

Approved for Reprint, 27th December, 1978.

WESTERN AUSTRALIA

RURAL AND INDUSTRIES BANK.

8° and 9° Geo. VI., No. LI.

No. 51 of 1944.¹

[Affected by Acts Nos. 38 of 1945, 53 of 1947, 21 of 1959, 67 of 1962 and 47 of 1963.]

[As amended by Acts:

- No. 36 of 1947, assented to 1st December, 1947;
- No. 14 of 1949, assented to 24th September, 1949;
- No. 40 of 1950, assented to 18th December, 1950;
- No. 4 of 1951, assented to 11th October, 1951;
- No. 23 of 1953, assented to 10th December, 1953;
- No. 73 of 1954, sec. 5², assented to 14th January, 1955;
- No. 15 of 1956, assented to 26th October, 1956;
- No. 31 of 1956, assented to 7th December, 1956;
- No. 6 of 1958, assented to 19th September, 1958;
- No. 25 of 1963, assented to 13th November, 1963;
- No. 34 of 1965, assented to 21st October, 1965;
- No. 113 of 1965,³ assented to 21st December, 1965;
- No. 49 of 1966, assented to 21st November, 1966;
- No. 4 of 1968, assented to 26th September, 1968;
- No. 103 of 1969, assented to 25th November, 1969;
- No. 45 of 1974, assented to 18th November, 1974;
- No. 52 of 1974,⁴ assented to 26th November, 1974;
- No. 92 of 1976, assented to 12th November, 1976;

and reprinted, pursuant to the Amendments Incorporation Act, 1938.]

AN ACT to constitute and regulate and provide for the management of a Rural and Industries Bank to take the place of the Agricultural Bank of Western Australia; to authorise such Bank to receive deposits, borrow money, and to make loans and investments, to establish and carry on the business of a savings bank, and generally to carry on the business of banking; to provide for a government guarantee of any indebtedness of such Bank; to repeal or amend Acts dealing with the Agricultural Bank of Western Australia and with advances to persons engaged in rural industries; to provide for the transfer of certain assets liabilities and powers to such Bank; and for other purposes consequent thereon or incidental thereto.

Long title amended by No. 31 of 1956, s. 2.

[Assented to 1st February, 1945.]

¹ Came into operation 1st July, 1945, see *Gazette*, 29th June, 1945, p. 603.

² Came into operation 1st March, 1955, see *Gazette*, 18th February, 1955, p. 343. No. 73 of 1954, sec. 5 added, sec. 48A and a Second Schedule to No. 35 of 1935 which, *inter alia*, amended sec. 107 of this Act.

³ Decimal Currency Act, 1965, S.4(1). Came into operation 14/2/66.

⁴ Came into operation 1st March, 1978, see *Gazette*, 18th November, 1977, p. 4281.

BE it enacted—

Short title and commencement. Amended by No. 92 of 1976, s.1.

1. This Act may be cited as the *Rural and Industries Bank Act, 1944-1976*, and shall come into operation on a date to be fixed by proclamation.¹

Act to bind the Crown. [N.S.W. No. 48 of 1906, s. 2.]

2. This Act shall bind the Crown.

Construction of Act. [N.S.W. No. 63 of 1932, s. 17.]

3. This Act shall be read and construed so as not to exceed the legislative power of the State to the intent that where any enactment thereof would, but for this section, have been construed as being in excess of that power, it shall nevertheless be a valid enactment to the extent to which it is not in excess of that power.

Arrangement. Amended by No. 31 of 1956, s. 3. [W.A. No. 45 of 1934, s. 2; N.S.W. No. 48 of 1906, s. 3.]

4. This Act is divided into Parts as follows:—

PART I., ss. 1 to 6—PRELIMINARY.

PART II., ss. 7 to 19—ESTABLISHMENT OF BANK.

Division 1, s. 7—Constitution of Bank.

Division 2, ss. 8 to 18—Management.

Division 3, s. 19—Powers of Management.

PART III., ss. 20 to 25—TRANSFER OF ASSETS AND LIABILITIES.

Division 1, ss. 20 and 21—Assets.

Division 2, ss. 22 to 25—Liabilities.

PART IV., ss. 26 to 35—FINANCE.

Division 1, ss. 26 to 29—Funds.

Division 2, ss. 30 to 34—Borrowing Powers.

Division 3, s. 35—Investments.

¹ Came into operation 1st July, 1945, see *Gazette*, 29th June, 1945, p. 603.

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PART V., ss. 36 to 45—ADMINISTRATION.

Division 1, ss. 36 to 41—Staff.

Division 2, ss. 42 to 45—Administration of certain Acts transferred.

PART VI., ss. 46 to 69—RURAL DEPARTMENT.

Division 1, ss. 46 to 50—Powers.

Division 2, ss. 51 to 65—Loans.

Division 2A, ss. 65A-65Y—Savings Bank Division of Rural Department.

Division 3, ss. 66 to 69—General.

PART VII., ss. 70 to 83—GOVERNMENT AGENCY DEPARTMENT.

PART VIII., ss. 84 to 94—ENFORCEMENT AND WRITING DOWN OF SECURITIES.

PART IX., ss. 95 to 98—ACCOUNTS AND AUDIT.

PART X., ss. 99 to 105—OFFENCES AND PENALTIES.

PART XI., s. 106—REGULATIONS.

PART XII., ss. 107 to 118—MISCELLANEOUS.

SCHEDULES—

FIRST SCHEDULE—REPEALED ACTS.

SECOND SCHEDULE—PROVISIONS RELATING TO DEBENTURES.

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

5. The Acts mentioned in the First Schedule to this Act are hereby repealed to the extent stated in such Schedule. Acts re-pealed.

Interpretation.

Amended by No. 31 of 1956, s. 4; No. 25 of 1963, s. 2.

[W.A. No. 45 of 1934, s. 4; N.S.W. No. 48 of 1966, s. 5.]

6. In this Act unless the context otherwise requires—

“Agricultural Bank” means the Agricultural Bank of Western Australia as heretofore established under the Agricultural Bank Act, 1934, and includes the Commissioners thereof.

“Amortisation loan” means a loan secured by mortgage repayable with interest by periodical instalments.

“Bank” means the Rural and Industries Bank constituted by this Act and includes the Commissioners thereof.

“Borrower” means any person who applies for and obtains a loan from the Bank under this Act, and includes any person who at the time of the commencement of this Act is—

(a) Immediately or contingently indebted to the Agricultural Bank under any security held by the Agricultural Bank; or

(b) Immediately or contingently indebted to the Treasurer under any security held by the Treasurer in respect of financial assistance rendered to such person under section twenty-four of the Industries Assistance Act, 1915-1940.¹

“Commissioners” means the Commissioners of the Bank.

“Crops” include every kind of agricultural produce, vegetable or fruit.

“Fixed loan” means a loan on mortgage granted for a fixed term of years during which interest only is payable.

“Industry” includes every trade, or business, or form or branch of productive labour, or other activity having for its object the production or manufacture of marketable products or things.

¹ Now Industries Assistance Act, 1915-1958.

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

“Long term loan” means a loan secured by mortgage and granted for a period of years and in relation to which interest and instalments of principal are payable on such terms and in such manner as are set out in the form of security accepted from the borrower by the Commissioners.

“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 be a rural industry for the purposes of this Act.

“Security” includes a statutory lien or charge.

“Transferred activities” means the several activities the administration of which is transferred to the Bank by the provisions of this Act.

PART II.—ESTABLISHMENT OF THE BANK.

Division 1.—Constitution of the Bank.

7. (1) There is hereby established a Bank which shall be called “The Rural and Industries Bank of Western Australia.” Bank established.

Rural and Industries Bank.

(2) The Bank shall consist of two departments which shall be called respectively "the Rural Department" and "the Government Agency Department."

(3) The business and activities of the Bank shall be distributed between and carried on in the said departments respectively in the manner in this Act hereinafter provided.

(4) The transactions and accounts relating to each department shall be kept separate and distinct.

(5) Except as otherwise expressly provided in this Act no money or assets belonging to either one of the said departments shall be used or applied for any purpose whatsoever of the other department and no liability or commitment of either one of the said departments shall affect in any way the other department or the funds or assets thereof.

Provided that money for the time being or from time to time to the credit of either one of the said departments at any branch or agency office thereof may be used for purposes of the other department subject to monthly adjustments between the departments.

(6) The same officers and servants of the Bank may be employed in carrying on the business of the Bank in both departments aforesaid, and in such case the total costs of administration of the Bank shall be apportioned between the said departments in such manner and in such proportions as the Minister on the recommendation of the Commissioners and subject to certification by the Auditor-General as to the correctness thereof shall from time to time determine.

Division 2.—Management.

8. The management of the Bank shall be and is hereby vested in five Commissioners all of whom except the part time Commissioner shall have had administrative or executive experience in the Bank or other trading bank.

9. (1) The Commissioners shall be appointed by the Governor and shall be a body corporate under the name of "The Commissioners of the Rural and Industries Bank of Western Australia" with perpetual succession and a common seal and shall be capable of holding, acquiring and disposing of real and personal property, of suing and being sued, and of doing and suffering all things which bodies corporate may by law do and suffer.

Commissioners to be appointed by Governor and to be a body corporate.

Amended by No. 23 of 1953, s. 3.

[W.A. No. 45 of 1934, s. 5; N.S.W. No. 48 of 1906, s. 6; N.S.W. No. 63 of 1932, s.2.]

(2) The Governor shall appoint one of the Commissioners to be Chairman.

(2a) Where a vacancy occurs in an office of full time Commissioner other than that of Chairman, the vacancy shall be filled by an appointment made by the Governor after receiving and considering the recommendation of the Commissioners then in office.

(2b) The full time Commissioners shall also act as administrative officers and shall discharge such duties as are allocated to them by the Chairman.

(3) The Chairman and the other full time Commissioners shall devote the whole of their time and attention to the business of the Bank and the remaining member shall devote to the said business such portion of his time and attention as may be recommended by the Commissioners and approved by the Governor. Such part time Commissioner shall attend and take part in the meetings of the Commissioners. Provided that the Governor when nominating the full time members, other than the Chairman, shall, all things being equal, give preference to a person who has served in the Armed Forces of His Majesty in the 1914-1918 war or any war in which the Commonwealth has since been engaged whether before or after the coming into operation of the Rural and Industries Bank Act Amendment Act, 1953.

(4) In this section, "full time Commissioner" means a Commissioner who is required by subsection (3) of this section to devote the whole of his time and attention to the business of the Bank.

Tenure of office of Commissioners.

Amended by No. 23 of 1953, s. 4; No. 34 of 1965, s. 3. [W.A. No. 45 of 1934, s. 5 (d).]

10. (1) Without affecting in any way the terms of appointment of the Chairman and other full time Commissioners holding office at the date of the commencement of the Rural and Industries Bank Act Amendment Act, 1965, any person appointed or re-appointed as Chairman or full time Commissioner after that date shall hold office until he attains the age of sixty-five years.

(2) The part time Commissioner who shall be the Under Treasurer of the State or his deputy shall hold office for a period of two years from the date of his appointment, and thereafter shall be eligible for re-appointment as a part time Commissioner for a like term.

Provided that the appointment of a person as the part time Commissioner shall not disqualify such person from being appointed at any time Chairman or full time Commissioner.

Remuneration.

Amended by No. 23 of 1953, s. 5.

[W.A. No. 45 of 1934, s. 5 (g).]

11. (1) The Chairman and the other Commissioners shall be paid such remuneration respectively as shall be fixed by the Governor from time to time.

(2) Such remuneration shall be a charge upon and be payable out of the funds of the Bank as part of the administration costs of the Bank.

Disqualification for appointment as Chairman.

[W.A. No. 45 of 1934, s. 5 (i).]

12. No person shall be eligible for appointment either as Chairman or as a Commissioner or to continue to hold any such appointment while he is or if he becomes an officer of any bank firm or institution which carries on the business of making loans on security of any lands in Western Australia.

Leave of absence and preservation of certain benefits of Commissioners.

[See N.S.W. 63 of 1932, s. 8, s. 3 (3), (4) and (5).]

13. (1) Each Commissioner shall have the same rights of leave of absence as are or may be granted to officers of the Bank under any award or industrial agreement applicable to such officers.

(2) In the case of a Commissioner who at the date of his appointment as such was an officer of the Agricultural Bank or an officer of the Bank under this Act, as the case may be, his period of service as such an officer shall be taken into account in determining his rights under subsection (1) of this section.

(3) In the case of a Commissioner who at the date of his appointment as such was a public service officer under and within the provisions of the Public Service Act, 1904-1935,¹ and was entitled to any leave of absence or other rights under that Act, the period of his service as such an officer or the period which at the said date represented his length of service for the purposes of his rights under the said Act, as the case may be, shall be taken into account in determining his rights under subsection (1) of this section.

(4) A Commissioner who at the date of his appointment as such is a contributor under and within the provisions of the Superannuation and Family Benefits Act, 1938-1939,² may, subject to the provisions of that Act cease to be such a contributor or may continue to contribute as a contributor under the said Act.

14. (1) At a meeting of the Commissioners two Commissioners shall form a quorum.

(2) The Chairman shall preside at any meeting of the Commissioners at which he is present, and if the votes at any such meeting are equal he shall, in addition to his deliberative vote, have a second or casting vote. If at any meeting at which the Chairman is not present the voting is equal the matter shall be postponed to the next meeting of the Commissioners at which the Chairman is present.

Proceedings
of Commis-
sioners.
[W.A. No. 45
of 1934, s. 5
(e) and (f):
N.S.W. No.
63 of 1932, s.
9.]

¹ Now Public Service Act, 1904-1977.

² Now Superannuation and Family Benefits Act, 1938-1976.

(3) All questions before the Commissioners upon which they are not unanimous shall be decided by the majority of the votes of those present at the meeting, and in such case the decision of the majority shall be the decision of the Commissioners.

Suspension of Commissioner by Governor for misbehaviour or incompetence.
[W.A. No. 45 of 1934, s. 5 (j).]

15. The Governor may dismiss any Commissioner at any time on grounds of misbehaviour or incompetence or, if in the opinion of the Governor any such Commissioner for any reason becomes incapable of carrying out the duties of his office.

Resignation.
[W.A. *ibid.*, s. 5 (1).]

16. A Commissioner may resign his office by notice in writing addressed to the Governor.

Office of Commissioner how vacated.
Amended by No. 15 of 1956, s. 2.
[W.A. No. 45 of 1934, s. 5 (k).]

17. (1) A Commissioner shall be deemed to have vacated his office as such if he—

- (a) commits a breach of the provisions of subsection (3) of section nine or of section twelve of this Act; or
- (b) becomes bankrupt or takes any relief under the law relating to bankrupt debtors; or
- (c) absents himself from the business of the Commissioners for more than two weeks without the approval of the Governor in writing; or
- (d) becomes insane or incapable of managing his affairs; or
- (e) has any direct or indirect pecuniary interest in any agreement with the Commissioners otherwise than as provided in subsections (2) and (3) of this section; or
- (f) resigns; or
- (g) is dismissed from office under section fifteen of this Act; or
- (h) is convicted of any crime or misdemeanour; or
- (i) dies.

(2) Subsection (1) of this section does not apply, and shall be deemed never to have applied, in respect of any direct or indirect pecuniary interest in any agreement made,

whether before or after the coming into operation of the Rural and Industries Bank Act Amendment Act, 1956, and however made,

with the Commissioners—

(a) in respect of a loan from the Commissioners, by a person,

not already appointed to the office of Commissioner at the time of the making of the agreement, but appointed to that office after that time and during the effectiveness of the agreement;

(b) by a person,

whether already appointed to the office of Commissioner at the time of the making of the agreement, or appointed to that office after that time and during the effectiveness of the agreement;

if

made by the person as a member, and in common with the other members, of an incorporated company consisting of at least twenty-one members, if the company was incorporated before the day of the coming into operation of the Companies Act Amendment Act, 1943, namely the twenty-seventh day of November, one thousand nine hundred and fifty-one, or consisting of at least fifty-one members, if incorporated on or after that day;

[Cf. No. 21
of 1951, s.
3.]

or if,

under the agreement the person may use such services of the Bank, on such conditions, as the Commissioners make available to customers of the Bank in general, excluding, except as provided by paragraph (a), or by paragraph (c), of

Rural and Industries Bank.

this subsection, or by subsection (3) of this section, the making of loans or agreements relating to loans;

(c) by a person,

whether already appointed to the office of Commissioner at the time of the making of the agreement, or appointed to that office after that time and during the effectiveness of the agreement;

if

the agreement, is made with the approval of the Governor granted on the recommendation of the Minister, and is for a loan to the person on terms and conditions not more favourable to the person than would obtain were the agreement made by the Commissioners with an officer of the Bank, and is for a loan to the person to enable him to meet expenditure for his personal requirements, including expenditure for, or in connection with, building, purchasing, renovating, improving, adding to, furnishing, or equipping, a dwelling for use by the person, his family, and dependants, or for land for such a dwelling.

(3) Where prior to the coming into operation of the Rural and Industries Bank Act Amendment Act, 1956, an agreement,

in respect of a loan from the Commissioners was made with the Commissioners

by a person not already appointed to the office of Commissioner at the time of the making of the agreement, but appointed to that office after that time and during the effectiveness of the agreement,

and the agreement was discharged,

on the person making a similar agreement with the Treasurer,

a further agreement on the same terms and conditions as applied in respect of the firstmentioned loan from the Commissioners, may, for the purpose

of discharging the agreement made by the person with the Treasurer, be made with the Commissioners by the person, notwithstanding his appointment to the office of Commissioner, without thereby rendering his office vacant.

(4) Notwithstanding that subsection (2) of this section provides

that subsection (1) of this section shall be deemed never to have applied in respect of any direct or indirect pecuniary interest in any agreement referred to in subsection (1) of this section,

it is hereby expressly declared in order to remove any doubt, but without prejudice to the generality of the provisions or operation of that subsection—

- (a) that the tenure or purported tenure of office of Commissioner prior to the day of the coming into operation of the Rural and Industries Bank Act Amendment Act, 1956, by any person appointed or purporting to have been appointed to that office prior to that day;
- (b) that everything done, permitted, or suffered, prior to that day by any such person in exercise or purported exercise of any power, duty, or function, conferred or imposed by this or any other Act upon occupants of the office of Commissioner;
- (c) that every payment made prior to that day to any such person in the capacity or purported capacity of occupant of the office of Commissioner; and
- (d) that any other matter in respect of the validity of which there might, but for this subsection be any doubt;

shall be deemed as valid and effective, as if subsection (2) of this section had been included in the Rural and Industries Bank Act, 1944, Act No. 51 of

1944, and had come into operation on the same day as that Act, namely the first day of July, one thousand nine hundred and forty-five, and are hereby accordingly ratified, confirmed and validated.

Vacancies to be filled.

18. If and whenever any vacancy occurs in the office of a Commissioner, the Governor shall as soon as reasonably may be thereafter appoint a person to fill such vacancy.

Division 3.—Powers of Management.

Powers and authorities. Amended by No. 31 of 1956, s. 5; No. 49 of 1966, s. 2; No. 4 of 1968, s. 2.

[W.A. No. 45 of 1934, s. 6.]
Take over business of Agricultural Bank.

Carry on general banking.

Deal with applications for loans.

19. (1) Subject to this Act the Commissioners shall, in relation to the conduct of the business of the Bank, have and may exercise the following powers and authorities.

- (a) To take over and assume the conduct of the business heretofore transacted or carried on by the Agricultural Bank under the provisions of the Agricultural Bank Act, 1934, and any other Acts heretofore administered by such Agricultural Bank.
- (b) To carry on the business of banking generally in all forms authorised or recognised by law including the receipt of money on current account, the receipt of money on fixed deposit, the business of a savings bank, the investment of surplus deposits, the making of loans, and the receipt and keeping of any securities, deeds, instruments and other writings for safe custody.
- (c) To consider and determine applications for loans under this Act, on the security of amortisation loans, fixed loans and long term loans and to make loans to persons engaged in or about to engage in any rural industry or other industry and to other persons subject to the prescribed security.

- (d) 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—

Enforce
existing
securities.

- (i) the Agricultural Bank; or
- (ii) any of the transferred activities formerly vested in or taken over by the Agricultural Bank, and by virtue of this Act vested in or taken over by the Bank; or
- (iii) vested in the Finance and Development Board, and formerly vested in the Agricultural Bank and by virtue of this Act now vested in the Bank—

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, 1915-1940,¹ the Discharged Soldiers' Settlement Act, 1918, the Group Settlers' Advances Act, 1925, the Wire and Wire Netting Act, 1926.

- (e) To borrow moneys as hereinafter mentioned with the consent of the Governor on the security of the funds undertaking and revenue of the Bank.

Borrowing.

- (f) Through the Government agency department of the Bank but subject to the Minister to perform and exercise such duties, functions, powers and authorities (including the administration of property and assets) as may be delegated to the Bank in pursuance of this Act or of any other Act or by the Governor, and when required so to do by the Minister to advise

[Cf. N.S.W.
No. 63 of
1932, s. 70H.]
Agency
powers.

¹ Now Industries Assistance Act, 1915-1958.

the Minister or join with other persons in advising the Minister concerning any matters delegated to the Bank as aforesaid.

Employ officers and servants.

(g) To engage and dismiss officers and servants for the purpose of carrying out the provisions of this Act.

Waive interest or postpone or suspend or release debts.

(h) To suspend or postpone payment and, with the approval of the Minister and the consent of the Governor, to waive interest on any loan or class of loan, to release payment of the whole or any portion of the indebtedness of any borrower; 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 law.

Appoint valuers.

(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 in respect of any loan or in regard to any other matters as required by the Commissioners.

Procure and provide premises.

(j) To expend moneys in order to provide suitable buildings and premises in which to carry on the business of the Bank or as residential quarters for officers and for the purposes aforesaid to take over and use any buildings and premises at the time of the commencement of this Act belonging to or held and occupied by the Agricultural Bank.

(k) Generally to exercise all such other general or specific powers and authorities as are conferred on the Commissioners by this Act.

(2) Without limiting the powers and authorities conferred on the Commissioners by subsection (1) of this section or any other provision of this Act, the Commissioners may, with the approval of the Minister and the Treasurer, and upon such terms and conditions as the Commissioners think proper—

- (a) purchase or acquire any land, including Crown land;
- (b) purchase or acquire from a municipality, constituted under the Local Government Act, 1960, any land vested in that municipality, except land that is set apart or reserved under the Land Act, 1933;
- (c) plan and subdivide, in accordance with the Town Planning and Development Act, 1928, any acquired land;
- (d) enter into contracts in respect of which tenders have been invited from the public, for the building of dwelling houses on acquired land;
- (e) sell, let or lease any acquired land whether with or without any dwelling houses being built thereon under this section;
- (f) exchange any acquired land any other land vested in the Commissioners; and
- (g) do all such other matters and things as are necessary or convenient for giving effect to the powers conferred on the Commissioners by this subsection.

(3) Notwithstanding anything in any other Act—

- (a) the Governor may grant any Crown land to the Commissioners for the purposes of this section, at such price, if any, and on such terms and conditions as the Governor thinks fit;

(b) a municipality may sell to or exchange with the Commissioners on such terms and conditions as are agreed upon by the Commissioners and the municipality and approved by the Minister and the Treasurer, any land vested in the municipality and referred to in paragraph (b) of subsection (2) of this section.

(4) In this section the expression—

“acquired land” means any land purchased or acquired by the Commissioners under this section;

“Crown land” has the same meaning as it has in section three of the Land Act, 1933;

“dwelling house” means any building constructed to be used wholly or principally for human habitation and includes any outbuildings and appurtenances belonging thereto or used in connection therewith;

“tenders” means tenders based upon plans and specifications prepared by or for the Bank.

PART III.—TRANSFER OF ASSETS AND LIABILITIES.

Division 1.—Assets.

Assets of
Agricultural
Bank and
Treasurer
transferred
to the
Bank.

20. By force of this Act there shall be transferred to and vested in the Bank—

(a) all assets, funds and securities which by virtue of section thirty of the Agricultural Bank Act, 1934, and otherwise are at the commencement of this Act vested in the Agricultural Bank; and

(b) all securities held at the commencement of this Act by the Treasurer in relation to financial assistance which has been rendered by the Treasurer to persons under the provisions of section twenty-four of the Industries Assistance Act, 1915-1940.¹

¹ Now Industries Assistance Act, 1915-1958.

21. (1) The securities referred to in paragraph (b) of section twenty of this Act shall in the first instance be allotted to and be dealt with in the Government Agency Department of the Bank, but may at any time on the recommendation of the Commissioners and with the approval of the Minister be transferred to and be dealt with in the Rural Department of the Bank.

Assets, funds and securities to be divided between Departments.

(2) The assets funds and securities referred to in paragraph (a) of section twenty of this Act shall in the first instance be allotted to and be dealt with in the Rural Department of the Bank, but thereafter the following provisions shall apply:—

- (a) Moneys lying to the credit of the Agricultural Bank at the commencement of this Act shall be appropriated for use in connection with the business of the bank as carried on through the Rural Department.
- (b) Assets (other than money and securities) transferred to and vested in the Bank by this Act may with the approval of the Minister be apportioned between the Rural Department and the Government Agency Department in such manner as the Commissioners may from time to time determine.
- (c) Securities transferred to and vested in the Bank may with the approval of the Minister be allotted by the Commissioners and be dealt with through the Government Agency Department when in the opinion of the Commissioners the properties which are the subject of such securities have not been sufficiently developed as to be sound farming assets.
- (d) Securities which have been allotted to the Government Agency Department as provided for in paragraph (c) hereof may be transferred to and be dealt with in the Rural Department when in the opinion of the Commissioners the properties which are the subject of such securities have been so developed as to be reasonably regarded as sound farming assets.

*Rural and Industries Bank.**Division 2.—Liabilities.*

Bank to take over liabilities of the Agricultural Bank and of the Treasurer.

[W.A. No. 45 of 1934, s. 7.]

22. The Bank shall take over and assume the liability for all obligations of the Agricultural Bank as existing at the time of the commencement of this Act, and also the liability for all obligations (both actual and contingent) of the Treasurer as existing at the time of the commencement of this Act under any guarantee or other binding undertaking given by the Treasurer prior to the commencement of this Act pursuant to the power in that behalf conferred on him by section twenty-four of the Industries Assistance Act, 1915-1940.¹

Adjustments in relation to obligations of the Treasurer taken over by the Bank.

23. In relation to the obligations of the Treasurer taken over by the Bank as provided for in section twenty-two of this Act the following provisions shall apply—

- (a) Where prior to the commencement of this Act the Treasurer pursuant to any guarantee or undertaking given by him for the benefit of a borrower has been required to pay and has actually paid the amount of the indebtedness of such borrower, but has not received from the borrower re-imbusement in full of the amount so paid by the Treasurer, the Bank, upon the enforcement by the Bank of the security given by the borrower to the Treasurer to protect him in respect of such re-imbusement, shall hold the amount recovered by such enforcement in trust for the Treasurer and shall deal with the same in such manner as the Treasurer shall direct.
- (b) Where after the commencement of this Act, the Bank is required, pursuant to any obligation of the Treasurer taken over by the Bank under section twenty-two of this Act, to pay and does pay the amount of the indebtedness of the borrower as guaranteed by the Treasurer, the Bank, upon the enforcement by the Bank of the security given by the borrower to the Treasurer to

¹ Now Industries Assistance Act, 1915-1958.

protect him in respect of the re-imburement of the payment of such indebtedness when made on behalf of the borrower, shall hold the amount recovered as belonging to and forming part of the funds of the Bank.

24. (1) From and after the commencement of this Act the aggregate indebtedness of the Agricultural Bank to the Treasurer taken over and assumed by the Bank under this Act, and the amount of any debt due by the Bank to the Treasurer under paragraph (a) of section twenty-three of this Act may be reduced by the Governor 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.

Governor may grant relief from liability to Treasurer. [W.A. No. 45 of 1934, s. 8.]

(2) The Governor may on the recommendation of the Treasurer suspend the liability of the Bank to the Treasurer in respect of any sum or sums forming part of the aggregate indebtedness or debt aforesaid and grant the Bank relief from interest payments to the Treasurer during such period of suspension or grant the Bank relief from interest payments on any sum or sums forming part of the aggregate indebtedness or debt aforesaid whether payment of such sum or sums is suspended or not. Provided that nothing herein contained shall be construed as relieving the Bank from its duty to make any sinking fund payments which the Bank is required to make under section twenty-five of this Act.

25. Where by virtue of section nine of the Agricultural Bank Act, 1934, the Agricultural Bank is at the time of the commencement of this Act bound to make any sinking fund payments to provide for the redemption of any loan made to the Finance and Development Board under the provisions of the Finance and Development Board Act, 1930, or to make payment of any other moneys borrowed by the said Board under the said Act, the Bank shall continue to make such sinking fund payments or to make payment of the other moneys aforesaid in the same manner and at the times as applied in the case of the Agricultural Bank when it was liable to make such payments.

Certain sinking fund payments to be continued. [Cf. W.A. No. 45 of 1934, s. 9.]

PART IV.—FINANCE.

Division 1.—Funds.

Funds of the
Bank.
Amended by
No. 25 of
1963, s. 3.

26. The funds of the Bank shall include—

- (a) moneys transferred from the credit of the Agricultural Bank to the credit of the Bank;
- (b) the value of all assets (other than money and securities) formerly belonging to or held by the Agricultural Bank and now by virtue of this Act transferred to the Bank;
- (c) the value of or the amount of the indebtedness of borrowers under all securities formerly belonging to the Agricultural Bank and now by virtue of this Act belonging to and vested in the Bank;
- (d) the value of or the amount of the indebtedness of borrowers under all securities formerly belonging to the Treasurer in respect of financial assistance rendered by him to such borrowers under section twenty-four of the Industries Assistance Act, 1915-1940,¹ and now by virtue of this Act transferred to and vested in the Bank;
- (e) moneys appropriated by Parliament to the purposes of this Act;
- (f) moneys borrowed by the Bank under the borrowing powers conferred by this Act;
- (g) income from investments; and
- (h) all other revenue of the Bank.

Moneys received by or belonging to Bank to be paid into account at the Treasury.

[See W.A. No. 45 of 1934, s. 9.]

27. All moneys received by or belonging to the Bank and which form part of the funds of the Bank shall be paid to a special account in the name of the Commissioners to be kept at the Treasury, and from that account the Commissioners shall draw

¹ Now Industries Assistance Act, 1915-1958.

all sums needed for the costs of the administration of the Bank and the conduct of the business of the Bank under this Act.

28. The Funds of the Bank shall be charged with and applied in payment of any liability incurred by the Bank in carrying out its functions under this Act, including without limiting the generality of the foregoing—

Applications of funds of the Bank. Amended by No. 49 of 1966, s. 3.

- (a) in payment of remuneration or allowances to the Commissioners to which they are entitled under this Act;
- (b) in payment of salaries, wages and other allowances of officers and servants of the Bank;
- (c) in payment of the general administration expenses of the Banks including the provision of offices and premises for the transaction of the business of the Bank;
- (d) in payment of any indebtedness under obligations taken over and assumed by the Bank;
- (e) in making loans to borrowers under the provisions of this Act;
- (f) in making any other payment incidental to the business of the Bank which is recommended by the Commissioners to the Minister and approved by the Governor.

29. The interest on and contributions, at a rate to be fixed from time to time by the Treasurer, to the sinking fund for the redemption of money appropriated by Parliament to the purposes of this Act shall be paid by the Bank to the Treasurer half-yearly and shall be applied by the Treasurer to recoup the Consolidated Revenue Fund in respect of such interest and contributions.

Sinking fund for repayment of moneys appropriated by Parliament. [See W.A. No. 8 of 1912, s. 6.]

Division 2.—Borrowing Powers.

Power to borrow money. Repealed and re-enacted by No. 25 of 1963, s. 4.

[See Acts No. 45 of 1934, ss. 11 and 23, No. 8 of 1912, s. 7, N.S.W. Act, No. 63 of 1932, s. 36A and Act No. 30 of 1918, s. 35.]

30. (1) Subject to subsection (2) of this section, the Bank on the recommendation of the Minister and with the consent of the Governor and of the Treasurer may—

- (a) borrow and reborrow money by the issue and creation and sale of debentures and of inscribed stock for the purpose of raising the funds of the Bank for the effectual exercise by the Bank of the powers conferred by this Act;
- (b) issue and create debentures and inscribed stock in exchange for any debentures and inscribed stock respectively issued in respect of money previously borrowed by the Bank and not repaid;
- (c) issue, create and sell debentures and inscribed stock for the purpose of borrowing money for redeeming any loans owing by the Bank and for paying the expenses incurred in the issue and creation of the debentures and inscribed stock and otherwise carrying out the provisions of this Act; and
- (d) effect any conversion authorised by this section either by arrangement with the holders of existing debentures or registered owners of inscribed stock, or by the purchase of the debentures or inscribed stock out of the moneys raised by the sale of debentures and inscribed stock or partly in the one way and partly in the other.

(2) The Governor and the Treasurer shall not consent pursuant to subsection (1) of this section, unless in respect of each proposed borrowing under that subsection a written proposal specifying—

- (a) the term and particulars of the proposed borrowing;
- (b) the rate of interest to be paid on the money proposed to be borrowed by the Bank;

- (c) the purposes to which the money is to be applied; and
- (d) the manner in which the money proposed to be so borrowed is to be repaid,

is first submitted by the Commissioners to the Minister and the Treasurer and is approved by them.

(3) For the purpose of raising the funds of the Bank for the effectual exercise by the Bank of the powers conferred by this Act and in the ordinary course of carrying on the business of banking, the Bank may borrow money from any bank including a savings bank or any person and the consent referred to in paragraph (e) of section nineteen of this Act is not required in respect of any moneys proposed to be borrowed pursuant to this subsection.

(4) Any money borrowed by the Bank pursuant to subsection (1) of this section, may be raised—

- (a) as one loan or as several loans; and
- (b)
 - (i) by the issue of debentures payable to bearer with or without interest coupons attached;
 - (ii) by the creation and issue of inscribed stock to be called the "Rural and Industries Bank Incribed Stock" or such other name as the Governor determines;
 - (iii) partly as provided in subparagraph (i) and partly as provided in subparagraph (ii) of this paragraph; or
 - (iv) in such other manner as may be prescribed or as the Governor may approve.

(5) For the purpose of making provision to pay off either the whole or part of any loan raised by the Bank pursuant to this section, the Bank may,

with the consent of the Governor and the Treasurer and subject to subsection (2) of this section, borrow under this section money for that purpose before the loan or part of it becomes payable.

31. (1) Due repayment of all money borrowed pursuant to the provisions of section thirty of this Act and the interest thereon shall be charged on and secured upon the funds and securities and other assets of the Bank.

Moneys borrowed to be a charge on Bank assets and guaranteed by the State.

Amended by No. 25 of 1963, s. 5.

[W.A. No. 45 of 1934, s. 12; W.A. No. 8 of 1912, s. 7; N.S.W. No. 63 of 1932, s. 36A (2).]

Provided that such charge shall not prejudice or affect the powers of the Bank to recover release or discharge any security aforesaid or the property comprised therein or to sell or convey such property or to foreclose such security or property or deal with the same under this Act.

(2) Due repayment of all money borrowed pursuant to section thirty of this Act and the interest thereon is also hereby guaranteed by the Government of the State, and any liability arising from such guarantee shall be payable and be paid out of the Consolidated Revenue Fund.

32. [*Repealed by No. 25 of 1963, s. 6.*]

33. The provisions of—

- (a) Part I of the Second Schedule apply with respect to debentures and inscribed stock issued and created by the Bank under this Act;
- (b) Part II of that Schedule apply with respect to debentures so issued by the Bank; and
- (c) Part III of that Schedule apply with respect to inscribed stock so created and so issued.

Provisions of Second Schedule applicable to debentures and inscribed stock.

Repealed and re-enacted by No. 25 of 1963, s. 7.

34. All debentures or inscribed stock issued or created by the Bank under this Act shall be securities authorised by the laws relating to the investment of trust moneys and shall have the status of Government securities within the meaning of any Act in force for the time being relating to friendly societies, and any trust funds may be invested in such debentures or inscribed stock accordingly and all corporations, companies or co-partnerships and all trustees, executors and administrators, whether incorporated, established or appointed before or after the commencement of this Act, not expressly forbidden to invest their funds in the purchase of Government securities by their charter, act of incorporation, deed of settlement, or of partnership, trust deed, settlement, testamentary or other instrument whatsoever respectively are hereby authorised and empowered to invest such funds in the purchase of and to hold such debentures or inscribed stock as aforesaid without incurring or committing any breach of trust or of any condition, restriction or provision contained in any such Act, charter, or other instrument whatsoever as aforesaid.

Power to Trustees to invest in bank debentures.
Amended by No. 25 of 1963, s. 8.
[N.S.W. No. 63 of 1932, s. 36A (13).]

Division 3.—Investments.

35. (1) Save and except to the extent to which the same may be required for immediate use by the Bank for the purposes of its operations under this Act—

Investment of moneys in the control of the Bank.
Amended by No. 103 of 1969, s. 2.

- (a) moneys forming part of the funds of the Bank;
- (b) moneys received on fixed deposit from depositors; and
- (c) moneys received from depositors on current account in the course of the general banking business carried on by the Bank—

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may, and shall as far as practicable, but subject to subsection (2) of this section, be invested in investments of the following kinds, that is to say:—

- (d) any investments which are from time to time authorised by any Act of the State for the investment of trust funds; and
- (e) any debentures or other securities issued or given by any corporate body constituted or established by any law of the Commonwealth or of any State in the said Commonwealth which authorises the issue of such debentures or the giving of such other securities and provides that the said debentures or other securities are guaranteed by the Government of the Commonwealth or of the State as the case may be, under the laws whereof the said debentures are issued or the said other securities are given as aforesaid.

(2) No moneys shall be invested under the authority conferred by subsection (1) of this section in any kind of investment whatsoever without the consent of the Treasurer being first obtained.

(3) Notwithstanding the provisions of subsection (1) of this section, moneys referred to in paragraphs (a), (b) and (c) of that subsection may, on the recommendation of the Minister and with the consent of the Governor, be invested in shares in the share capital of, or debentures issued by, any body corporate if—

- (a) the body corporate is incorporated under the laws of this State or is both incorporated under the laws of another State or of a Territory of the Commonwealth and registered as a foreign company under Part XI of the Companies Act, 1961; and
- (b) the principal or a substantial part of the business of the body corporate consists of the carrying out of any one or more of the following activities, namely, banking, the provision of finance, financial advice or financial services or any like or associated activity.

PART V.—ADMINISTRATION.

Staff.

36. (1) In this section, unless the context requires otherwise—

“appointed day” means the twenty-second day of November, one thousand nine hundred and forty-eight;

“Public Service Act” means the Public Service Act, 1904-1948,¹ and any Act amending or deemed to be substituted for it.

Staff.
Repealed
and
re-enacted
by No. 14 of
1949, s. 2.
Amended by
No. 40 of
1950, s. 3;
No. 34 of
1965, s. 4;
No. 113 of
1965, s. 4(1);
No. 52 of
1974, s. 3.

(2) The Commissioners shall have and may exercise exclusively the power to employ or appoint, promote or transfer from one position to another on the staff of the bank, to terminate the employment of, and dismiss any person as an officer of the bank.

(3) The provisions of the Public Service Act shall be regarded as having ceased on and after the appointed day, to apply to any officer of the bank; and any right until then existing, pursuant to those provisions, and available to any officer of the bank, is, subject to the provisions of the next succeeding subsection, abolished.

(4) For the purposes of the provisions of this section, and of by-laws made under it, relating to long service leave, where any person was at the time of his appointment as an officer of the Bank, an officer of the Agricultural Bank, his period of service in the latter capacity shall be regarded as having been served in the employ of the Commissioners.

(5) The Commissioners may, with the prior approval of the Treasurer, make by-laws—

(a) providing for entitlements of officers to—

(i) long service leave and lump sum payments in lieu thereof; and

(ii) lump sum payments for *pro rata* long service;

¹ Now Public Service Act, 1904-1977.

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- (b) prescribing the terms and conditions to which all or any of those entitlements are subject; and
- (c) prescribing such other matters as are necessary or convenient for giving effect to those entitlements and those terms and conditions.

(6) In subsection (5) of this section "officers" means officers of the Bank and includes Commissioners.

37. [*Repealed by No. 14 of 1949, s. 3.*]

38. [*Repealed by No. 14 of 1949, s. 3.*]

39. [*Repealed by No. 14 of 1949, s. 3.*]

Members of staff not eligible for loans but may deposit moneys with Bank.

Amended by No. 31 of 1956, s. 6.

[W.A. No. 45 of 1934, s. 35.]

40. (1) An officer or servant of the Bank, and the wife of any such officer or servant shall not be eligible, whilst such officer or servant remains in the employ of the Bank, to obtain any loan from the Bank under this Act, save and except with the approval of the Governor on the recommendation of the Minister.

(2) Nothing in subsection (1) of this section shall prohibit the Bank from receiving from any officer or servant aforesaid or from the wife of any such officer or servant any money which he or she desires to deposit with the Bank on a current account or by way of a fixed deposit or in a savings bank account.

Officer to be appointed in connection with discharged soldiers.

[W.A. No. 45 of 1934, s. 36.]

41. During such time as the Bank under the authority of this Act continues to administer the Discharged Soldiers' Settlement Act, 1918, 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 said Act to assist the Commissioners and other persons who likewise are discharged soldiers in transactions between the Bank and such persons.

Division 2.—Administration of Certain Acts transferred to the Bank.

42. (1) Subject to subsection (2) of this section, after the passing of this Act the administration of the following Acts shall be transferred to the Bank, that is to say:—

Administra-
tion of cer-
tain Acts
transferred
to Bank.
[W.A. No. 45
of 1934, s. 37
(a).]

- (a) The Discharged Soldiers' Settlement Act, 1918.
- (b) The Group Settlement Act, 1925.
- (c) The Group Settlers' Advances Act, 1925.
- (d) The Industries Assistance Act, 1915-1940.¹
- (e) The Wire and Wire Netting Act, 1926.

(2) The Acts referred to in paragraphs (a), (b) and (c) of subsection (1) of this section shall be administered by the Bank through the Rural Department, and the Acts referred to in paragraphs (d) and (e) of subsection (1) of this section shall be administered by the Bank as an agency of the Government of the State through the Government Agency Department.

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

Commis-
sioners to
exercise
powers of
the several
authorities
formerly
controlling
transferred
activities.
[W.A. No. 45
of 1934, s. 37
(b).]

- (a) the Discharged Soldiers' Land Settlement Board under the Discharged Soldiers' Settlement Act, 1918.

¹ Now Industries Assistance Act, 1915-1958.

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- (b) the Commissioners of the Agricultural Bank under the Group Settlement Act, 1925;
- (c) the Minister for Lands under the Group Settlers' Advances Act, 1925;
- (d) the Industries Assistance Board under the Industries Assistance Act, 1915-1940;¹
- (e) the Minister for Lands under the Wire and Wire Netting Act, 1926.

Control of register of debentures and duties of Finance and Development Board to devolve on the Bank.
[W.A. No. 45 of 1934, s. 37 (c).]

44. 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 as the same devolved upon the Agricultural Bank under and by virtue of the provisions of section thirty-seven of the Agricultural Bank Act, 1934, shall devolve upon the Bank by virtue of this Act.

Government to pay administration costs in respect of certain transferred activities.

45. As from the date of the commencement of this Act, the administration costs of the Bank to be determined from time to time in the manner hereinafter provided, incurred in connection with the administration of those transferred activities which by virtue of subsection (2) of section forty-two of this Act are to be administered by the Bank through the Government Agency Department shall be borne and paid by the Government of the State, and the Treasurer shall recoup the Bank for the amount thereof in such manner and at such times as may be arranged between the Treasurer and the Commissioners as provided for in section seventy-eight of this Act.

¹ Now Industries Assistance Act, 1915-1958.

PART VI.—RURAL DEPARTMENT.

Division 1.—Powers.

46. In addition to any other powers conferred on them by this Act, the Commissioners have power to carry on, within the Rural Department, the business of banking generally in all forms recognised by law, and without limiting the generality of that power, to—

- (a) acquire hold sell convey lease assign and otherwise assure land of any tenure;
- (b) receive money on deposit for a fixed term and pay interest thereon;
- (c) receive deposits to be inscribed as "Deposit Stock" repayable on notice as prescribed, and pay interest thereon;
- (d) accept money on current account to be operated on by cheques;
- (e) issue bills and drafts and grant letters of credit;
- (f) discount bills, drafts and Government securities;
- (g) grant overdrafts payable on demand to persons who are depositors of money in the Bank whether carrying on any rural industry or other industry or not, on the security of land, crops, wool, live-stock, plant or machinery, personal security, guarantees, promisory notes, bills of exchange or any other security approved of by the Commissioners;
- (ga) act as nominee or agent of any person and to hold property on trust for any person;
- (h) deposit money in any trading bank of the State;
- (i) make loans of any nature or amount whatsoever to any persons, whether depositors of money in the Bank or not, and

Heading amended by No. 31 of 1956, s. 7.

Powers of Commissioners in relation to conduct of business in Rural Department.

Amended by No. 4 of 1951 s. 3; No. 31 of 1956, s. 8; No. 25 of 1963, s. 9.

[N.S.W. No. 48 of 1906, s. 48A.]

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whether with or without security, and subject to such conditions and rates of interest as may be thought fit by the Commissioners;

- (j) establish, and to carry on, the business of a savings bank;
- (k) do all things incidental to the powers conferred on them by this section.

Deposits to be held in cash.

[N.S.W. No. 48 of 1906, s. 48B.]

47. The Commissioners shall hold or retain in cash or on current account or on deposit available at not more than six months' call twenty per centum of the quarterly average of the moneys held by the Bank on deposit and on current account.

Funds of deceased customer payable to Public Trustee in certain cases. Amended by No. 31 of 1956, s. 9. [N.S.W. No. 48 of 1906, s. 48D.]

48. (1) Where moneys are standing in the Bank to the credit of a customer, whether by way of fixed deposit, deposit stock, savings bank account or current account at the date of the death of such customer and probate of the will of such customer or letters of administration of his estate is not or are not produced to the Bank within such time, not being less than six months from the death of such customer, as the Commissioners think reasonable, the Commissioners may pay the amount of such moneys and any interest due thereon to the Public Trustee under the Public Trustee Act, 1941, to be administered and disposed of by him according to law.

(2) The receipt of the Public Trustee for any such payment received by him shall be a sufficient discharge to the Bank in respect of the amount mentioned in such receipt and shall be binding on any widow, widower, or next-of-kin, or person appointed as legal representative of the estate of the deceased customer.

(3) The provisions of this section shall apply to the delivery of any bonds, debentures, or other securities held by the Bank on behalf of the deceased customer.

49. (1) The payment of all moneys due by the Bank in respect of the banking operations carried on by the bank in the Rural Department under the authority of this Part of this Act is guaranteed by the Government of the State.

Payment guaranteed.
(N.S.W. No. 43 of 1906, s. 43.)

(2) Any liability arising from such guarantee shall be payable and be paid out of the Consolidated Revenue Fund.

50. (1) Subject to section ninety-six A of this Act, after making such deductions as the Commissioners think fit from the earnings of the Rural Department derived from banking operations carried on therein in respect of the estimated losses in connection with the operations of the said department, the net profits earned by the said banking operations during any year shall be set apart towards a Reserve Fund for meeting any further loss or deficiency in connection with the operations of the said Department.

Reserve Fund for Rural Department.
Amended by No. 45 of 1974, s. 2.

(2) Any deficiency in the said Reserve Fund at the end of any financial year of the Bank shall be made good from the Consolidated Revenue Fund upon such deficiency being certified to by the Commissioners and the Minister.

Division 2.—Loans.

51. (1) Subject to this Act the persons to whom the Commissioners may make loans under this division shall be persons—

Person to whom loans may be made.
Amended by No. 4 of 1951, s. 4.

(a) [*Repealed by No. 4 of 1951, s. 4.*]

(b) Who require financial assistance to enable them to engage or to continue to engage in rural industry, or in any other industry, or for any other purpose approved by the Commissioners.

(2) In this division, persons who are engaged in or are about to engage in rural industry are referred to as "settlers," and persons who are engaged in or are about to engage in any industry (not being a rural industry) are referred to as "manufacturers."

Power to
make loans.
[W.A. No. 45
of 1934, s.
38; N.S.W.
No. 48 of
1906, s. 62.]

52. Subject to this Act, the Commissioners may grant to settlers and manufacturers and other borrowers fixed or amortisation or long term loans through the Rural Department upon mortgage of—

- (a) an estate in fee simple in any land in the State;
- (b) a leasehold estate or other holding or tenure in any land granted under the Land Act, 1933-1939;¹
- (c) a gold mining lease or mineral lease or any other holding or tenure granted under any of the laws of the State relating to mining.

Purposes for
which loans
may be
made.
[W.A. No. 45
of 1934, ss.
38 and 44;
N.S.W. No.
48 of 1906, s.
63.]

53. (1) Subject as in this section hereinafter provided, the Commissioners may specify the purposes for which any loan may be made and may with the concurrence of the borrower vary such purposes.

Provided that—

- (i) a loan made to a settler shall be for a purpose connected with or incidental to his business or undertaking in the rural industry in which he is engaged or is about to engage.
- (ii) A loan made to a manufacturer shall be for a purpose connected with or incidental to his business or undertaking in the industry (not being a rural industry) in which he is engaged or is about to engage.
- (iii) A loan made to a borrower (other than a settler or a manufacturer) shall be for a purpose which in the opinion of the Commissioners is reasonable.

¹ Now Land Act, 1933-1978.

(iv) The following matters shall be included in the purposes which may be specified by the Commissioners, that is to say:—

- (a) the discharge of a mortgage secured upon the land owned or used or a Bill of Sale over the chattels of a borrower used in connection with his business or undertaking;
- (b) the release of a statutory charge or other charge upon the land of a borrower used as aforesaid;
- (c) the satisfaction of a bill of sale or lien over the crops, live-stock, machinery, goods or other chattels of a borrower produced or belonging to or used by a borrower as aforesaid.
- (d) the discharge or satisfaction of any other security given by the borrower.

(2) If in the opinion of the Commissioners a loan granted for a specified purpose has not been applied to such purpose or to some other approved purpose or has not been carefully and economically expended the Commissioners may at once call in the whole or so much of the loan as shall have been made (as the case may be) whereupon the borrower shall forthwith repay the same, and in default of such repayment the Commissioners shall have and may exercise the same remedies for the recovery of the same as are provided by this Act for the recovery of loans on default being made by a borrower in payment of principal and/or interest under the terms of any security.

54. Every application for a loan shall be in the prescribed form.

Applications.
[W.A. No. 45
of 1934, s. 39;
N.S.W. No.
48 of 1906, s.
65.]

55. Any person over the age of sixteen years, who is the owner of an estate or interest in any rural land and otherwise qualified by this Act may apply for a loan and, if the same is granted to him, shall

Persons over
16 years of
age may ob-
tain loans.
[W.A. No. 45
of 1934, s.
40.]

be capable of mortgaging the land and contracting with the Bank to the same extent as if he were of full age.

Commissioners must be satisfied as to certain conditions before making loans. [W.A. No. 45 of 1934, s. 41.]

56. Before making any loan the Commissioners shall be satisfied—

- (a) that the loan is required for a purpose mentioned in the proviso to subsection (1) of section fifty-three of this Act and of which the Commissioners approve;
- (b) that the applicant has reasonable prospects of developing and carrying on his business or undertaking successfully, or otherwise is deserving of such loan.

Costs and expenses which may be charged in respect of loans. Amended by No. 113 of 1965, s.4(1). [N.S.W. No. 48 of 1906, s. 67.]

57. The costs and expenses which the Bank may charge in respect of making loans under this Division shall not exceed—

- (a) fees for stamps, registration, searches and other expenses out of pocket;
- (b) the prescribed fees for valuation;
- (c) for other expenses, not more than two per centum on the amount of the loan up to two hundred dollars, and thereafter one-half per centum on the amount above two hundred dollars and up to one thousand dollars, and one-fourth per centum on the amount above one thousand dollars.

Amount of loan and nature of security. Amended by No. 36 of 1947, s. 2; No. 31 of 1956, s. 10. [W.A. No. 45 of 1934, ss. 42, 43, 47; N.S.W. No. 48 of 1906, s. 68.]

58. The following provisions shall apply to loans under this division—

- (a) The amount of the loan shall not exceed the sale value of the security to be given in respect of the loan as assessed by the valuers of the Bank and, except for good cause shown to the satisfaction of the Commissioners, shall not exceed an amount equal to seventy per centum of such sale value.

- (b) A loan when granted to a borrower may be made in one sum or in progress payments from time to time at the discretion of the Commissioners.
- (c) Subject as in this paragraph hereafter provided, no loan shall be made in respect of any land which is the subject of a prior encumbrance, mortgage or charge (other than an encumbrance, mortgage or charge in favour of or by this Act vested in the Bank) unless the money to be lent is to be used to pay off such prior encumbrance, mortgage or charge or unless it is agreed between the party in whose favour the prior encumbrance, mortgage or charge has been given and the Commissioners that the prior encumbrance, mortgage or charge shall be deemed to rank in order of priority after the encumbrance, mortgage or charge to be given in favour of the Bank.

Provided that where any land aforesaid is the subject of a prior encumbrance, mortgage or charge in favour of the Crown or any Crown instrumentality a loan may be made by the Commissioners in respect of such land upon the security of a second mortgage of such land, so long as the amount of the loan when added to the amount owing or legally claimable in respect of such prior encumbrance, mortgage or charge does not exceed the limitations imposed by paragraph (a) of this section.

- (d) [*Deleted by No. 36 of 1947, s. 2.*]
- (e) If any interest or instalment on any loan (not being by way of overdraft on current account) is in arrear for more than two months the Commissioners may charge the borrower interest on such interest or instalment at a rate not higher than the rate of interest payable under the mortgage.

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- (f) Where any interest or instalment on any such loan is in arrear the Commissioners may upon the application of the borrower—
- (i) fix an extended period for the repayment of the principal sum owing in respect of the loan at the date of the application and, in the case of an amortisation loan alter the instalment accordingly.
 - (ii) capitalise the whole or portion of such interest or instalment by adding the same to the principal sum owing in respect of the loan at the date of the application and fix an extended period for the repayment of the amount comprising such principal sum and the capitalised interest or instalment, and, in the case of an amortisation loan, alter the instalment accordingly.

Rate of interest.

[W.A. No. 45 of 1934, ss. 46 and 47; N.S.W. No. 48 of 1906, s. 68A.]

59. (1) The maximum rates of interest to be paid by borrowers in respect of loans and to be stipulated in securities given for such loans shall be such rates as are from time to time recommended by the Commissioners and approved by the Governor.

(2) Different rates of interest may be fixed in relation to—

- (a) fixed loans and amortisation loans and long term loans respectively; and
- (b) loans to settlers, to manufacturers and to other borrowers respectively; and
- (c) loans to settlers participating in a close settlement scheme as referred to in section sixty-five of this Act, and to loans to other settlers.

(3) The Commissioners may, subject to the approval of the Minister—

- (a) reduce the rate of interest payable under any security in respect of any loan at any time and from time to time;

- (b) increase any rate of interest which has been reduced as provided for under paragraph (a) hereof up to but not exceeding the rate payable under the security on giving one month's notice in writing of any such increase to the borrower at his last known place of abode;
- (c) Not more than once in any period of three years increase the rate of interest beyond that stipulated in the security but not exceeding the maximum rate of interest for the time being fixed under subsection (1) of this section on giving six months' notice in writing as aforesaid.

(4) In the case of an amortisation loan, when a variation is made in the rate of interest payable in respect thereof, the instalment may be altered accordingly.

(5) Interest on loans made by the Bank (not being loans by way of overdraft on current account), or on so much thereof as shall from time to time remain unpaid, shall be payable half-yearly on the thirty-first day of March and the thirtieth day of September in each year.

(6) This section shall apply in respect of any securities formerly held by the Agricultural Bank which by this Act are vested in or held by the Bank, and for the purposes of this section such securities shall be deemed to have been given to the bank for loans made by the Bank after the commencement of this Act.

Provided that this subsection shall not apply to any securities formerly held by the Agricultural Bank by virtue of the transfer thereof to the Agricultural Bank from any of those transferred activities which by virtue of section forty-two of this Act are to be administered by the Government Agency Department.

Form of security.
[W.A. No. 45 of 1934, s. 48.]

60. Before making any loan the Commissioners shall take security by way of mortgage as in this Act provided 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.
[W.A. No. 45 of 1934, s. 49.]
Third Schedule.

61. In every mortgage given in respect of a loan under this Division the covenants and provisos set out in the Third 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.
[W.A. No. 45 of 1934, s. 50.]

62. In all cases where a special form of mortgage is prescribed by any Act affecting lands used in rural industry or affecting leases or other holdings or tenements granted under the laws relating to mining, 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.

Power to make advances under the Mining Development Act, 1902-1927, not affected.

63. Nothing in this Act shall in any way interfere with or prejudice or affect the power conferred upon the Minister for Mines to make advances to persons under the provisions of the Mining Development Act, 1902-1927.¹

Repayment of loan.
[W.A. No. 45 of 1934, s. 53; N.S.W. No. 48 of 1906, s. 66.]

64. (1) Any borrower who is not in arrear with the payment of any instalment or any interest due in respect of his loan may on any day fixed for the payment of any instalment or interest repay to the Bank the whole of his indebtedness or may at any time repay any portion thereof being an amount of integral dollars. Provided that this paragraph shall not apply to a fixed loan except with the consent of the Commissioners and then subject to such conditions as the Commissioners may impose.

¹ Now Mining Development Act, 1902-1973.

(2) Where a portion only of the loan is so repaid, the Commissioners shall allow interest on the amount repaid at a rate to be recommended by them and approved by the Minister.

Provided that such repayment shall not affect the obligation of the borrower to pay the instalments (if any) provided in the mortgage; but when the sum repaid with the interest thereon amounts to the balance of the loan, the Commissioners shall apply such sum in repayment of the loan and discharge the mortgage.

(3) In the case of a fixed loan the amount of such repayment shall be deducted from the amount of the loan, and thereafter interest shall be payable only on the reduced amount.

(4) If a borrower who has made repayments under this section subsequently falls into arrear with his instalments or interest, the Commissioners may apply any money so repaid to meet his overdue instalments or interest.

(5) The Commissioners may, whenever in their opinion the circumstances so warrant, refund to a borrower any repayments or any portion of the repayments made by him under the provisions of subsection (1) of this section but subject to the liability of the borrower to repay to the Bank the amount of such refunded repayment 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 repayment or part thereof had not been paid to or received by the Bank. Provided that—

- (a) no such refund shall be made unless every subsequent mortgagee agrees in writing that the Bank shall in respect of the refund have and retain the same priority as it has

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in respect of its security as against the security of such subsequent mortgagee; and

- (b) 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.

Loans for purchase of farms.
Amended by No. 36 of 1947, s. 3.
[N.S.W. No. 48 of 1906, s. 64.]

65. Where the State has adopted, or, as the agent of the Commonwealth, has undertaken the management of a close settlement scheme, and for the purpose of facilitating the effectual carrying out of such scheme, the Commissioners may make loans to settlers to assist them in purchasing lands as participants in such scheme, and in connection with such loans the following special provisions shall apply—

- (a) (i) the land must be freehold or be comprised in a free homestead farm or conditional purchase lease granted under the Land Act, 1933-1939,¹ or in a Miner's Homestead lease granted under the Mining Act, 1904-1939,² or otherwise must be land in respect of which the settler can acquire from the Crown a freehold title, or
- (ii) the land must be comprised in a lease granted under the law of the Commonwealth which authorises the granting of leases of land for close settlement;
- (b) the amount of the loan shall not exceed the sale value of the security to be given in respect of the loan as assessed by the valuers of the Bank;
- (c) of the full amount of the loan made, the Bank shall be deemed to have advanced at the risk of the Bank only that portion of the loan which is equal to seventy per centum of the sale value of the security to be given by the settler as aforesaid, and to

¹ Now Land Act, 1933-1978.

² Repealed by Mining Act, 1978.

have advanced the balance of the loan on behalf of and as agent for the State and at the risk of the State; with the intent that in the event of the borrower making default in repayment of the loan, and the Bank selling the security by way of the enforcement thereof, the Bank shall be indemnified by the State in respect of any loss suffered by the Bank by reason of the net proceeds derived from the sale of the security being insufficient to repay in full the difference between the full amount of the loan, and that portion of the loan over and above that portion thereof which has been made by the Bank at its own risk as aforesaid;

- (d) where a settler makes default in repayment of the loan, and the Bank sells the security by way of enforcement thereof the net proceeds derived from such sale shall be applied—
 - (i) Firstly in repaying to the Bank in full the amount of that portion of the loan which the Bank is to be deemed to have advanced at its own risk; and
 - (ii) Secondly in repaying to the Bank the amount of that portion of the loan which the Bank is to be deemed to have advanced on behalf of and as agent for and at the risk of the State;
- (e) if the net proceeds from the sale of a security are insufficient to make to the Bank in full the repayment mentioned in subparagraph (ii) of paragraph (d) hereof, the Treasurer shall upon demand being made by the Bank pay to the Bank the amount of the deficiency;
- (f) a valuation of the farm proposed to be purchased shall be made by the valuers of the Bank upon application for the loan by the settler and upon payment by him of the prescribed fee;

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- (g) no loan shall be made to a settler under this section for an amount in excess of an amount equal to seventy per centum of the sale value of the security to be given by the settler for the loan unless and until the amount of such loan has been approved by the Treasurer;
- (h) a certificate may be issued to either the vendor or the purchaser by the Commissioners setting out the amount of the loan which the Bank is prepared to make upon a sound title in the farm proposed to be purchased; and such certificate shall have force for the time and be subject to the conditions therein named;
- (i) Conditions and covenants may be inscribed in the instrument of mortgage to give effect to the objects of the close settlement scheme aforesaid and to provide for the making of such improvements in connection with the farm as may be necessary;
- (j) in all other respects loans made under this section shall be subject to the same provisions as other loans made by the Bank under this Division.

*Division 2A.—Savings Bank Division of
Rural Department.*

65A. In this Division of this Act, unless the context otherwise requires—

“depositor” means a person, body or association of persons in whose name or on whose behalf money is held in a savings bank account;

“savings bank account” means a depositor’s account in the Savings Bank Division.

65B. The savings bank business of the Bank shall be carried on by a separate division of the Rural Department which shall be known as the Savings Bank Division.

Division 2A
added by No.
31 of 1956,
s. 11.

Inter-
pretation.
Added by
No. 31 of
1956, s. 11.

Savings
bank
business to
be carried
on by Sav-
ings Bank
Division.
Added by
No. 31 of
1956, s. 11.

65C. (1) Unless otherwise expressly provided in this Division, it is not competent for any person either in his own name or in the name of any other person on his behalf or on his account, to deposit or hold at the same time moneys in more than one account in the Savings Bank Division.

Moneys not to be held in more than one account by any person (Cf. Vic. No. 3777, s. 34).
Added by No. 31 of 1956, s. 11.
Commissioners may consolidate accounts. (Cf. S.A. 13, 1942, s. 18.)

(2) Where moneys are so held or deposited contrary to the provisions of subsection (1) of this section, the Commissioners may at any time consolidate the accounts and treat them as one account and make all adjustments on account of interest or otherwise as they consider proper.

(3) This section does not apply to any account relating to money deposited in the Savings Bank Division for a fixed term.

65D. (1) The Commissioners may receive from any person, by way of deposit any sum of money, and shall cause the sum so received to be placed to the credit of such savings bank account or depositor as the person appoints.

Receipt of deposits.
Added by No. 31 of 1956, s. 11.
Amended by No. 113 of 1965, s. 4(1).

(2) The Commissioners may in their discretion refuse to accept from any person by way of deposit a sum of less than ten cents.

65E. (1) The Commissioners may—

- (a) open and keep a savings bank account in the name or for the use or benefit of an infant;
- (b) notwithstanding the provisions of paragraph (c) of subsection (2) of this section, pay to an infant who has attained the age of twelve years, or who appears to the officer of the Bank making the payment to have attained that age, the amount or any portion of the amount standing to the credit of the infant in a savings bank account, in

Deposits and withdrawals by or on behalf of infants. (Cf. C'th. Act, s. 157.)
Added by No. 31 of 1956, s. 11.

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the same manner and upon the same conditions as applies or apply to depositors who are not infants, and the payment to the infant is a complete discharge to the Commissioners for that payment, notwithstanding the infant's incapacity;

(Cf. C'th. Act, s. 157; S.A. Act, s. 42A.)

- (c) notwithstanding the provisions of paragraph (c) of subsection (2) of this section, pay any amount or any portion of an amount in a savings bank account standing to the credit of an infant who is under the age of twelve years to a parent or guardian of the infant, or to any other person if the Commissioners are of the opinion that the payment is necessary or advisable, and the payment to the parent, guardian or other person is a complete discharge to the Commissioners for that payment.

Deposits and withdrawals by trustee. (Cf. C'th. Act, s. 159.)

(2) (a) The Commissioners may open and keep a savings bank account in the name or names of a person or persons, in this section referred to as "the trustee", or "the trustees" who is or are willing to act as trustee or trustees for any other person, whether that other person is under a disability or not, and the Commissioners may pay to the trustee or the trustees the amount or any portion of the amount standing to the credit of the account and the payment to the trustee or trustees is a complete discharge to the Commissioners for that payment.

(b) The Commissioners may, if they think fit, require the production of evidence to their satisfaction of the consent of the beneficiary before any payment is made to the trustee or trustees.

(c) A person other than the trustee or trustees has no claim against the Commissioners in respect of any money received by the Commissioners pursuant to the provisions of this subsection, but nothing in this subsection relieves the trustee or trustees from any legal liability to account for or apply any money paid to him under these provisions.

(3) Where money is held in a savings bank account by a person or persons in trust for any other person, the Commissioners may—

- (a) allow the name of another person, as a trustee, to be substituted for the name of an existing or a deceased trustee;
- (b) on the death of a trustee, pay the money standing to the credit of the account to the surviving trustee or trustees and the payment of the money to that trustee or those trustees is a complete discharge to the Commissioners; and
- (c) in the event of the death of a sole trustee or the last surviving trustee, pay the money standing to the credit of the account to the beneficiary and the payment of the money to the beneficiary is a complete discharge to the Commissioners.

65F. (1) The Commissioners may open and keep a savings bank account in the names of two or more than two persons jointly.

Joint
accounts.
Added by
No. 31 of
1956, s. 11.

(2) (a) An account so opened and kept may, with the approval of the Commissioners, be operated upon by such person or persons and in such manner as may be authorised by the persons in whose names the account is kept.

(b) On the death of any one of the persons in whose names an account is kept under the provisions of this section the Commissioners may pay the money or a portion of the money standing to the credit of the account to the survivor or survivors, and the payment to the survivor or the survivors is a complete discharge to the Commissioners for that payment.

(c) A person may at the same time deposit or hold moneys both in a savings bank account kept separately in his own name and in one kept in his name jointly with another or others, notwithstanding the provisions of section sixty-five C of this Act.

Accounts in
name of
deceased
estates
Added by
No. 31 of
1956, s. 11.
(Cf. S.A. Act
s. 42 (d) (1)
(iii).)

65G. (1) The Commissioners may open and keep a savings bank account in the name of the estate of a deceased person.

(2) (a) An account so opened and kept may, with the approval of the Commissioners, be operated upon by the executor or administrator for the time being, as the case may be, or where there are more than one executor or administrator, by all or by one or more of them.

(b) A person may at the same time deposit or hold moneys both in a savings bank account kept separately in his own name and in one on which he as executor or administrator is entitled to operate under the provisions of this subsection notwithstanding the provisions of section sixty-five C of this Act.

Special
purpose
and trust
estate
accounts
Added by
No. 31 of
1956, s. 11.
(Cf. S.A.
Act, s. 42 (e)
(1)).

65H. (1) The Commissioners may open and keep a savings bank account—

(a) in the name of any person who desires to deposit money therein for a special purpose approved by the Commissioners;

(b) in respect of any trust estate, or any insolvent, bankrupt, sequestered or assigned estate, or any company in liquidation, and assign to it such name or style as the Commissioners decide.

(2) (a) An account so opened and kept may be operated on by the person, trustee, assignee or liquidator at whose instance it was opened; but where a new trustee, assignee or liquidator is appointed in respect of that estate or company, he may, on proof, to the satisfaction of the Commissioners, of the validity of his appointment, operate on the account.

(b) A person may at the same time deposit or hold moneys both in a savings bank account kept separately in his own name and in one on which he is entitled to operate under the provisions of this subsection, notwithstanding the provisions of section sixty-five C of this Act.

65J. (1) The Commissioners may open and keep a savings bank account in the name and on behalf of—

- (a) the council of any municipality or the board of any road district;
- (b) any lawfully operating friendly or co-operative society, trade or other union or any other society, body or club which society, union, body or club, whether as a corporate or other body, is not engaged in, or formed for the purpose of, trading or acquiring pecuniary profit.

Accounts of local authorities and friendly and other societies, etc.
(Cf. C'th. s. 163. S.A. Act, s. 43.)
Added by No. 31 of 1956, s. 11.

(2) An account so opened and kept may be operated on by the treasurer for the time being of, or such officer or officers as is or are authorised for the time being by, the council, board, society, union, body or club, as the case may be.

65K. The Commissioners may pay to the person or the persons for the time being entitled or authorised to operate on a savings bank account kept in accordance with the provisions of sections sixty-five F, sixty-five G, sixty-five H and sixty-five J the amount or any portion of the amount standing to the credit of the account and the payment to the person or persons so entitled or authorised is a complete discharge to the Commissioners for that payment.

Payment to person entitled to operate savings bank account a good discharge to Commissioners.
Added by No. 31 of 1956, s. 11.

65L. It is not competent for any incorporated or unincorporated company or body engaged in or formed for the purpose of trading or acquiring pecuniary profit to deposit or hold in its own name or in the name of any person or other body on its behalf or account any moneys in an account in the Savings Bank Division.

Trading companies not competent to hold moneys in savings bank account.
Added by No. 31 of 1956, s. 11. (Cf. C'th. s. 164. S.A. Act, s. 46).

65M. A depositor has no claim against the Commissioners in respect of any deposit unless the deposit was made at a duly appointed or authorised savings bank branch, agency or sub-agency and during the hours during which the branch, agency or sub-agency was open for the receipt of deposits.

Deposits to be made at duly appointed office
Added by No. 31 of 1956, s. 11. (Cf. C'th. s. 153; S.A. Act, s. 49).

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Interest.
 Added by
 No. 31 of
 1956, s. 11.
 Amended by
 No. 34 of
 1965, s. 5;
 No. 113 of
 1965, s. 4(1).
 (Cf. C'th.
 ss. 154-155;
 S.A. Act
 s. 52).

65N. (1) (a) In respect of any amount standing to the credit of a depositor in a savings bank account, the Commissioners may allow interest at such rate as the Commissioners from time to time determine.

(b) No interest is payable by the Commissioners on any sum, being less than two dollars, standing to the credit of a depositor in a savings bank account except where the sum stands to the credit of a depositor of a class approved by the Commissioners.

(c) The Commissioners may determine different rates of interest according to the amount standing to the credit of a depositor.

(d) The Commissioners may determine that interest is not payable in respect of so much of the amount as exceeds an amount fixed by them.

(2) (a) Except in respect to school savings bank accounts, interest to which any depositor becomes entitled under the provisions of this Division shall be calculated once in each year up to the thirty-first day of August and shall be credited to the account of the depositor not later than the fifteenth day of September in that year.

(b) The interest, upon being so credited, becomes principal and subject to any limitation on the amount on which interest is payable, bears interest on and from the first day of September in that year.

(c) The Commissioners are not bound to take into account any fractional part of any month in the calculation of interest under this section nor are they bound to credit to any account any interest less than one cent.

(d) The Commissioners may, if they consider necessary, at any time cause interest accrued on any savings bank account to be calculated and credited to that account.

(e) Interest payable in respect to school savings bank accounts shall be calculated once in each year up to the thirty-first day of May and credited to those accounts not later than the fifteenth day of June in that year.

(f) The interest on school savings bank accounts, upon being credited to those accounts, becomes principal and, subject to any limitation on the amount on which interest is payable, bears interest on and from the first day of June in that year.

65P. (1) The Commissioners may, in their discretion, and without disclosing their reasons for so doing.

Commissioners may close or refuse to open accounts, etc.

Added by No. 31 of 1956, s. 11.

(a) refuse to admit any person, body or association of persons as a depositor;

(b) direct—

(i) that no further moneys shall be accepted for deposit in a savings bank account; or

(ii) that a savings bank account shall be closed.

(2) (a) Where the Commissioners direct that a savings bank account shall be closed, notice in writing of that direction shall be sent to the depositor concerned.

(b) Upon the issue of the notice in writing, interest shall cease to be payable to the benefit of the depositor with respect to that account, but the depositor is, subject to the provisions of paragraph (c) of this subsection, entitled to withdraw the amount standing to his credit as at the date of issue of the notice together with interest, if any, payable thereon to that date.

(c) Where the Commissioners direct that a savings bank account shall be closed under this section, they may in their discretion refuse to allow interest to be credited on any amount deposited in that account and if interest has already been credited on any such amount, may write back the interest so credited.

Pass books.
 Added by
 No. 31 of
 1956, s. 11.
 Amended by
 No. 34 of
 1965, s. 6.
 (Cf. C'th.
 s. 152).

65Q. (1) Where a savings bank account is opened, a pass book may be issued to the depositor or the person at whose instance the account is opened.

(2) [*Repealed by No. 34 of 1965, s. 6.*]

(3) A pass book so issued is the property of the Bank and shall, when required by the Commissioners, be produced at such time or times and at such place or places as the Commissioners specify.

With-
 draws.
 Added by
 No. 31 of
 1956, s. 11.
 (Cf. C'th.
 s. 156).

65R. (1) Before any money standing to the credit of an account is withdrawn, the Commissioners may require a withdrawal form, duly completed by the depositor or such other person as is authorised or entitled to operate on the account, to be presented to the Bank and may also require the production of the pass book.

(2) The money may be paid to the person presenting the withdrawal form and if that person is not the depositor or other person authorised or entitled to operate on the account, the payment of the money to the person presenting the withdrawal form shall, for all purposes, have the same effect as the payment of the money to the depositor or other person authorised or entitled to operate on the account.

(3) Where a period of notice prior to the withdrawal of any amount standing to the credit of a savings bank account is prescribed, a depositor is not entitled to withdraw that amount until the prescribed notice has been given and has expired.

(4) The Commissioners may in their discretion and subject to the regulations made under this Act, allow the savings bank account of a depositor approved by them to be drawn upon by cheque signed by the depositor or such person as is entitled or authorised to operate on the account, and the payment of any cheque so drawn is a complete discharge to the Commissioners for that payment.

65S. [Added by No. 31 of 1956, s. 11.]

[Repealed by No. 34 of 1965, s. 7.]

65T. Where a person, being illegitimate, dies intestate leaving any money standing to his credit in a savings bank account, the Commissioners may pay the money to the widower or widow of the person or to such natural relation of the person as, in the opinion of the Commissioners, has the best claim thereto, and the receipt of the money by the person to whom the payment is made is a complete discharge to the Commissioners.

Payment on death intestate of illegitimate depositor. Added by No. 31 of 1956, s. 11.

65U. Where it is proved to the satisfaction of the Commissioners that a person having any money standing to his credit in a savings bank account has become insane or otherwise incapacitated, the Commissioners may, in such cases of urgent necessity as they consider fit, pay the money or any portion thereof to such person as they think proper, and the payment of the money to that person is a complete discharge to the Commissioners.

Insanity or incapacity of depositor. Added by No. 31 of 1956, s. 11. (Cf. C'th. s. 162.).

65V. (1) The Commissioners may cause a savings bank account, other than an account in the name or on behalf of an infant, which has not been operated on by the deposit or withdrawal of any money for a period of not less than seven years and the pass book relating to which has not been produced to the Bank, to be closed, and the money standing to the credit of the account so closed shall be carried in the name of the depositor to a fund to be called the "Depositors' Unclaimed Fund".

Depositors' Unclaimed Fund. Added by No. 31 of 1956, s. 11. (Cf. C'th. s. 165; S.A. Act, s. 60).

(2) The money so carried to that fund shall, on the application of the person who, in the opinion of the Commissioners, is entitled to receive it, be paid to that person without interest thereon for the period during which it remained in the fund and the receipt by that person of the payment is a complete discharge to the Commissioners.

(3) The moneys in the Depositors' Unclaimed Fund may from time to time be lent out and invested by the Commissioners in the same manner as the other funds of the Savings Bank Division and any interest earned from the moneys so lent or invested shall be added to and form part of the general profits of the Savings Bank Division.

Investment
of moneys
in Savings
Bank
Division
Added by
No. 31 of
1956, s. 11.
(Cf. S.A.
Act, s. 32).

65W. (1) The Commissioners may in their discretion invest the moneys in deposit in the Savings Bank Division—

- (a) in the purchase of any securities of or guaranteed by the Government of this State or of or guaranteed by the Government of any other State in the Commonwealth of Australia;
- (b) in the purchase of any securities of or guaranteed by the Government of the Commonwealth of Australia;
- (c) in the purchase of any bonds, debentures, or other securities issued by any Municipal Council or Road Board or by any authority constituted by or under an Act passed by the Parliament of this or of any other State or of the Commonwealth;
- (d) in making any deposit with any other Bank;
- (e) in any investments which are from time to time authorised by any Act of the State for the investment of trust funds;
- (f) in any other prescribed manner.

(2) The Commissioners may in their discretion lend moneys in deposit with the Savings Bank Division to a person or body for the purchase or erection of a dwelling or for any other prescribed purpose against the security of land or such other security as may be prescribed.

65X. (1) The Commissioners may from time to time as they consider necessary—

- (a) establish agencies and sub-agencies in any part of the State and abolish any agency or sub-agency so established;
- (b) authorise or appoint any person, firm, company, institution or corporation or, with the consent of the Minister under whom he is serving, any Government officer to act as agent, sub-agent or assistant agent of the Savings Bank Division for the receipt and repayment of deposits or for the receipt of deposits only;
- (c) revoke any authorisation or appointment made under paragraph (b) of this subsection; and
- (d) pay to an agent, sub-agent or assistant agent such remuneration, allowance or commission as they may determine.

Agencies, etc. of Savings Bank Division. Added by No. 31 of 1956, s. 11. (Cf. S.A. Act, s. 37).

(2) The Commissioners may make and issue such general or other orders and directions as they think fit for carrying into effect the objects of this section.

65Y. The provisions of this Division do not derogate from or otherwise affect the other provisions of this Act.

Other provisions of this Act not affected by this Division. Added by No. 31 of 1956, s. 11.

Division 3.—General.

66. (1) Where an advance has been made under any Acts repealed by the Agricultural Bank Act, 1934, or under the Acts repealed by this Act, or under any of the Acts relating to the transferred activities or a loan has been made under this Act upon the security of a mortgage or transfer of a

Crown may acquire Crown grant. [W.A. No. 45 of 1934, s. 54.]

holding the freehold whereof may under any Act be acquired from the Crown, the Bank may at any time 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 make all such payments to the Crown and otherwise as are necessary.

(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.

Forfeited
Crown lands
securities.
[N.S.W. No.
48 of 1906,
s.69.]

67. [*Repealed by No. 4 of 1951, s. 5.*]

Dealings
with land
subject to
loan.

[W.A. No. 45
of 1934, s. 60;
N.S.W. No. 48
of 1906, s. 70.]

68. The following provisions shall apply in respect of any land subject to a loan—

- (a) such land, holding, or tenure shall not nor shall any part thereof be transferred, mortgaged, charged, assigned, let or sublet without the previous consent in writing of the Commissioners;
- (b) any consent under this section may be given subject to such conditions as the Commissioners may impose;
- (c) any transfer, mortgage, charge, assignment, letting or subletting of such land holding or tenure or any part thereof in contravention of this section shall be void, and the Commissioners may cause the estate and interest in such land holding or tenure of any person guilty of any such contravention to be sold;
- (d) where the owner or lessee of any such land, holding or tenure becomes bankrupt, the Commissioners may, subject to the laws relating to bankruptcy, cause his estate and interest therein to be sold;

69. (1) Subject as in this section hereafter provided where under any security taken over by the Bank from the Agricultural Bank or the Treasurer under this Act—

Statutory
charge.
[W.A. No. 45
of 1934, s. 51.]

- (a) any interest is due by any borrower on any account to the Bank; or
- (b) any repayment made by a borrower under subsection (1) of section sixty-four of this Act has been refunded by the Bank to the borrower under subsection (5) of the same section; or
- (c) when any loan has been made by the Bank to any borrower other than to effect permanent improvements or other than to purchase machinery, plant or live-stock—

a first charge is hereby created in favour of the Bank in respect of all or any such sums in priority to all other encumbrances—

- (i) where the borrower is engaged in rural industry, upon all crops wool or wool clips, butter fat, whole milk, 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 home-stead farm) held, occupied or used by such borrower in connection with rural industry; and
- (ii) where the borrower is engaged in an industry (not being a rural industry), upon all goods, wares and merchandise, stock in trade and other products manufactured, produced or obtained by and all book debts owing to the borrower in the course of or in connection with his business; and
- (iii) in the case of other borrowers, upon all the movable chattels of the borrower.

Provided that—

- (a) such charge shall not arise or be enforceable under this section unless and until—
 - (i) in the case of interest due, a payment of interest is in arrear for a period of not less than one year; or
 - (ii) in the case of a refunded repayment referred to in paragraph (b) of this subsection or in the case of a loan referred to in paragraph (c) of this subsection a payment in respect thereof, which the Bank is entitled under the security or this Act to demand and has demanded is not paid within the period of one year from the date of such demand; and
 - (iii) the Commissioners are satisfied that the borrower during the period of one year when such payment of interest or other payment was in arrear as aforesaid had the means to pay at least one year's interest or the payment demanded as aforesaid as the case may be; and
 - (iv) the Governor on the recommendation of the Commissioners approves of the charge being claimed and enforced by the Commissioners.
- (b) When the charge arises and becomes enforceable as provided for in paragraph (a) of this proviso, it may be enforced against any of the chattels of the borrower referred to in this subsection which are then subsisting or may thereafter become the property of the borrower, and the proceeds derived from the sale of any such chattels whilst still in the hands of the purchaser or any agent of the purchaser or agent of the borrower.
- (c) 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, whole milk, produce, livestock or increase in progeny thereof of any one season shall be in respect of one year's interest.

- (d) In so far 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, 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 mortgagee or encumbrancer.

(2) Any charge in favour of the Bank under this section shall rank after any statutory charge existing under the Industries Assistance Act, 1915-1940.¹

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

(4) The Commissioners may at any time agree in writing with any borrower or with any creditor of a borrower to waive the charge created by this section wholly or in part in any case where the Commissioners consider that the circumstances warrant such waiver.

(5) This section shall not apply to any new business under the Rural Department of the Bank.

PART VII.—GOVERNMENT AGENCY DEPARTMENT.

70. (1) The Commissioners shall, through the Government Agency Department of the Bank, perform and exercise such duties, functions, powers and authorities (including the administration of property and assets) as are conferred or imposed upon the Bank by this Act in respect of those transferred activities which by this Act are required to be administered by the Bank through the Government Agency Department, or as may be hereafter delegated to the Bank in pursuance of any Act or by the Governor.

Powers to be executed through the Government Agency Department.

Amended by No. 25 of 1963, s. 10.

[N.S.W. No. 48 of 1906, s. 70H; N.S.W. No. 63 of 1932, s. 70H.]

¹ Now Industries Assistance Act, 1915-1958.

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(1a) In addition to the other powers conferred on the Commissioners by this Act, the Commissioners have and shall be deemed always to have had power, through the Government Agency Department of the Bank—

- (a) to acquire and hold any property including any shares in the share capital of any company whether formed or incorporated in the State or outside the State as trustee, nominee or agent for and on behalf of the Crown in right of the State;
- (b) to act as trustee, nominee or agent of the Crown in right of the State in relation to any party, matter or thing in respect of whom or which the Governor requests the Commissioners to so act;
- (c) to transfer, assign or otherwise dispose of any property acquired or held pursuant to paragraph (a) of this subsection, in such manner and to such party as the Governor directs;
- (d) to perform and exercise such duties, powers, authorities and functions as are necessary to be performed and exercised by the Commissioners for the purpose of enabling the Commissioners to carry out their obligations under any agreement that has been approved by an Act of the Parliament and to which agreement the Commissioners are a party and for those purposes and subject to the agreement—
 - (i) the Commissioners may issue and create debentures and inscribed stock under the provisions of Division 2 of Part IV of this Act; and
 - (ii) those provisions, with such modifications as circumstances require, apply to any such debentures and inscribed stock.

(2) (a) Each separate agency shall be carried out by the Bank in accordance with the terms and provisions of the Act or instrument creating such agency.

(b) Each of the transferred activities which by this Act are required to be administered by the Bank through the Government Agency Department shall for the purposes of this Part be deemed to be and be treated as a separate agency.

(3) Separate accounts shall be kept by the Bank in respect of each agency.

(4) There shall be provided from time to time to the Government Agency Department for the purposes thereof under this Part—

(a) Such moneys as are appropriated from time to time by Parliament.

(b) Such moneys as the Treasurer may from time to time make available to the Bank for the purposes of any Agency.

(c) Such part of the funds of the Bank as the Commissioners may from time to time pursuant to an arrangement made between the Treasurer and the Commissioners allocate to any Agency.

71. (1) In respect to those transferred activities which by this Act are required to be administered by the Bank through the Government Agency Department and which in accordance with paragraph (b) of subsection (2) of section seventy of this Act are to be treated as separate agencies, the liability of the Bank in relation to each such agency shall be shown in a separate account in the books of the said department wherein the Treasurer shall be credited with the total amount which immediately before the commencement of this Act was owing or payable by borrowers for advances made under such agency before the commencement of this Act.

Provision in respect of certain agencies. [N.S.W. No. 48 of 1906, s. 701.]

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(2) In each such account the Treasurer shall from time to time—

(a) be credited with—

- (i) any further amounts to become due to the Bank in respect of such agency from such borrowers in relation to such advances;
- (ii) so much of any moneys appropriated by Parliament for the purposes of the Government Agency Department as is allotted by the Bank to such Agency;
- (iii) any amounts made available to the Bank for the purpose of such agency under paragraph (b) of subsection (4) of section seventy of this Act.
- (iv) Revenue (other than further amounts mentioned in subparagraph (1) hereof) which becomes due to the Bank in respect of such agency.

(b) be debited with—

- (i) the amount by which the indebtedness of any person to the Bank in respect of such agency is reduced by or under this or any other Act;
- (ii) the amounts of any losses on realisation of any security;
- (iii) the amount due to the Bank in respect of such agency by any person on forfeiture of a holding or on surrender of a holding or cancellation of a contract or arrangement for the sale of the land, where such holding or land becomes available for disposal under the Land Act, 1933-1939,¹ or any other Act;
- (iv) any amount paid to the Treasurer in pursuance of the provisions in this Part hereafter contained;
- (v) revenue moneys paid to the Treasurer in pursuance of the provisions in this Part hereafter contained.

¹ Now Land Act, 1933-1978.

72. (1) In respect to agencies delegated to the Bank under this Part after the commencement of this Act, the liability of the Bank in relation to each such agency shall be shown in a separate account in the books of the Government Agency Department.

Provision in respect to agencies delegated after the commencement of this Act.
[N.S.W. No. 48 of 1906, s. 70i.]

(2) In each such account the Treasurer shall from time to time—

(a) be credited with—

- (i) any amounts to become due to the Bank in respect of such agency for capital moneys;
- (ii) so much of any moneys appropriated by Parliament for the purposes of the Government Agency Department as is allotted by the Bank to such agency;
- (iii) any amounts made available to the Bank for the purposes of such agency under paragraph (b) of subsection (4) of section seventy of this Act;
- (iv) revenue which becomes due to the Bank in respect of such agency.

(b) be debited with—

- (i) the amount by which the indebtedness of any person to the Bank in respect of such agency is reduced by or under this or any other Act;
- (ii) the amounts of any losses on realisation of any security;
- (iii) the amount due to the Bank in respect of such agency by any person on forfeiture of a holding or on surrender of a holding or cancellation of a contract or arrangement for the sale of the land, where such holding or land becomes available for disposal under the Land Act, 1933-1939,¹ or any other Act;

¹ Now Land Act, 1933-1978.

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- (iv) any amount paid to the Treasurer in pursuance of the provisions in this Part hereafter contained;
- (v) revenue moneys paid to the Treasurer in pursuance of the provisions in this Part hereafter contained.

Banking account for each agency. [N.S.W. No. 48 of 1906, s. 70J.]

73. For each agency there shall be opened a banking account in the Rural Department and to the credit of such account there shall be deposited all moneys received by the Bank in respect of the agency.

Monthly transfers to Government Agency Department Capital Account and Government Agency Department Revenue Account. [N.S.W. No. 48 of 1906, s. 70K.]

74. (1) As soon as practicable after the end of each month the Bank shall ascertain in respect of each account mentioned in section seventy-three of this Act the amount of the preceding month's credits which represents capital moneys and the amount of such credits which represents revenue moneys and shall transfer the amount which represents capital moneys to the credit of an account in the Rural Department styled the "Government Agency Department Capital Account" and the amount which represents revenue moneys to the credit of an account in the Rural Department styled the "Government Agency Department Revenue Account."

Provided that nothing in this subsection shall prevent the Bank from making intermediate transfers subject to a final monthly adjustment as provided herein.

(2) The money to the credit of the Government Agency Department Revenue Account shall be paid to the Treasurer as and when available.

(3) For the purposes of this section the expressions "capital moneys" and "revenue moneys" shall have the same meanings respectively as are applied or used in the ordinary course in the practice of accountancy.

75. The Bank may keep such further accounts as it deems necessary in respect of each agency to record the operations of such agency.

Power to keep further accounts.
[N.S.W. No. 48 of 1906, s. 70L.]

76. The Bank shall not be required or liable to allow interest on the amount standing at credit of the Government Agency Department Capital Account or the Government Agency Department Revenue Account in the Rural Department at any time and no interest shall be payable on the amount at credit of the Treasurer in any of the accounts mentioned in sections seventy-one and seventy-two of this Act.

No interest payable on money in Government Agency Department Capital and Revenue Accounts.
[N.S.W. No. 48 of 1906, s. 70N.]

77. (1) The Treasurer may in respect of any agency in the Government Agency Department direct the rate of interest to be charged, the maximum amount of any loan which may be made to any borrower or expended on behalf of any applicant, the period for which any loan may be made and the purposes for which the same may be granted in any case in which such rate, amount, period, or purposes are not regulated by or under any Act and the Bank shall give effect to any such direction.

Power of Treasurer to fix interest rates, etc., in certain cases.
[N.S.W. No. 48 of 1906, s. 70O.]

(2) Any such direction, if given, shall be given generally in respect of a class of borrower, applicant or loan.

78. The whole of the costs of administration of every agency carried on by the Bank in the Government Agency Department as certified to by the Commissioners shall be paid by the Treasurer to the Bank from time to time as and when required.

Costs of administration.
[N.S.W. No. 48 of 1906, s. 70P.]

79. Notwithstanding the provisions of the Audit Act, 1904, or any other Act or any previous method or custom of keeping accounts the Bank shall not be bound to keep any accounts in the Government Agency Department regulating or showing its

Audit Act, 1904, not to apply to keeping of accounts in Department.
[N.S.W. No. 48 of 1906, s. 70Q.]

position with the Treasurer other than those prescribed in this Part of this Act and shall not be concerned or bound to show in any account the source of or loan appropriation or vote from which the moneys represented by the assets transferred to and vested in the Bank were provided.

Powers of Bank to make appropriations and to determine place of payment.
[N.S.W. No. 48 of 1906, s. 70S.]

80. (1) Where the same person is indebted to the Bank in respect of more than one agency or in respect of the Rural Department of the Bank and also of any one or more agencies the Bank may appropriate any moneys received by it (which are not otherwise appropriated by the person paying the same) to the satisfaction or part satisfaction of the indebtedness of such person in respect of such agency or of the Rural Department as the Commissioners may determine, and such person shall be notified in writing within fourteen days of such determination of the Commissioners.

(2) Any amount payable to the Bank in respect of any agency in the Government Agency Department by any person shall be paid at such branch or agency of the Bank or in such manner as the Commissioners may determine and notify in writing to such person.

Statement in writing to be *prima facie* evidence.
[N.S.W. No. 48 of 1906, s. 70T.]

81. (1) A statement in writing signed by the Chairman of the Commissioners or by another Commissioner or officer of the Bank duly authorised for the purpose that on a specified day a specified amount was due and owing to the Bank in respect of an agency under this Part—

- (a) by a specified person; or
- (b) under or in accordance with a specified security,

shall be *prima facie* evidence of the facts so stated.

(2) A statement in writing signed by the Chairman of the Commissioners or by another Commissioner or an officer of the Bank duly authorised for the purpose that a security or the debt thereby secured or any money due thereunder or that the right to recover any money or debt is vested in the Bank in respect of a particular agency shall be *prima facie* evidence of the facts so stated.

82. The Bank is hereby indemnified by the State in respect of any act done by it and of any losses, costs or damages incurred by it in the *bona fide* exercise or performance of the powers, authorities, duties and functions conferred or imposed upon it by or under this Part of this Act.

Indemnity.
[N.S.W. No.
48 of 1906,
s. 70V.]

83. In relation to loans made or securities taken or held by the Bank in respect of any agency under this Part of this Act, all the provisions of this Act contained in Part VI. which relate to loans shall, wherever the same can consistently with the provisions of this Part be applied, with such adaptations as may be necessary apply and shall be deemed to be incorporated in and to be provisions in this Part of this Act relating to such loans or securities aforesaid.

Provisions of
Part VI. to
apply.

PART VIII.—ENFORCEMENT AND WRITING DOWN
OF SECURITIES.

(a) *Enforcement of Securities.*

84. (1) If at any time any instalment or interest or of an instalment under any security vested in or held by the Bank by or under this Act or any part of such interest or instalment 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 or loan has been made, either by private sale or public tender or auction,

Power of
sale.

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 upon a sale being effected the Commissioners may transfer or convey such land to the purchaser and give a good and valid title thereto.

To maintain property after seizure and pending sale.

(2) When the Commissioners have taken and so long as they retain possession of any land or property under this section, the Commissioners shall have power to do whatever is necessary to provide for the maintenance and upkeep of the same, and, in the case of land used in rural industry, 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, and any moneys so expended shall, with interest thereon at the rate stipulated in the security, be repayable by the borrower to the Bank on demand, and all such moneys and interest shall be a charge on the land comprised in the security.

Application of proceeds.

(3) The Commissioners shall apply the proceeds derived from such sale in payment in the first instance of all moneys due under the security, and of all expenses incurred by the Bank in relation to such sale or otherwise with respect to such security, and then in redemption of any amount charged on the land comprised in the security in favour of the Bank or 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 in repair.
[W.A. No. 45 of 1934, s. 56.]

85. (1) Every borrower shall, so long as any principal, interest, or other moneys secured by any security vested in or held by the Bank in respect of any advance or loan remain unpaid by such borrower, keep in good and tenantable repair all buildings, fences, fixtures and improvements upon the land comprised in such security to the satisfaction of the Commissioners or the authorised agent of the Commissioners.

(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) 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) 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 in default enter upon the land comprised in the security and effect all repairs which the Commissioners or such person deem necessary, and the expense thereby incurred, with interest at the rate payable under the security, shall be repaid to the Bank by the borrower on demand, and until payment shall be a charge on the land comprised in the security.

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

Transfer of Land Act, 1893, to apply. [W.A. No. 45 of 1934, s. 57.]

(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 Commissioners may think fit.

87. (1) On or for the purpose of any sale made by the Bank under this Act or under the provisions of any security vested in or held by the Bank by or under this Act, the Commissioners may:—

Specific powers in connection with sale of land on default. [W.A. No. 45 of 1934, s. 58.]

- (a) Sell the land or property comprised in the security in one or in several lots;
- (b) subdivide any lands comprised in the security;

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- (c) effect any improvements upon any such land which the Commissioners consider may be necessary in order to attract purchasers and obtain a better realisation;
- (d) sell such land or property or any lot into which it is divided for the purposes of sale with any other land or property comprised in any collateral security;
- (e) allow time for payment of the whole or any part of the purchase money with or without interest in the meantime.

(2) Any moneys expended in effecting improvements under paragraph (c) of subsection (1) of this section shall be a charge on the lands comprised in the security and be repayable by the borrower together with interest at the rate payable under the security and shall be recoverable in like manner as the principal moneys.

(3) The Commissioners shall not be liable to account, where they have effected a sale and allowed time to the purchaser, except for such sums as the Bank actually receives in cash.

Further powers to Commissioners in possession of land. [W.A. No. 45 or 1934, s. 59.]

88. (1) The Bank as mortgagee of land, while in possession, as against the borrower and all persons claiming under him including every encumbrancer, may—

- (a) from time to time lease the land or any part thereof with or without any plant, stock or machinery or other chattels over which the Bank has a security for principal interest and other moneys owing under such security for any term not exceeding seven years at such rent and subject to such conditions as to the Commissioners may seem fit;

- (b) from time to time agree with any person where the land secured is used in rural industry, to crop, work or maintain the said land with or without plant, stock or machinery thereon over which the Bank has security as aforesaid on such terms and conditions as the Commissioners think fit.

Provided that if the 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 Commissioners may make loans for expenditure on or in connection with the land to any lessee or person mentioned in subsection (1) of this section, and the repayment of such loans with interest shall by force of this Act be charged upon the estate or interest in the land of the borrower and all persons claiming under him as well as upon the leasehold interest of the lessee in such land.

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

Provided that the Commissioners may—

- (i) accept a surrender of any such lease or agree to the cancellation or determination of any agreement aforesaid on such terms as the Commissioners think fit; or
- (ii) agree to a modification or variation of the terms of any such lease or agreement.

89. (1) Subject to subsection (2) of this section the term "owner" in the Road District Act, 1919-1943,¹ and in the Municipal Corporations Act, 1906-1943,¹ respectively shall not extend to the Bank or the Commissioners as mortgagee in possession or otherwise.

Provisions relating to rates on mortgaged properties, etc.

¹ Repealed by Local Government Act, 1960.

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(2) In respect of rates assessed under the said Acts upon land comprised in any security held by the Bank in the Rural Department of the Bank, the Commissioners if and when they enter into possession as mortgagee shall become and be liable for and shall pay—

- (a) the amount owing at the time of the entry for any such rates then in arrear up to an amount not exceeding the amount of rates assessed for any one year of the period in relation to which the rates are in arrear; and
- (b) current rates as they fall due during such time as the Commissioners remain in possession as aforesaid.

(3) While any security held by the Bank in the Rural Department of the Bank remains in force the Commissioners shall take all proper measures to ensure as far as possible that the borrower whilst he continues to occupy or use the land comprised in the security pays as and when they fall due for payment all rates assessed under the said Acts upon the land comprised in such security in accordance with his covenant implied in the security to make such payment.

(4) Whenever the Bank or the Commissioners sell the land comprised in any security held by the Bank in the Rural Department of the Bank in exercise of the mortgagee's power of sale under the said security, the Commissioners shall cause to be included in the conditions of sale a condition that in addition to the purchase price to be paid for the land on the sale thereof, the purchaser shall and will forthwith upon such sale being effected pay to the Commissioners for payment by them to the road board or the municipal council entitled thereto the amount of all rates assessed under the said Acts upon the said land and owing and unpaid at the time of such sale.

(b) Postponement of Payment.

90. Where the Commissioners are satisfied that any borrower who is the owner of any land or chattels the subject of any security vested in or held by the Bank is unable to meet his indebtedness thereunder and any interest payable in respect thereof in accordance with his obligations under such security or this Act, the Commissioners may, but subject to the consent of the Treasurer in the case of an advance or loan made in respect of an agency in the Government Agency Department or to a settler in connection with the purchase of a farm in a close settlement scheme if they are satisfied that the borrower is deserving of assistance, paying due regard to his relationship to the Bank, waive the payment of interest due on any loan or any class of loan and 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 or postponement the Commissioners may relieve the borrower from liability for payment of interest on such suspended or postponed amount, and make any necessary adjustment in regard to the payment of instalments in order to give effect to any such suspension of postponement.

Power to waive interest or postpone payment of advances or loans.
Amended by No. 31 of 1956, s. 12.
[W.A. No. 45 of 1934, s. 63.]

Provided that—

- (i) such suspension or postponement shall be subject to review by the Commissioners at any time or from time to time as the Commissioners may determine but at least once in every two years;
- (ii) no period of time during which any interest is waived or any indebtedness is suspended or postponed under the authority of this section shall be taken into account for the purpose of any statute of limitation.

Power to approve free of interest loans.

Added by No. 31 of 1956, s. 13.

90A. (1) (a) Where the Commissioners are of the opinion that an applicant for a loan would, if the loan is granted, be unable for any period to pay interest on the loan, they may, having regard to the nature of the security proposed, but subject to the approval of the Minister and the consent of the Governor, approve of a loan being made to the applicant free of interest for that period.

(b) Where a loan to be made in respect of an agency in the Government Agency Department or to a settler in connection with the purchase of a farm in a close settlement scheme is so approved, the approval shall be subject also to the consent of the Treasurer.

(2) Where a loan free of interest for any period is made by the Commissioners to any person, no portion of that period shall be taken into account for the purpose of any statute of limitation.

Bank may require other creditors to postpone claims before Bank postpones its claim.
[W.A. No. 45 of 1934, s. 64.]

91. The Commissioners may make it a condition of agreement by the Bank to any suspension or postponement mentioned in section ninety-one of this Act that the other creditors of the borrower, both secured and unsecured, enter into a 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.

Operation of Farmers' Debts Adjustment Act, 1930-1937.

92. Nothing in sections ninety and ninety-one of this Act shall in any way affect the operation of the provisions of the Farmers' Debts Adjustment Act, 1930-1937,¹ in the application thereof to any indebtedness of a borrower to the Bank under this Act.

(c) Writing down of Securities.

93. (1) Subject to subsection (2) of this section where the Commissioners are satisfied in relation to any security taken by the Bank under this Act or vested in or held by the Bank by or under the provisions of this Act—

Power to write down over-capitalised securities. [W.A. No. 45 of 1934, s. 65.]

- (a) that the value of the securities as assessed by the valuers of the Bank is insufficient to cover the aggregate amount of the indebtedness of the borrower to the Bank on all accounts secured by such security; and
- (b) that there is no reasonable expectation of the security appreciating in value so as to cover the amount of such indebtedness, and of the borrower being able to pay the same; and
- (c) that the borrower is deserving of assistance when due regard is had to his past relationship with the Bank or any of the transferred activities—

the Commissioners may with the approval of the Minister and of the Governor—

- (i) write off and reduce the aggregate amount of the said indebtedness of the borrower to such sum as the Commissioners consider the security may reasonably be expected to carry;
- (ii) 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 all or any of the other creditors of the borrower secured and unsecured enter into a 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.

(2) Where the security referred to in subsection (1) of this section had been given—

- (a) prior to the commencement of the Agricultural Bank Act, 1934, to one of the transferred activities subsequently taken over by the Agricultural Bank under the said Act; or
- (b) prior to the commencement of this Act to the Agricultural Bank; or
- (c) after the commencement of this Act, to the Bank in respect of any agency in the Government Agency Department—

the Commissioners shall not write down or reduce the amount of the indebtedness of the borrower under such security unless in addition to the consent of the Minister and the Governor, the approval of the Treasurer is also obtained.

(3) Any writing down or reduction of the indebtedness of a borrower under this section shall not operate as a release or discharge by the Bank to the borrower of the amount of the indebtedness written down or reduced except when such writing down or reduction takes place pursuant to a scheme or arrangement provided for in subsection (1) of this section whereby the other creditors of the borrower are bound to write down or reduce their claims against the borrower.

Bank may
consolidate
securities.
[W.A. No. 45
of 1934, s. 67.]

94. The Commissioners may, in any case where a borrower is indebted to the Bank 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. Provided that this section shall not apply so as to enable the Commissioners to combine any security or account of a borrower in the Rural Department with any security or account of the borrower in the Government Agency Department except with the approval of the Treasurer.

PART IX.—ACCOUNTS AND AUDIT.

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

Appointment of internal auditors. [W.A. No. 45 of 1934, s. 68.]

Provided that every such appointment shall be subject to the approval of the Auditor General both in respect of the person to be appointed and of the nature and extent of the audit work to be performed.

96. (1) The Commissioners shall as soon as possible and not later than two months after the thirty-first day of March in each year, cause to be prepared—

Accounts. [W.A. No. 45 of 1934, s. 69.] Amended by No. 6 of 1958, s. 2; No. 4 of 1968, s. 3.

- (a) a balance sheet as at the said thirty-first day of March of the affairs of the Bank showing all the assets and all the liabilities of the Bank either immediate or contingent and making due allowance for bad debts or depreciated securities;
- (b) a revenue account giving particulars of the revenue derived by the Bank and the charges made thereon for the next preceding twelve months ending on the thirty-first day of March and showing the net profit or net loss made or incurred for such period;
- (c) [*Repealed by No. 4 of 1968, s. 3.*]

(2) Such revenue account shall be prepared distinctively in relation to the operation of the Bank through the Rural Department and the operations of the Bank through the Government Agency Department respectively.

96A. (1) Within three months after the end of each of the respective periods of twelve months ending on the thirty-first day of March, 1975 and every thirty-first day of March thereafter, one-half of the net profits for the period, as certified to by the Auditor General, derived by the Bank from all of its operations shall be paid to the Treasurer for payment into the Consolidated Revenue Fund.

One-half of net profit to Consolidated Revenue. Added by No. 45 of 1974, s. 3.

(2) For the purposes of subsection (1) of this section, in determining the net profit derived by the Bank from any of its operations—

- (a) any amounts written off Bank premises;
- (b) any amounts provided for contingencies or bad or doubtful debts; and
- (c) deductions made from the earnings of the Rural Department derived from banking operations carried on therein in respect of the estimated losses in connection with the operations of the said department,

are subject to the approval of the Treasurer.

Appointment
of special
auditor by
Auditor
General.
Reports.
Comments
and powers
of Auditor
General.
Amended by
No. 6 of 1958,
s. 3.
[W.A. No. 45
of 1934, s. 70.]

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

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

(3) (a) The Auditor General shall make whatever written comments he thinks necessary on the position of the Bank 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 by the Auditor General to the Commissioners and by them to the Minister before the thirty-first day of May in every year; and the Minister shall cause the same to be laid on the table of each House of the Parliament at the next sitting of each such House respectively.

(4) The Auditor General and his officer aforesaid shall for the purpose of carrying out their 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.

98. (1) Not later than the thirty-first day of May in every year the Commissioners shall furnish a report to the Minister of the operations of the Bank in the Rural Department and the Government Agency Department respectively for the twelve months ending on the then next preceding thirty-first day of March together with a copy of the balance sheet and accounts referred to in section ninety-six of this Act and the reports of the Auditor General and his officer thereon referred to in section ninety-seven of this Act, and the Minister shall cause the same to be laid on the table of each House of the Parliament at the next sitting of each such House respectively: Provided that where in any year it is impossible to comply with the provisions of this subsection within the time provided, the Auditor General shall prepare and forward to the Commissioners for submission by them to the Minister an interim report before the thirty-first day of May in that year and the Minister shall cause the same to be laid on the table of each House of Parliament at the next sitting of each such House respectively.

Report to be made annually to Parliament.
Amended by No. 6 of 1958, s. 4; No. 4 of 1968, s. 4.

(2) Simultaneously with furnishing to the Minister the report and the accompanying documents mentioned in subsection (1) of this section, the Commissioners shall furnish a copy of such report and of the accompanying documents aforesaid to the Treasurer.

PART X.—OFFENCES AND PENALTIES.

99. (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 two hundred dollars or both, that is to say:—

Offences and penalties.
Amended by No. 113 of 1965, s. 4(1).
[W.A. No. 45 of 1934, s. 72.]

- (a) destroying, damaging or disposing of any property comprised in any security vested in or held by the Bank or any part of such property; or

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- (b) without the consent of the Bank in writing, removing any materials from any buildings, erections or fixtures on lands comprised in any security aforesaid, unless the defendant prove that he had no intent to defraud; or
- (c) hindering or obstructing any Commissioner or any officer or any authorised agent of the Bank in or in connection with any distress, or any sale authorised by or under this Act; or
- (d) concealing any assets comprised in any security aforesaid; 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 section.

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

Officer taking
fee or
reward.
[N.S.W. No.
48 of 1906,
s. 78.]

100. (1) Any officer or servant or authorised agent of the Bank who directly or indirectly takes any fee or reward from any applicant for a loan under this Act shall be guilty of an offence.

Penalty—Two years' imprisonment with or without hard labour.

(2) An offence under this section shall be tried and determined summarily by a stipendiary magistrate.

(3) Any officer or servant or authorised agent aforesaid who is convicted of an offence under this section shall be dismissed from the service of the Bank.

Person
acting when
interested.
Amended by
No. 113 of
1965, s. 4(1).
[N.S.W. No.
48 of 1906,
s. 79.]

101. (1) Any person who—

- (a) having any pecuniary interest in any land tendered as security for a loan under this Act; or
- (b) being a partner of the applicant for a loan, acts as valuer or adviser to the Commissioners in connection with such land or loan shall be guilty of an offence.

Penalty—Four hundred dollars with a minimum penalty of one hundred dollars.

(2) An offence under this section may be dealt with summarily under the Justices Act, 1902-1942.¹

(3) Any person who is convicted of an offence under this section shall be dismissed from the service of the Bank.

102. (1) Any person who in respect of any loan or application for any loan, bribes or attempts to bribe or corruptly influence any person appointed or acting under this Act shall be guilty of an offence.

Bribing an officer.
[N.S.W. No. 48 of 1906, s. 80.]

Penalty—Two years' imprisonment with or without hard labour.

(2) An offence under this section shall be heard and determined summarily by a stipendiary magistrate.

103. If any person forges or alters, or offers, utters, disposes of, or puts off, knowing the same to be forged or altered any deed, rule, order, bond or writing obligatory, or any acquittance, receipt, release, account or statement, or any note, bill, or other security for payment of money, or letter or power of attorney or other instrument in writing or makes any false entry, or knowingly makes up any untrue account which concerns or relates to the affairs or business of the Bank with intent to defraud, such person shall be guilty of forgery and be punished accordingly.

Forgery.
[N.S.W. No. 48 of 1906, s. 82.]

104. (1) Any person who, as security for a loan under this Act—

Non-disclosure of prior mortgage.
Amended by No. 113 of 1965, s. 4(1).
[N.S.W. No. 48 of 1906, s. 93.]

- (a) mortgages any land or chattel which is subject to a charge or encumbrance; or
- (b) mortgages any land or chattel of which he is not the owner,

without disclosing to the Commissioners the existence of such charge or encumbrance or that

¹ Now Justices Act, 1902-1977.

he is not the owner of such land or chattel, shall be guilty of an offence.

Penalty—Two hundred dollars.

(2) An offence under this section shall be dealt with summarily under the Justices Act, 1902-1942.¹

False statement.
Amended by
No. 113 of
1965, s. 4(1).
[N.S.W. No.
48 of 1966,
s. 95.]

105. (1) Any person who by word of mouth or in writing makes a false statement with intent to defraud in connection with any application for a loan under this Act shall be guilty of an offence.

Penalty—Two hundred dollars.

(2) An offence under this section shall be dealt with summarily under the Justices Act, 1902-1942.¹

PART XI.—REGULATIONS.

Regulations.
Amended by
No. 31 of 1956,
s. 14; No. 25
of 1963, s. 11;
No. 113 of
1965, s. 4(1).
[W.A. No. 45
of 1934, s. 73;
N.S.W. No. 48
of 1966, ss.
36A (14),
70W, 83.]

106. The Governor may make any regulations, not inconsistent with the provisions of this Act which may be necessary or convenient for carrying this Act into operation or for facilitating the operation of this Act and of the Bank thereunder and, without in any way limiting or restricting the generality of this section, may make regulations particularly in respect of the following matters, namely—

- (1) The conduct of meetings of the Commissioners.
- (2) The custody and method of affixing the Common Seal of the Commissioners.
- (3) The form of the Common Seal.
- (4) The forms to be used under this Act including the forms of security to be taken on the granting of a loan in any case or in any particular class of case.

¹ Now Justices Act, 1902-1977.

- (5) The form, sale, and redemption of debentures and inscribed stock issued and created and sold by the Bank and other matters relating to the exercise by the Bank of the borrowing powers under this Act and generally providing for any matter not inconsistent with the provisions of this Act with respect to or in connection with those debentures or inscribed stock.
- (6) The control and discipline of the officers and servants and authorised agents of the Bank.
- (7) The protection of the securities of the Bank.
- (8) The management of the Bank and the regulation of its business.
- (8a) All matters arising from or incidental to and consistent with the provisions of Division 2A of Part VI. of this Act, or which are necessary to fully and effectually give effect to the object and purposes of, and the powers contained in, that Division.
- (9) Fixing the emoluments of valuers and agents.
- (10) Regulating the receipt and repayment of deposits and the payments of interest thereon.
- (11) Regulating applications for and the making of loans by the Bank.
- (12) Prescribing fees payable in respect of such applications and loans.
- (13) Keeping of the accounts of the Bank.
- (14) Prescribing a penalty not exceeding forty dollars for the breach or omission of any duty imposed by any regulation made under this section.

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- (15) Generally for any other matters which the Governor may by Proclamation declare to be matters in respect of which regulations may be made under this section.

PART XII.—MISCELLANEOUS.

Protection to Commissioners.
Amended by No. 73 of 1954, s. 8.¹
[W.A. No. 45 of 1934, s. 74.]

107. (1) No matter or thing done by the Commissioners or by any officer, servant, valuer or agent of the Commissioners in good faith in or about the purported exercise of any of the powers conferred upon and exercisable by such persons respectively shall subject the Commissioners or any member thereof, or any such officer, servant, valuer or agent to any liability in respect thereof.

(2) [*Repealed by No. 73 of 1954, s. 5.*]

Commissioners, etc., may be directors of certain companies.
Added by No. 103 of 1969, s. 3.

107A. Nothing in this Act shall be construed as preventing any Commissioner or any officer or member of the staff of the Bank from being appointed or acting as a director, on the recommendation of the Minister and with the approval of the Governor, of any body corporate of or in which, pursuant to the authority conferred by subsection (3) of section thirty-five of this Act, the Bank is a shareholder or holds a debenture, as the case may be, and any Commissioner who is so appointed or so acts as a director shall not be deemed to be committing a breach of the provisions of subsection (3) of section nine of this Act.

Indemnity to Bank in respect of loss suffered by depositor through forgery.

108. Where in consequence of a forgery committed by a person a depositor in the Bank suffers any loss in circumstances which at law renders the Bank liable to reimburse such depositor the amount of such loss, the Bank shall be indemnified by the State in respect of the full amount which the Bank is required to pay in connection with such reimbursement, including the costs of defending any action or other proceeding taken by the depositor against the Bank.

¹ See footnote 2 on p. 1.

109. The Commissioners by their counsel, solicitor or agent shall be entitled to be heard before any statutory board or before any Court in any matter, action or proceeding relating to land in respect of which the Bank holds any subsisting security under this Act.

Commissioners entitled to be heard before any board or Court.
[N.S.W. No. 48 of 1906, s. 77.]

110. The Bank may act as the agent in Western Australia of any Bank carrying on business in or outside Western Australia.

Bank may act as agent.
[N.S.W. No. 48 of 1906, s. 86.]

111. The Commissioners may arrange with any other Bank to act as the agent of the Bank in any place whether in or outside the State.

Other Bank may act as agent of the Bank.
[N.S.W. No. 48 of 1906, s. 87.]

112. The Commissioners may open and conduct branches of the Bank in any parts of the State or elsewhere, and may appoint any persons to be agents of the Bank in connection with any such branches.

Commissioners may conduct country branches and appoint agents.
Amended by No. 92 of 1976 s. 2.

113. The Commissioners may by writing under their seal appoint any person whether in the State or in any place beyond the State to be the attorney of the Bank.

Bank may appoint attorney.
[N.S.W. No. 48 of 1906, s. 88.]

114. The Commissioners shall be entitled if they so desire to be represented at and take part in the proceedings and transactions of any clearing house or cheque clearing system in as full and ample manner as any other bank, and all banks represented at or taking part in such proceedings or transactions shall recognise fully the Commissioners and afford them all necessary facilities for transacting their banking business and operations and the exchanges in relation thereto.

Clearing house.
[N.S.W. No. 48 of 1906, s. 89.]

115. The Commissioners may permit operations on any account in the Bank by a duly appointed attorney, agent, or representative.

Attorney may operate on account.
[N.S.W. No. 48 of 1906, s. 90.]

Deposits by trustees.
[N.S.W. No. 48 of 1906, s. 91.]

116. A trustee, executor or administrator may invest or deposit any trust money on deposit or current account in the Bank.

Custody of bonds.
[N.S.W. No. 48 of 1906, s. 92.]

117. The Commissioners are hereby empowered to hold for safe custody on behalf of any depositor, bonds or debentures or other securities of a like nature subject to payment of such fee or charge and to such conditions as may be prescribed.

Vesting orders.
[N.S.W. No. 48 of 1906, s. 96.]

118. (1) Nothing in this Act shall preclude the Supreme Court of Western Australia or the High Court of Australia from making an order vesting in any person or directing the attachment or the disposition or payment of—

- (a) any moneys to the credit of a depositor whether on fixed deposit or otherwise;
- (b) so much of the moneys received by the Bank upon the exercise by it of any of its rights or remedies under any security and at the date of the order actually in the disposition of the bank as exceeds the moneys due to the Bank under or in respect of the security.

(2) Where any such order is duly served upon the Bank, the Commissioners shall give effect thereto.

Section 5.

FIRST SCHEDULE.

| Act. | Extent of Repeal. |
|--------------------------------------|-------------------|
| Agricultural Bank Act, 1934 | The whole. |
| Industries Assistance Act, 1915-1940 | Section 24. |

Section 33.

Repealed and re-enacted by No. 25 of 1963, s. 12. Amended by No. 34 of 1965, s. 8; No. 113 of 1965, s. 4(1).

SECOND SCHEDULE.

PART I.—DEBENTURES AND INSCRIBED STOCK.

The following provisions apply to debentures and inscribed stock issued by the Bank under the provisions of this Act:—

Interest.

- 1. (a) All debentures and inscribed stock—
 - (i) shall bear interest at such rate and be redeemable on such date and at such place as the Commissioners may, with the approval of the Governor, determine; and

(ii) may with the consent of the holder or the registered owner thereof, as the case may be, be paid off at any time before the due date for repayment.

Debentures and stock payable before due date.

(b) The Bank may purchase any of the debentures or inscribed stock issued and created by the Bank.

2. Interest secured by any debentures or inscribed stock issued or created pursuant to this Act is payable half-yearly on such days at such places as the Commissioners determine.

When interest payable.

3. The Commissioners may, at the request of the holder of a debenture or of the registered owner of inscribed stock issued or created pursuant to this Act, in lieu thereof issue to him inscribed stock or debentures, as the case may be, in respect of the same loan, and of the same amount and of the same currency, and bearing the same interest.

Debentures and stock interchangeable.

4. The Commissioners may pay moneys by way of brokerage for the making, procuring, negotiating, or obtaining the loan of any money borrowed under the authority conferred by section thirty of this Act.

Brokerage.

5. (1) The Commissioners shall set aside half-yearly by way of a sinking fund for the purpose of redeeming any loan raised by them pursuant to this Act under the terms of which loan the principal money is repayable at the end of the term for which the money has been borrowed, an amount calculated at a rate approved by the Treasurer and sanctioned by the Governor.

Sinking Fund.

(2) When it is necessary to have resort to any sinking fund referred to in subclause (1) of this clause for the purpose of paying off either the whole or any part of any loan in respect of which the fund is provided, the Commissioners may sell any securities in which the fund is invested, or may obtain an advance thereon from any bank including a savings bank or any person or from the Treasurer of the State.

6. No notice of any trust, express, implied or constructive, shall be received by the Commissioners or by an officer or agent of the Commissioners in relation to a debenture or inscribed stock issued or created pursuant to this Act, and the Commissioners or the officer or the agent shall not be bound to see to the execution of the trust to which the debenture or inscribed stock may be subject.

Notice of trust not receivable.

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Owners of securities not responsible for application of moneys.

7. A person advancing money to the Bank and receiving in consideration of the advance a debenture or inscribed stock issued under this Act is not bound to inquire into the application of the money advanced or be in any way responsible for the non-application or misapplication thereof.

PART II.—DEBENTURES.

The following provisions apply to debentures issued by the Bank under this Act:—

Form of debenture.

1. A debenture shall be in the form prescribed by the regulations.

Seal.

2. A debenture shall—

(a) be sealed with the common seal of the Commissioners in the manner prescribed by the regulations; and

Number.

(b) be numbered consecutively beginning with the number one and proceeding in an arithmetical progression whereof the common difference is one.

Pass by delivery.

3. A debenture with the interest coupons annexed thereto and every interest coupon after being detached therefrom shall pass by delivery and without any assignment or endorsement.

Rights of bearer.

4. The bearer of a debenture or detached interest coupon has the same rights as if he were expressly named as payee therein.

Payment of interest.

5. No interest is payable in respect of a debenture except to the holder of the coupon representing the interest claimed and upon delivery of the coupon.

Register of debentures.

6. (1) The Commissioners may cause to be kept—

(a) either at the office of the Commissioners or at the office in the State of an agent of the Commissioners appointed by the Commissioners for the purpose; and

(b) at the office of such an agent in a place outside the State for the purpose of registering therein debentures held by persons who apply to have their debentures registered therein,

in one or more books a register of debentures and within a reasonable time after the date of a debenture shall cause to be made an entry in the appropriate register specifying the number, date and amount of the debenture.

(2) A register of debentures—

- (a) may be inspected at all reasonable times by a person on payment of ten cents for each inspection; and Inspection.
- (b) is evidence of any matters required or authorised by or under this Act to be inserted therein. Register to be evidence.

(3) A person is entitled to obtain from the Commissioners copies or extracts certified by the officer or the appointed agent in whose custody a register is kept to be true copies of or extracts from such register upon payment for each copy or extract of a fee of twenty-five cents and two cents for every folio of seventy-two words; and any copy or extract so certified shall be admissible in evidence. Copies to be supplied.

7. Upon proof being made before a judge in chambers by affidavit of any credible person that a debenture issued by the Commissioners under this Act and held by such person the number and sum whereof is specified by him has been lost or accidentally burnt or otherwise destroyed before the debenture has been paid off, and after the insertion of such advertisements as the judge directs and upon the judge certifying that he is satisfied with the proof, the Commissioners may after the expiration of six months cause a new debenture with interest coupons attached to be made having the like currency and bearing the same number date principal sum and rate of interest as the debenture so lost or destroyed and to be delivered to the person upon his giving sufficient security to the Commissioners to indemnify the Commissioners against any double payment. Provision for lost debentures.

8 If a debenture is defaced by accident—

- (a) the Commissioners may cancel the debenture and cause a new debenture to be made in lieu thereof; and Provision for defaced debentures.
- (b) the new debenture shall have the like currency and be in all respects subject to the same provisions and bear the same number date and principal sum and rate of interest as the cancelled debenture.

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Discharged
debentures
to be
destroyed.

9. (1) A debenture paid off discharged exchanged or converted into stock shall—

- (a) be cancelled by an officer of the Commissioners; and
- (b) be burnt in the presence of that officer and the Auditor General or one of his officers thereto authorised by him in writing.

(2) The Auditor General or the authorised officer (as the case may be) before the debenture is burnt shall audit the debenture and allow the accounts thereof and furnish the Commissioners with a certificate particularising the debentures so burnt; and the officer of the Commissioners shall file that certificate in the office of the Commissioners.

PART III.—STOCK.

The following provisions apply to the Rural and Industries Bank Inscribed Stock issued in Perth in the State (in this Part called "stock").

Establish-
ment of
registry and
appointment
of registrar.

1. The Commissioners may establish—

- (a) at the office of the Commissioners or at the office in the State of an agent of the Commissioners appointed by the Commissioners for the purpose; and
- (b) at the office of such an agent in a place outside the State for the purpose of registering therein stock owned by persons who apply to have their stock registered therein,

a registry for the inscription of stock created and issued under the authority of this Act and appoint an officer or agent of the Commissioners in the State and such an agent outside the State to be a registrar of stock.

Parcels of
stock.

2. Stock may be sold by the Commissioners in such parcels or such amounts of money as the Commissioners may determine.

Stock
ledgers.

3. (1) The Commissioners shall cause to be provided and kept at the offices referred to in clause 1 of this Part books to be called "stock ledgers".

(2) All stock issued shall be inscribed in the appropriate stock ledgers by entering the names of the purchasers of stock and the amount of stock purchased by them respectively.

Inscription of stock.

(3) In the case of joint purchasers of stock the names of not more than four of them shall be inscribed as the joint purchasers.

Joint purchasers.

(4) The stock ledgers are evidence of any matters appearing therein and required or authorised by or under this Act to be inserted therein.

Evidence.

4. (1) Stock or any share therein is transferable in the manner prescribed by the regulations from one person to another by instrument in the form so prescribed and not otherwise.

Stock how transferable.

(2) A person is not entitled or allowed to transfer any fraction of one dollar or any smaller sum than twenty dollars or such other sum as may be prescribed unless that smaller sum is the full amount of the balance standing to his credit in the stock ledger.

Restrictions on amount of stock which may be transferred.

(3) An instrument of transfer of the stock or any share therein shall be executed by all parties and the signatures to the instrument shall be attested in the manner prescribed by the regulations.

Execution of transfer.

(4) An instrument of transfer when executed shall be delivered to the appropriate registrar who shall register the same by entering a memorial of it in the appropriate stock ledger and shall inscribe the name of the transferee in the stock ledger as the owner of the stock.

Registration of transfer.

5. (1) A person to whom stock is transmitted in consequence of the death or bankruptcy or insolvency of the registered owner of the stock or by any other lawful means than by a transfer in accordance with this Act may apply in the form prescribed by the regulations to the appropriate registrar at the appropriate registry to be inscribed as the owner of the stock.

Application for transmission (other than transfer) of stock.

(2) An application for transmission shall be verified by statutory declaration or in such other manner as is so prescribed, and—

Verification of application for transmission.

(a) in the case of a transmission consequent on death—the probate of the will or the letters of administration shall be produced to the appropriate

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registrar or in the case of transmission to a survivor or the survivors of a joint owner a certificate of the death of the owner who has died accompanied by a statutory declaration identifying the person named in the death certificate with the person who is shown as the registered owner of the stock may if the registrar approves be produced to him in lieu of probate or letters of administration; and

- (b) in the case of a transmission consequent on bankruptcy or insolvency—an office copy of the adjudication or order of sequestration shall be delivered to the appropriate registrar.

Registration
of trans-
mission.

(3) The registrar shall if he is satisfied that the provisions of this Act have been complied with register any such transmission by entering a memorial of it in the appropriate stock ledger and inscribe the name of the person to whom the stock has been transmitted in the appropriate stock ledger as the registered owner of the stock.

Power of
attorney.

6. (1) A person may by power of attorney under his hand and seal and duly attested appoint some person to be his attorney for any purpose in relation to stock (including an application for conversion or to receive interest or redemption money).

(2) A power of attorney is valid and effectual for all purposes therein mentioned until notice of its revocation or of the bankruptcy, insolvency, lunacy, unsoundness of mind or death of the principal has been received by the registrar at the appropriate registry.

When
transfer
books to be
closed and
ledgers
balanced.

7. (1) An instrument of transfer of stock or of any part thereof shall not be registered on any Saturday or holiday or within the period of fourteen days or within such period (not exceeding twenty-one days) as is prescribed next before any of the days on which the interest thereon is payable.

(2) During the period referred to in the last preceding subclause the Commissioners shall cause the amount of stock respectively standing to the credit of the several registered owners thereof to be ascertained and the balances to be struck and carried forward in the proper stock ledger.

(3) An instrument of transfer of stock or of any part thereof shall not be registered during the period of twenty-one days immediately preceding the date of maturity of stock.

8. (1) The receipt of the person in whose name stock stands in the stock ledger, or if it stands in the names of more persons than one the receipt of one of the persons named in the stock ledger is sufficient discharge to the Bank for any interest payable in respect of the stock, notwithstanding any trusts to which the stock may then be subject and whether or not the Bank has had notice of the trusts, and the Commissioners are not bound to see to the application of the money paid upon that receipt.

Receipt of registered stock-holders to discharge without regard to trust.

(2) If stock is held in joint names and one or more of the registered owners of the stock dies, becomes bankrupt, insolvent or otherwise legally incapable, the receipt of any one of the other joint owners or survivors is a sufficient discharge to the Commissioners for any interest payable in respect of the stock, notwithstanding that a transmission has not been registered as required by this Act.

Receipt where one of joint holders dies, etc.

THIRD SCHEDULE.

Section 61.

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.

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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 Rural and Industries Bank Act, 1944, 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 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.