister before the first day of November in every year. The Minister shall cause the same to be laid on the table of each House of Parliament at the next sitting of each respective House.

Powers of Auditor General, etc.

(4.) The Auditor General, and any officer appointed by him shall, for the purpose of carrying out his duties under this Act, have all the powers conferred on the Auditor General by any law in force relating to the audit of public accounts.

Report to be made annually to Parliament

71. Not later than the first day of November in every year the Commissioners shall furnish a report to the Minister of the operations of the Commissioners for the twelve months ending on the preceding thirtieth day of June, together with a copy of the balance sheet and accounts referred to in the preceding sections and the reports of the auditor or auditors thereon, and the Minister shall cause the same to be laid on the table of each House of Parliament at the next sitting of each respective House.

PART V.—OFFENCES AND PENALTIES.

72. (1.) Any person who does or makes any of the following acts or omissions, or who is concerned in doing or making any of the following acts or omissions, commits an offence against this Act, and is liable on summary conviction to a penalty of not more than six months' imprisonment with hard labour, or to a fine not exceeding one hundred pounds, or both. The acts or omissions referred to are as follows:—

- (a) destroying, damaging, or disposing of any security, or any part thereof, to the Commissioners; or
- (b) without the consent of the Commissioners in writing removing any materials from any buildings, erections, or fixtures on lands secured to the Commissioners to any other lands, unless the defendant prove that he had no intent to defraud; or
- (c) hindering or obstructing any officer of the Commissioners, or any authorised agent of the Commissioners, in or in connection with any distress levied under this Act or the repealed Acts, or any sale pursuant to this Act or the repealed Acts, or the terms of any security; or
- (d) concealing any assets under any security to the Commissioners; or
- (e) knowingly receiving any security or any property comprised in any security which has been unlawfully disposed of, removed, or concealed contrary to the preceding provisions of this subsection.

(2.) All offences under this section shall be tried and determined by a stipendiary magistrate.

PART VI.—REGULATIONS.

73. The Governor may make regulations for all or any of the following purposes:—

- (a) the conduct of meetings of the Commissioners; Meetings.
- (b) the custody and method of affixing the common seal of the Commissioners; Seal.
- (c) the form of the common seal; Form of seal.
- (d) the forms to be used under this Act, including the forms of security to be taken on the granting of an advance in any case or in any particular class of case; Forms.

Procedure at
inquiry, etc.

(e) the procedure in any case where the Commissioners hold any inquiry, including the procedure for compelling the attendance of witnesses and the production of documents;

Control of staff.

(f) the control and discipline of the staff of the Commissioners;

Securities.

(g) the protection of the securities of the Commissioners;

Penalties.

(h) prescribing a penalty not exceeding twenty pounds for the breach or omission of any duty prescribed by any such regulation;

Generally.

(i) generally for carrying out the objects and provisions of this Act.

PART VII.—MISCELLANEOUS.

Protection to
Commissioners.

74. (1.) No matter or thing done by the Commissioners or by any servant or agent of the Commissioners, or any officer of police, in good faith in or about the purported exercise of any of the powers conferred on the Commissioners by this Act, shall subject the Commissioners or any member thereof, or any such servant or agent or officer of police, to any liability in respect thereof.

(2.) Subject to the foregoing provisions of this section, no action or proceeding shall be brought against the Commissioners—

(a) until after the expiration of three months' notice in writing specifying the name of the person intending to bring such action or proceeding, and particulars of the cause or grounds of such action or proceeding;

(b) after the expiration of six months from the time when such cause of action or ground of proceeding arose.

FIRST SCHEDULE.

Sec. 3

REPEALED ACTS.

Date.	Title.	Extent of Repeal.
No. 15 of 1906	The Agricultural Bank Act, 1906	The whole.
No. 50 of 1909	The Agricultural Bank Amendment Act, 1909	The whole.
No. 18 of 1912	The Agricultural Bank Amendment Act, 1911	The whole.
No. 54 of 1912	The Agricultural Bank Amendment Act, 1912	The whole.
No. 15 of 1917	The Agricultural Bank Amendment Act, 1917	The whole.
No. 3 of 1922	The Agricultural Bank Amendment Act, 1921	The whole.
No. 30 of 1922	The Agricultural Bank Amendment Act, 1922	The whole.
No. 3 of 1926	The Agricultural Bank Amendment Act, 1926	The whole.
No. 32 of 1928	The Agricultural Bank Amendment Act, 1928	The whole.
No. 24 of 1929	The Agricultural Bank Amendment Act, 1929	The whole.
No. 15 of 1930	The Agricultural Bank Amendment Act, 1930	The whole.

SECOND SCHEDULE.

Sec. 49

COVENANTS AND PROVISOS TO BE IMPLIED IN MORTGAGES.

Covenants by the borrower—

(a) To pay from time to time all rent, purchase-money, rates, taxes, and outgoings which may be payable in respect of the mortgaged land.

(b) To observe and perform all the conditions under which the mortgaged land is held by the borrower.

(c) At all times to cultivate and manage the said lands or any business or industry carried on on the said lands in accordance with most approved methods ; to keep all such parts thereof as are usually ploughed or intended for the plough in a fit state for the plough ; to keep down noxious weeds, suckers and undergrowth ; to keep the said lands from all vermin and pests ; to comply with all regulations, by-laws and requisitions of any competent statutory body board or person in regard to the said lands and which are enforceable against the owner or occupier in respect thereof.

Provisos—

(1) That if the borrower shall make default—

- (a) in paying any rent, purchase-money, rates, taxes, and outgoings payable in respect of the mortgaged land ; or
- (b) in the observance or performance of any conditions under which the mortgaged land is held, •

the Commissioners may pay such moneys payable or perform such conditions, and all moneys paid by the Commissioners under this proviso shall be a debt due by the borrower to the Commissioners payable on demand, and until repaid shall carry interest at the rate payable under the mortgage in respect of the principal moneys, and shall with such interest be secured by the mortgage ; and

(2) That if the borrower shall make default in the observance or performance of any condition under which the mortgaged land is held, the like consequences shall follow as are provided by the Agricultural Bank Act, 1934, in case of default made in the payment of any instalment of principal and/or interest payable under the provisions of the said Act.

(3) That if any half-yearly payment of principal and/or interest is unpaid by the borrower for two calendar months next after the time appointed by the mortgage for the payment thereof, or if by the default of the borrower the mortgaged land becomes forfeited, the Commissioners may, without prejudice to any other powers conferred by the Act, require the repayment by the borrower forthwith of all moneys advanced to him by the Commissioners, and such moneys with interest thereon may be sued for and shall be recoverable by the Commissioners by action against the borrower in any court of competent jurisdiction.