

AGRICULTURAL BANK.

No. 15 of 1906

(as amended by No. 50 of 1909,⁽¹⁾ No. 18 of 1912,⁽²⁾ No. 54 of 1912,⁽³⁾ No. 15 of 1917,⁽⁴⁾ No. 3 of 1922,⁽⁵⁾ No. 30 of 1922,⁽⁶⁾ No. 3 of 1926,⁽⁷⁾ No. 32 of 1928,⁽⁸⁾ No. 24 of 1929,⁽⁹⁾ and No. 15 of 1930.⁽¹⁰⁾).

AN ACT to consolidate and amend the Law relating to the Agricultural Bank.*

[Assented to 14th December, 1906.]

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.
1906-1930, and shall commence on a day to be fixed by pro- No. 15 of 1930, s. 5.
clamation.†

2. The Acts mentioned in the First Schedule to this Act Repeal.
are hereby repealed. First Schedule.

3. In this Act, if not inconsistent with the context,— Interpretation.

“Advances” means advances made by the Bank under this Act, or any Act hereby repealed.

“The Bank” means the Agricultural Bank of Western Australia.

(¹) Assented to 21st December, 1909; (²) Assented to 9th January, 1912; (³) Assented to 30th December, 1912; (⁴) Assented to 28th March, 1917; (⁵) Assented to 31st May, 1922; (⁶) Assented to 21st December, 1922; (⁷) Assented to 23rd September, 1926; (⁸) Assented to 28th December, 1928; (⁹) Assented to 11th December, 1929; (¹⁰) Assented to 19th November, 1930.

* An appendix contains the provisions of the Discharged Soldiers' Settlement Act, 1918, relating to the Agricultural Bank. † 1st February, 1907. See *Gazette*, 1st February, 1907.

“Mortgage Bonds” means mortgage bonds issued pursuant to this Act.

“Prescribed” means prescribed by this Act or the regulations.

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

“Regulations” means the regulations for the time being in force under this Act.

“The Treasurer” means the Colonial Treasurer.

“Trustees” means the trustees for the time being of the Bank.

Establishment of Bank.

4. The Agricultural Bank, established under the Agricultural Bank Act, 1894, shall vest in the trustees appointed under this Act, and shall continue and be deemed to be established by the name of the Agricultural Bank of Western Australia under this Act.

Appointment of trustees.

5. (1.) This Act shall be administered by three trustees to be appointed from time to time by the Governor.

(2.) One of the trustees shall be appointed by the Governor as Managing Trustee.

(3.) The manager of the Agricultural Bank in office at the commencement of this Act shall, in lieu of such office, be deemed to have been appointed the Managing Trustee under this Act.

Incorporation of trustees.

6. The trustees, under the name of “The Agricultural Bank of Western Australia,” shall be a body corporate, with perpetual succession and a common seal, and shall be capable in law of suing and being sued, and of holding and alienating land, and of doing and suffering all such other acts and things as bodies corporate may by law do and suffer.

Term of office.

7. (1.) The Managing Trustee shall hold office during the Governor’s pleasure.

(2.) Each of the other trustees shall hold office for the term of two years, and at the expiration of his term of office shall be eligible for re-appointment for a like term.

Tenure of office.

8. (1.) The Governor may suspend a trustee from his office—

(a) for misbehaviour or incompetence; or

- (b) if he becomes bankrupt, or applies to take the benefit of any Act for the relief of bankrupt or insolvent debtors; or
- (c) if he absents himself from three consecutive meetings of the trustees (except on leave granted by the Governor), or becomes incapable of performing his duties.

(2.) The Treasurer shall cause to be laid before Parliament a full statement of the grounds of suspension within seven days after such suspension, if Parliament is sitting, and, when Parliament is not sitting, within seven days after the next sitting.

(3.) A trustee suspended under this section shall not be restored to office unless both Houses of Parliament, within twenty-one days from the time when such statement is laid before them respectively, severally declare by resolution that the said trustee ought to be restored to office.

(4.) If both Houses of Parliament within the said time so declare, the said trustee shall be restored by the Governor accordingly, but, subject thereto, may be removed from office.

(5.) A trustee shall not be removed from office except as hereinbefore provided.

9. In the case of the illness, suspension, inability, or absence of any trustee, the Governor may appoint some other person to act as the deputy of such trustee during such illness, suspension, inability, or absence: and every such person shall, while he acts as such deputy, have all the powers and perform all the duties of and be subject to the same disabilities as such trustee.

Appointment of
deputy trustee.

9A. The Governor may appoint any officer as deputy Managing Trustee, and such officer shall have all the powers and may perform all the duties of the Managing Trustee.

Deputy managing
trustee.
No. 60 of 1909,
s. 5.

10. (1.) The Managing Trustee shall receive a salary not exceeding one thousand five hundred pounds per annum.

Remuneration to
trustees.

(2.) Each of the other trustees shall be paid out of the moneys of the Bank a prescribed fee not exceeding five guineas for each board meeting he shall attend; but no trustee shall, during any one year of office, receive more than two hundred and fifty guineas for such fees.

No. 3 of 1926,
s. 2.
No. 24 of 1929,
s. 8.

Quorum.

11. Two members shall form a quorum at any meeting of the trustees.

Officers.

12. The Governor may, from time to time, appoint such officers as may be necessary for carrying out the provisions of this Act, and the trustees may temporarily appoint inspectors and valuers.

Certain persons
not eligible to be
trustees, etc.

13. (1.) No person shall be appointed or hold office as a trustee or deputy trustee or officer of the Bank who is or becomes an officer of any bank, firm, or institution which carries on the business of making advances on the security of agricultural land in Western Australia.

(2.) No advance shall be made under the provisions of this Act to any trustee, deputy trustee, or officer of the Bank, or in respect of any lands or other security in which any trustee, deputy trustee, or officer has any interest.

No. 3 of 1922.
s. 3.

This subsection shall not apply to any officer not under the Public Service Act, 1904, who is a discharged soldier within the meaning of the Discharged Soldiers' Settlement Act, 1918.

Property of Bank
vested in
trustees.

14. All land and other real and personal property, and all mortgages and other securities, held by the Agricultural Bank or the manager thereof at the commencement of this Act shall, without any conveyance, transfer, or assignment, by force of this Act, be vested in and held and possessed by the trustees as such corporate body as aforesaid; and all liabilities of the Agricultural Bank at the commencement of this Act shall become the liabilities of the trustees as such corporate body as aforesaid.

Funds.

15. The funds necessary for carrying on the Bank shall be such moneys as may be raised by the issue of mortgage bonds as hereinafter provided, and such other moneys as may from time to time be appropriated by Parliament for the purpose.

Treasurer may
issue mortgage
bonds.

Second Schedule.
No. 32 of 1928.
s. 2.

16. The Treasurer may issue from time to time mortgage bonds, which shall be in the form set out in the Second Schedule to this Act, or in such other form as shall be approved by the Treasurer, for the purpose of raising any moneys under this Act, not exceeding in the aggregate, including the amount

* See the Finance and Development Act, 1930. It is enacted by Section 3 of that Act, that as from its commencement (1st January, 1931) no money shall be raised by mortgage bonds, as provided by the Agricultural Bank Act, 1906.

raised under the authority of any Act hereby repealed, the sum of five million five hundred thousand pounds.

17. Every such mortgage bond shall be signed by the Treasurer and shall be registered in the Treasury and by the Auditor General, and shall be issued for a sum of ten pounds, fifty pounds, one hundred pounds, five hundred pounds, or one thousand pounds, and shall be payable to the bearer or to the order of the person named in such bond on presentation at or after the due date thereof (being a period not greater than twenty years from the date of such bond), and shall bear interest at a rate not exceeding six pounds per centum per annum, to be computed from the day on which the bond shall be issued and bear date, and such interest shall be payable half-yearly on presentation of the bond, but no interest shall become payable on any bond after the due date for the payment of the principal.

Bonds, how issued, when payable, and rate of interest.

No. 15 of 1930, s. 2.

18. The principal sum and interest for which any mortgage bond may be issued shall be chargeable upon and paid out of moneys arising from the operation of this Act, and so far as funds for the payment of any such principal sum and interest shall not be available under the operations of this Act, any such sum or interest shall be chargeable upon and paid out of the Consolidated Revenue Fund. Such last-mentioned fund shall, in respect of any such payment, be reimbursed out of moneys to be provided by Parliament.

How principal and interest to be paid.

19. All the said mortgage bonds when due, and all interest thereon, shall be payable by the Treasurer at the place mentioned for such payment on the face of the bond.

Where bonds and interest payable.

20. All moneys raised by the issue of mortgage bonds, or appropriated by Parliament for the purposes of this Act, shall be held by the Treasurer and applied to the purposes of this Act; and all interest, income, and repayments to become payable in respect of any investments of the principal moneys invested under the powers of investment hereinafter contained shall, subject as hereinafter provided, be held by the Treasurer in trust to repay the principal and interest moneys secured by such bonds.

Trust account.

21. (1.) After providing for the payment of interest due on mortgage bonds, issued under the authority of this Act,

Surplus to be carried to Redemption Account. *

or of any Act hereby repealed, and for all expenses of maintenance and administration of the Bank, any surplus income arising from the investment of the moneys available for the purposes of this Act, as hereinafter mentioned, together with all moneys arising from the repayment of advances under this Act, shall be carried to a Redemption Account, and the said funds shall be applied in the following manner to the redemption of the mortgage bonds issued under this Act or any Act hereby repealed:

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

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

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

Interest to cease after day appointed for repayment of bonds.

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

Bonds withdrawn from circulation to be destroyed.

24. Any such mortgage bonds may be negotiated, sold, or disposed of by the Treasurer, who may fix the limit of price below which the said bonds shall not be so negotiated, sold, or disposed of.

How bonds to be negotiated.

25. The Governor may authorise the sale or disposal of any such bonds beyond the limits of the State, and may appoint agents to negotiate such sale on behalf of the Government.

Governor may authorise sale of bonds beyond limits of the State.

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

Bonds may be exchanged for new bonds.

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

27. In case proof shall be made to the satisfaction of the Treasurer, by statutory declaration or otherwise, that any mortgage bond has by casualty or mischance been lost, burnt, or otherwise destroyed, it shall be lawful for the Treasurer to cause the principal and interest moneys due upon such bond so lost, burnt, or otherwise destroyed to be paid, as the same respectively become due, to the person claiming to have been

Provision as to bonds lost or destroyed.

the last holder of the said bond, in like manner as if the original bond had been brought in to be paid off:

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

Mortgage bonds
may be exchanged
for inscribed
stock or debentures.
No. 54 of 1912.
s. 5.

27A. (1.) The Governor is hereby authorised to issue to the holders of mortgage bonds, in the manner prescribed by and subject to the General Loan and Inscribed Stock Act, 1910, inscribed stock or debentures in exchange for mortgage bonds of an equivalent amount issued under this Act: Provided that all mortgage bonds received in exchange for inscribed stock or debentures shall be forthwith cancelled by the Treasurer.

(2.) On an exchange being effected under this section, the amount to be carried to the credit of the redemption account under section twenty-one of this Act shall be a part of the moneys required by such section to be applied to the purpose, duly apportioned to the balance of the mortgage bonds outstanding after such exchange.

(3.) Interest on and contributions at a rate to be prescribed by the Treasurer to a sinking fund for the redemption of such inscribed stock or debentures shall be paid by the Bank to the Treasurer half-yearly and applied by the Treasurer to recoup the Consolidated Revenue Fund in respect of such interest and contributions.

Funds appropriated by
Parliament.

No. 54 of 1912.
s. 4.

27B. (1.) Section twenty-one of this Act shall only apply to income arising from the investment of funds raised by the issue of mortgage bonds.

(2.) All moneys appropriated by Parliament to the purposes of this Act shall be placed to the credit of a fund distinct from that into which moneys raised by the issue of mortgage bonds are paid, and all securities for advances made by the Bank shall state from which fund the money advanced has been drawn.

(3.) The interest on and contributions, at a rate to be prescribed by the Treasurer, to the sinking fund for the re-

redemption of moneys appropriated by Parliament to the purposes of this Act shall be defrayed by the Bank out of the principal and interest paid by the mortgagors to whom advances have been made out of moneys so appropriated.

(4.) Notwithstanding anything contained in section twenty-one of this Act, a part of each year's expenses of the maintenance and administration of the Bank shall be paid out of the income of the Bank derived during the year from advances made out of moneys appropriated by Parliament to the purposes of this Act, and such part shall bear the same ratio to the total of the year's expenses as the total of such advances outstanding at the end of such year bears to the total then outstanding of all the advances made by the Bank.

27c. Funds of the Bank not exceeding fifteen thousand pounds in the aggregate may, if the trustees think fit and the Governor approves, be applied to provide premises for the purposes of the Bank or as residential quarters for officers, but any money so applied shall be chargeable with the interest and contributions to the redemption account at the prescribed rate.

Advances for
offices, etc.
No. 3 of 1922,
s. 2.

No. 24 of 1929,
s. 4.

27d. The Bank may, if the trustees think fit, apply its funds to the improvement of land for the purposes of group settlement prior to selection; but any moneys so applied with interest at the prescribed rate shall be a charge on the land, and shall be duly apportioned to the several allotments; and the repayment of the apportioned amounts with interest in respect of the several allotments shall, as each allotment is acquired by a selector under conditional purchase or otherwise, be secured to the Bank by a mortgage under and subject to the provisions of this Act.

Application of
funds to improve-
ments prior to
selection.

No. 3 of 1922,
s. 4.

28. (1.) Subject to the provisions of this Act, the Bank may make advances to persons engaged in the business of farming or grazing, or in agricultural, horticultural, or pastoral pursuits, to an amount not exceeding two thousand pounds, or in any industry that the Governor may by proclamation declare to be a rural industry, for any purpose incidental to or in aid of any such business, pursuit, or industry, including the erection of a dwelling-house for the borrower on any land occupied or used by him in connection with such business, pursuit, or industry: Provided that no

Bank may make
advances.

No. 18 of 1912,
s. 3.

advance shall be made to any borrower for the purpose of any proclaimed rural industry to an amount exceeding a sum to be limited by such proclamation.

(2.) Every application for an advance shall be made in the prescribed form, and shall contain such particulars as may be prescribed.

(3.) Where an advance is made for effecting improvements on the borrower's land, such advance may be made by progress payments as the improvements are being effected.

(4.) If at any time, in the opinion of the Managing Trustee, any money advanced has not been applied for the purpose for which it was advanced, or has not been carefully and economically expended, he 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 Bank shall have the same remedies for the recovery of the same as are provided by this Act for the recovery of sums payable by the borrower.

Limit of advances under Act No. 9 of 1919.
No. 30 of 1922.
s. 3.

28A. In the application of the last preceding section to advances made by the Bank under the provisions of the Discharged Soldiers Settlement Act, 1918,* the prescribed amount of principal money may be increased by a sum not exceeding five hundred pounds.

Advances in aid of the settlement on the land of returned soldiers
No. 15 of 1917.
s. 5.

28B. Advances may be made by the Bank under and subject to regulations in furtherance of any scheme approved by the Governor for the settlement on the land of persons who have been on active service with His Majesty's naval and military forces, or their dependants:

Provided that all regulations to give effect to this section shall be published in the *Government Gazette*, and be laid before both Houses of Parliament within fourteen days after the publication thereof, if Parliament is then sitting, and, if not, within fourteen days after the next session of Parliament begins; and if either House of Parliament passes a resolution objecting thereto such regulations shall (so far as so objected to) thenceforth cease to have the force of law, subject to such and the like savings as apply in the case of the repeal of a statute.

Advances by instalments.

29. [Repealed by No. 18 of 1912, s. 3.]

* See Appendix.

30. No advance shall be made under this Act except upon the security of a mortgage or mortgages to the Bank of the land and improvements with respect to which such advance is made, with or without such additional security as to the trustees may seem fit.

Advances to be secured by mortgage.

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

Advances only to be made on first mortgages.

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

As to special forms of mortgage.

33. (1.) For the period of ten years next following the date on which an advance is made, there shall be paid to the Bank by the borrower interest on the advance at the rate of five pounds per centum per annum.

Repayment of advances.
No. 18 of 1912, s. 5.
No. 30 of 1922, s. 2.

(2.) Such interest shall be payable on the first day of January and the first day of July in each year.

(3.) If any advance is made by instalments, interest shall be calculated on the actual amount of the several instalments of such advance from the date when such instalments are advanced.

(4.) After the expiration of the said period of ten years, the advance, with interest at the rate aforesaid, shall be repaid by the borrower to the Bank within a term of twenty years by payment on the first day of January and the first day of July in each year of half-yearly instalments until the whole advance with interest has been repaid.

(5.) After the expiration of the said period of ten years, each half-yearly instalment shall consist partly of principal and partly of interest apportioned as prescribed by regulations under this Act, the half-yearly instalments of principal commencing at two shillings and sixpence per one hundred pounds and increasing half-yearly by two shillings and sixpence per one hundred pounds, the interest being proportionately reduced.

(6.) Provided that, subject to the regulations, any advance may, at the option of the borrower, be repaid at any time sooner than is herein provided, and in larger instalments.

Application of
s. 33 as amended
to existing mort-
gages.

No. 30 of 1922,
s. 2 (2).

33A. The last preceding section, as amended by the Act, No. 30 of 1922, may, with the approval of the Bank, be applied to mortgages and charges existing at the commencement of that Act.

Repayment of
advance made
for stock.

34. When an advance has been made partly to enable the borrower to purchase stock, so much of the advance, with interest thereon, shall be repaid by the borrower within such time and by such instalments as the Trustees shall approve.

Interest on and
repayment of
advances other-
wise than for
improvements.

No. 54 of 1912,
s. 3.

34A. Whenever an advance is made after the 29th day of December, 1912, by the Bank for any purpose other than effecting improvements on the borrower's land—

(a) the interest shall be at the rate of six pounds per centum per annum; and

(b) the advance, with interest at the rate aforesaid, shall be repaid by the borrower to the Bank by half-yearly instalments within such period, not exceeding twenty-five years, as the trustees may, in their discretion, think fit.

Rate of interest.
No. 16 of 1917,
s. 4.

34B. Notwithstanding any provisions of the Agricultural Bank Act, 1906, and its amendments to the contrary, the interest on advances made after the commencement of the Agricultural Bank Act Amendment Act, 1917, shall be at such rate, or at such differentiated rates, per annum, as may from time to time be prescribed; but the rate, if more than five per centum, shall not exceed by more than one per centum the rate of interest payable for the time being on the funds raised by the Bank.

Provided that the Bank may in its discretion reduce the rate of interest reserved by any mortgage.

Interest in
arrear.
No. 30 of 1922,
s. 4.

34c. If any instalment of interest payable under any mortgage is in arrear for such period that the power of sale of the mortgaged land is exercisable, such interest so in arrear shall, as from the due date thereof, bear interest at the prescribed rate for the time being.

35. (1.) When an advance has been made upon the security of a mortgage of a holding the freehold whereof may, under any Act, be acquired from the Crown, the deed of grant in respect thereof shall not issue from the Department of Lands and Surveys while such mortgage is in existence until a mortgage of the freehold has been executed under the Transfer of Land Act, 1893, containing such covenants and provisions as are proper to secure payment of the amount of the advance, together with interest then unpaid.

Perfecting security over holdings when freehold acquired subsequent to mortgage.

(2.) For this purpose it shall be the duty of the proper officer of the said department to give notice to the Bank that such deed of grant is in his possession, and stating the full name and address of the grantee, whereupon the Bank shall give notice to such grantee, according to the address so stated, to execute such mortgage in favour of the Bank; and if such grantee or his successor in interest fails within thirty days after such notice as last aforesaid to execute such mortgage, then the Managing Trustee shall and he is hereby empowered to execute such mortgage in the name and on behalf of the grantee, and such mortgage shall be binding against all claimants, notwithstanding any error in the address or the notice, and notwithstanding the death, bankruptcy, lunacy, minority or other disability of the mortgagor or any such successor.

(3.) The Registrar of Titles shall, upon production, register every such mortgage so executed by such grantee or his successor in interest or the Managing Trustee, and duly indorse the deed of grant accordingly.

(4.) The Bank shall be entitled to receive and retain possession of every such deed of grant while such mortgage is in existence.

(5.) All costs and expenses occasioned in giving effect to this section shall be borne by the mortgagor, and may, if the Managing Trustee thinks fit, be added to and become part of the mortgage debt.

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

Power to trustees to acquire freehold.

No. 18 of 1912,
s. 6.

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

(3.) The deed of grant of the holding shall be delivered to the Bank, and thereupon the provisions of the last preceding section shall be observed.

Covenants
implied in mort-
gages.
No. 18 of 1912,
s. 4.

36A. In every mortgage made under this Act, or any Act thereby repealed, and whether made before or after the commencement of the Agricultural Bank Act Amendment Act, 1911, the covenants and provisos set out in the Schedule to the Agricultural Bank Act Amendment Act, 1911,* shall be implied as fully as if set out at length in the mortgage, subject to any modifications or exceptions, and with any additions which may be set out in such mortgage.

Remedy for
recovery of half-
yearly payments.

37. (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 Bank 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 thereby or otherwise 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.

How land to be
sold.

(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 Bank may enter upon and take possession and 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 they may think expedient, and after such notice of the time, place, terms, and conditions of sale as they may think just and expedient, and may transfer or convey such land to the purchaser and give a good and valid title thereto.

No. 15 of 1930, s. 3.

(2a.) When the Bank has taken, and so long as it retains, possession of any property under this section, it 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 Trustees shall deem expedient, with a view to an advan-

* Inserted as the Third Schedule in this compilation.

tageous sale, and may expend such moneys as the Trustees may consider necessary for any of the purposes aforesaid.

And any moneys so expended shall, with interest thereon at the rate stipulated for payment of interest on the principal moneys in the Bank's security, be repayable by the borrower to the Bank on demand, and all such moneys and interest shall be a charge on the property comprised in the security.

The provisions of this subsection shall apply whether the possession shall have been, or shall be, taken before or after the coming into operation of this subsection.

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

Application of proceeds of sale.

Provided that any such sale may be made subject to the condition that the purchaser is to be allowed time for payment of the purchase-money or any part thereof, and in that case the Bank shall not be required to pay over or account for any such balance as aforesaid, except to the extent that such balance shall be received in cash by the Bank.

No. 15 of 1930, s. 3

37A. (1.) In respect of—

- (a) any advance made at any time hereafter by the Bank to any person for fallowing, fertilisers, insurance of crops or bags; or
- (b) any interest for not more than one year which has become payable to the Bank by any person on any account,

Money due for fertilisers, etc., and interest to be charged on land, crops, etc.

No. 15 of 1930, s. 4.

the Bank shall be entitled to a first charge, in priority to all other encumbrances, upon all crops sown or to be sown in or grown upon any lands of any tenure (including land held as a homestead farm) held or occupied and used by such person for agricultural or farming purposes, subject, however, to subsection (4) of this section.

(2.) If any person shall, on the written request of the Bank, supply to another person fertilisers or bags on credit, the first-mentioned person shall, subject as aforesaid, be entitled to the like charge and security as is mentioned in the last preceding subsection.

(3.) The Bank shall not incur any liability or responsibility in respect of any such fertilisers or bags, or the price thereof, by reason of having made any request for the purposes of subsection (2) of this section.

(4.) Any charge in favour of the Bank under this section shall rank after any similar charge in favour of the Industries Assistance Board, and any charge in favour of any person under subsection (2) shall rank after any similar charge in favour of the said Board or the Bank.

(5.) Any charge hereby created in favour of the Bank or any person shall be without prejudice to any other security to which the Bank or such person may be entitled.

37b. (1.) The Bank as mortgagee, in respect of its mortgages executed before or after the commencement of the Agricultural Bank Act Amendment Act, 1917, shall have and may exercise, in addition to the powers conferred by this Act, the powers of a mortgagee under the Transfer of Land Act, 1893.

(2.) On the Bank 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 Managing Trustee in his discretion may think fit.

37c. (1.) The Bank as mortgagee of land, while in possession, as against the mortgagor and all persons claiming under him, including every encumbrancer, may from time to time lease the mortgaged land, or any part thereof, for any term not exceeding seven years, at such rent and subject to such conditions as to the Managing Trustee may seem fit.

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

(2.) The Bank may make advances under the principal Act and its amendments to the lessee, 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 mortgagor and all persons claiming under him, as well as upon a leasehold interest of the lessee.

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

Additional
powers of Bank
as mortgagee.
No. 15 of 1917.
s. 2.

Power to lease.
No. 15 of 1917.
s. 3.

Provided that the Bank may, if the Managing Trustee in his discretion think fit—

- (a) accept a surrender of any such lease, or
- (b) with the consent of the lessee vary or modify the terms and conditions thereof.

37D. The term “owner” in the Roads Act, 1911,* shall not, as from the commencement of that Act, extend to the Agricultural Bank as a mortgagee in possession or otherwise.

Term “Owner” in Roads Act not to extend to Agricultural Bank.
No. 15 of 1917.
s. 6.

37E. (1.) It shall be, and shall be deemed to have been lawful for the Bank and its trustees with respect to advances under this Act and its amendments—

Power to extend time for payment of instalments, and to refund temporarily.
No. 24 of 1929.
s. 2.

- (a) to extend the time for payment by mortgagors of any instalment of principal or interest, or of principal and interest, which may become, or may be before the commencement of the Agricultural Bank Act Amendment Act, 1929, have become, due and payable by any mortgagor under the provisions of any mortgage security held by the Bank; and
- (b) to refund to any mortgagor the whole or any part of any such instalment as aforesaid which may have been paid either before or after the commencement of the Agricultural Bank Act Amendment Act, 1929, but subject to the liability of the mortgagor to repay to the Bank such instalment or any part thereof so refunded at a future date as may be required by the Bank.

(2.) The amount of any such instalment of principal or interest, or of principal and interest or any part thereof, so refunded subject to the liability of the mortgagor to repay the same to the Bank at a future date as may be required by the Bank, shall, with interest thereon, continue a charge on the mortgaged property under the security held for the time being by the Bank, and such security shall to all intents and purposes have and continue to have effect as if the said instalment or the part thereof so refunded had not been paid to and received by the Bank.

38. (1.) Every person who has given a mortgage or other security under the provisions of this Act or any Act hereby

Mortgagor to effect necessary repairs.

* See now the Road Districts Act, 1919, and the Interpretation Act, 1918, s. 14.

repealed shall, during the continuance of the same, to the satisfaction of the Trustees or other person authorised in that behalf, keep in good and tenantable repair all buildings, fences, fixtures, and improvements upon the land comprised in such mortgage or other security.

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

- (a) the like consequences shall follow as are provided by sections thirty-six and thirty-seven in case of default made in the payment of any sum of money payable under the provisions of this Act; or
- (b) the Managing Trustee and any person acting with his authority may enter upon the mortgaged premises and effect all repairs he may deem necessary, and the expense thereby incurred, with interest at the rate of five pounds per centum per annum, shall be repaid to the Trustees by the mortgagor on demand, and, until repayment, shall be a charge under the mortgage or other security upon the mortgaged property.

Conditions
annexed to land
while subject to
advances.

39. (1.) As between the Bank 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 Bank, namely:—

- (a) Such land shall not be let by such owner or occupier, nor shall an equity of redemption be transferred without the consent of the Trustees.
- (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 transfers the equity of redemption in contravention of the provisions of this section, the Trustees may cause the land to be sold.
- (d) When the title to the land is divested from the owner or occupier, under any law relating to bankruptcy, the Trustees may cause the land to be sold.

- (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 Trustees 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 Trustees may cause the same to be sold.

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

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

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

41. In every year the Trustees shall furnish a balance-sheet and report to the Minister for Agriculture upon the operation of this Act, and every such balance-sheet and report, together with the report of the auditor, shall be laid, as soon as possible, before both Houses of Parliament. Report to be laid before Parliament.

42. (1.) The Governor may from time to time make regulations for all or any of the following purposes, namely:— Regulations.

- (a) Prescribing the mode in which applications for advances are to be made;
- (b) The mode in which the value of improvements shall be determined;
- (c) The form of mortgage or security to be taken by the Trustees;
- (d) Generally for carrying out the objects and provisions of this Act.

(2.) All such regulations, when published in the *Government Gazette*, shall have the same effect as if they were enacted in this Act; and shall be laid before both Houses of Parliament within fourteen days from the date thereof if Parliament is then sitting, and if not, then within fourteen days from the commencement of the next ensuing session.

Agricultural Bank.

Section 2.

FIRST SCHEDULE.

Date.	Title.
58 Vict., No. 21 ..	The Agricultural Bank Act, 1894
60 Vict., No. 5 ..	The Agricultural Bank Act, 1894, Amendment Act, 1896.
63 Vict., No. 25 ..	The Agricultural Bank Act Amendment Act, 1899.
2 Edwd. VII., No. 13	The Agricultural Bank Act Amendment Act, 1902.
No. 11 of 1904 ..	The Agricultural Bank Act Amendment Act, 1904.
No. 49 of 1904 ..	The Agricultural Bank Act Amendment Act, 1904 (No. 2).
No. 8 of 1905 ..	The Agricultural Bank Act Amendment Act, 1905.

Section 16.

SECOND SCHEDULE.*Western Australia*

The Agricultural Bank Act, 1906-1930.

Number

Mortgage Bond.

I, _____, Treasurer of Western Australia, hereby acknowledge that the holder of this Bond is the owner of funds in the Agricultural Bank to the extent of _____ pounds, and that until the redemption of this Bond by me I will, at the Treasury, at Perth, on every 1st day of April and 1st day of October, pay to the bearer of this Bond interest on the said sum at the rate of _____ pounds per centum per annum.

The said sum and the said interest are hereby charged on the Consolidated Revenue Fund of the State of Western Australia.

Treasurer of Western Australia.

Registered at the Treasury and Audit Offices, Perth, in the Register of Mortgage Bonds, folio _____ this _____ day of _____, 19____.

Treasurer.

Auditor General.

THIRD SCHEDULE.

Section 36A.

No. 18 of 1912.
Sch.

Covenants and Proviso to be implied in Mortgages.

Covenants by the Mortgagor—

(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 mortgagor.

Provisos—

(1) That if the mortgagor shall make default—

(a) in paying any rent, purchase-money, rates, taxes, and out-goings 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 Bank may pay such moneys payable or perform such conditions, and all moneys paid by the Bank under this proviso shall be a debt due by the mortgagor to the Bank, payable on demand, and until repaid shall carry interest at five *per centum per annum*, and shall with such interest be secured by the mortgage; and -

(2) That if the mortgagor 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 sections thirty-six and thirty-seven of the Agricultural Bank Act, 1906, in case of default made in the payment of any sum of money payable under the provisions of the said Act.

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

APPENDIX.

Provisions of the Discharged Soldiers' Settlement Act, 1918, relating to the Agricultural Bank.

Advances by
Agricultural
Bank.

15. (1.) The Agricultural Bank may, under the provisions of the Agricultural Bank Act, 1906, on the recommendation of the Board* and for the purposes aforesaid, make advances to a discharged soldier to whom land has been disposed of under this Act, or who has been permitted to occupy any Crown land in anticipation of the passing of this Act, or to whom the privileges conferred by this Act have been extended under section twenty-one.

*i.e., the Discharged Soldiers' Land Settlement Board. See the Finance and Development Board Act, 1930, s. 32.

(2.) The rate of interest per annum for such advances to an amount of not exceeding five hundred pounds shall not exceed three and one-half per centum for the first year, four per centum for the second year, and so on, the rate increasing by not more than one-half per centum for each subsequent year until the rate reaches the ordinary current rate of interest of the said bank for the time being:

Provided that the difference between such reduced rate of interest and the current bank rate of interest shall be paid to the Agricultural Bank out of the moneys appropriated to the purposes of this Act.

Security for
advances.
As amended by
No. 45 of 1919.
s. 7.

16. (1.) Moneys advanced by the Board or the Agricultural Bank, under the provisions of this Act, with interest thereon, shall be secured by a mortgage upon the land acquired by the discharged soldier under the provisions of this Act, or upon any other land of the discharged soldier.

All moneys so advanced with interest thereon shall also, until repaid, by force of this Act be and remain a charge on the crops and chattels of the discharged soldier to whom such advances are made, and which may be upon any land so mortgaged to the Board or the Agricultural Bank as aforesaid, and on all other live stock (including the progeny thereof) and chattels of such discharged soldier acquired under this Act.

(2.) Such lands, crops, and chattels, so long as the same continue charged as security for such advances, shall not, without the consent of the Board or the Agricultural Bank, as the case may be, be alienated except in the exercise of the powers of the Board or the Agricultural Bank or be subject to be attached, levied, or distrained upon, or taken in execution.

(3.) The Bills of Sale Act, 1899, shall not apply to the charge on the crops and chattels of a discharged soldier under the provisions of this Act, but a register shall be kept in the office of the Agricultural Bank in Perth of all persons to whom advances have been made, and such register shall be open to public inspection.

(4.) Provided however, that nothing in this section contained shall prejudice or affect the rights, powers, or remedies of any prior mortgagee in respect of the property of any discharged soldier under any mortgage or security registered prior to the granting of such advance.

Advances may
be stopped or
recalled.

17. Where the trustees of the Agricultural Bank are of opinion that any money advanced under this Act has not been applied to the purpose for which it was advanced or has been expended in a careless or extravagant manner or that the borrower's holding or his live stock, implements, or other chattels are being neglected the trustees may refuse to make any further advances to a borrower, and may require the repayment by him forthwith of all advances then already made, and in default of payment the bank may enforce its security; but before any such action be taken by the trustees, the Board must be consulted and its approval obtained; any difference of opinion between the two bodies to be referred to the Minister, whose decision shall be final.