

ENCOURAGEMENT OF PRIMARY PRODUCTION ORDINANCE 1931-1960.*

An Ordinance to provide for the Encouragement of Primary Production.

Short title.
Short title
amended:
No. 17, 1938,
s. 4.

1. This Ordinance may be cited as the *Encouragement of Primary Production Ordinance 1931-1960*.*

Repeal.

2. The *Encouragement of Primary Production Ordinance 1927-1928* of North Australia and the *Encouragement of Primary Production Ordinance 1927* of Central Australia are hereby repealed.

Saving.
Inserted by
No. 1, 1934,
s. 2.

2A.†—(1.) The repeal of the *Advances to Settlers Ordinance 1913* of the Northern Territory, the *Encouragement of Primary Production Ordinance 1924-1926* of the Northern Territory or the Ordinances referred to in the last preceding section shall not affect any security taken or vested thereunder and existing at the date of the commencement of this Ordinance, or any estate, right, title, interest, power, duty, obligation or liability created by, acquired under, or at any time existing

* The *Encouragement of Primary Production Ordinance 1931-1960* comprises the *Encouragement of Primary Production Ordinance 1931* as amended. Particulars of the Principal Ordinance and of the amending Ordinances are set out in the following table:—

Ordinance.	Number and Year.	Date notified in Commonwealth Gazette.	Date of Commencement.
<i>Encouragement of Primary Production Ordinance 1931</i> ..	No. 1, 1931	12th June, 1931 ..	12th June, 1931
<i>Encouragement of Primary Production Ordinance 1934</i> ..	No. 1, 1934	11th January, 1934 ..	11th January, 1934
<i>Encouragement of Primary Production Ordinance 1938</i> ..	No. 15, 1938	24th November, 1938	24th November, 1938
		Date of Assent by Administrator.	
<i>Encouragement of Primary Production Ordinance 1954</i> ..	No. 6, 1954	8th December, 1954 ..	1st July, 1955
<i>Encouragement of Primary Production Ordinance 1956</i> ..	No. 19, 1956	4th May, 1956 ..	9th August, 1956
<i>Encouragement of Primary Production Ordinance 1960</i> ..	No. 7, 1960	2nd September, 1960	2nd September, 1960

† Section 2A was inserted by sub-section (1.) of section 2 of the *Encouragement of Primary Production Ordinance 1934*. Sub-section (2.) of that section reads as follows:—

“(2.) This section shall be deemed to have commenced on the date of the commencement of the Principal Ordinance.”

AMENDED. 47/65.

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" 16/70

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9/73

under, or by virtue or in respect of, any such security and all such securities shall continue to be of the same force and effect as if this Ordinance had not been passed.

(2.) Any power or function in relation to those securities which is vested, by any Ordinance referred to in the last preceding sub-section, in the Advances to Settlers Board or in the Primary Producers Board for the time being shall be vested in and may be exercised or performed by the Board.

3. In this Ordinance, unless the contrary intention appears—

Definitions.
Amended by
No. 1, 1934,
s. 3.

“Advance” includes any assistance given under this Ordinance;

“Improvements” means ringbarking, clearing (including rolling or logging down and burning), grubbing, ploughing, breaking up, fencing, draining, erecting or making permanent water improvements (such as dams, wells, tanks, water-courses, wind-mills, and the like), boring for water, erecting permanent buildings, making roads, and other prescribed improvements;

“Producer” means a person residing in the Northern Territory engaged in, or intending to engage in, any primary production in the Northern Territory;

“The Board” means the Primary Producers Board constituted under this Ordinance;

“The Minister” means the Minister of State for the time being controlling the Northern Territory.

4.—(1.) For the purposes of this Ordinance there shall be a Board, which shall be known as the Primary Producers Board, and shall consist of four persons who shall be appointed by the Administrator by notice in the *Gazette* to be members of the Board.

Constitution
of Board.
Sub-section (1.)
amended by
No. 15, 1938,
s. 2; and
No. 19, 1956,
s. 3.

(2.) The Administrator may appoint any member of the Board to be the Chairman of the Board and any other member of the Board to be the Deputy Chairman of the Board.

Substituted by
No. 15, 1938,
s. 2.

5.—(1.) Meetings of the Board shall be held as prescribed or when convened by the Chairman, and at any meeting of the Board three members shall form a quorum.

Meetings of
Board.
Sub-section (1.)
amended by
No. 19, 1956,
s. 4.

(2.) The Chairman and, in his absence, the Deputy Chairman, shall preside at meetings of the Board.

(3.) All questions before the Board shall be decided by a majority of votes.

Sub-section (4.)
omitted by
No. 19, 1956,
s. 4.

* * * * *

Proviso
omitted by
No. 19, 1956,
s. 4.

* * * * *

Incorporation
of the Board.

6. The Board shall be a body corporate with perpetual succession and a common seal, and shall be capable of suing and being sued and, subject to any law relating to Crown lands for the time being in force in the Northern Territory, the Board shall have power to hold, lease, or sell land, and to do all acts and things which are necessary for or incidental to the carrying out of its powers and functions under this Ordinance or the regulations made thereunder.

Property of
Board to be
deemed
property of
the Crown.

7. All property including money and all estates and interests in property held by the Board shall be deemed to be the property of the King, and all debts due to the Board shall be deemed to be Crown debts and shall have priority accordingly.

Lands held by
former Primary
Producers
Board vested
in Board.
Amended by
No. 1, 1934,
s. 4.

8. All lands and securities in the Northern Territory held by the Primary Producers Board constituted under the *Encouragement of Primary Production Ordinance 1927-1928* of North Australia or the *Encouragement of Primary Production Ordinance 1927* of Central Australia shall be and are hereby vested in the Board and all the powers of the said Primary Producers Board in respect of advances made under these Ordinances, under the *Encouragement of Primary Production Ordinance 1924-1926* of the Northern Territory or under the *Advances to Settlers Ordinance 1913* of the Northern Territory shall be exercisable by the Board.

Power of Board
to expend
money.
Sub-section (1.)
amended by
No. 15, 1938,
s. 3; and
No. 19, 1956,
s. 5.

9.†—(1.) The Board may, out of moneys voted by Parliament for the purposes of this Ordinance, expend such sums as it deems necessary for the purpose of carrying out its powers under this Ordinance, and particularly for the purpose of granting assistance to producers—

- (a) by the hiring or sale to a producer of machinery, implements or plant;
- (b) by the purchase of fencing or other material for the purpose of making improvements on holdings;

† Section 7 of the *Encouragement of Primary Production Ordinance 1938* reads as follows:—

“ 7. Where, prior to the commencement of this Ordinance, the Administrator has expended moneys for purposes for which the Primary Producers Board has power under the Principal Ordinance, as amended by this Ordinance, to expend moneys, those moneys shall be deemed to have been expended by the Primary Producers Board for those purposes.”

- (c) by the provision of rations for limited periods until products are available;
- (d) by the provision of seeds;
- (e) by the provision of fishing nets, and loan of luggers or other boats;
- (f) by the purchase of live stock;
- (g) by advances for the carrying on of any timber industry;
- (h) by advances for any other purpose recommended by the Board and approved by the Administrator;
- (i) by the purchase of vehicles required in connexion with agricultural, pastoral or timber-getting operations;
- (j) by the discharge of a mortgage of land of which a producer is the owner, life-tenant or lessee;
- (k) by the purchase of fuels, fertilizers, insecticides, weedicides or soil fumigants;
- (l) by the purchase of fodder or poultry feed;
- (m) by advances for the repair or maintenance of machinery, implements, plant or vehicles; and
- (n) by advances for the payment of wages to employees until the income derived from the next crop is available.

(2.) Except with the approval of the Minister, the total value of assistance granted to any one producer under the last preceding sub-section, whether by way of advance of money or otherwise, shall not exceed the sum of Three thousand pounds at any one time.

Substituted by No. 6, 1954, s. 3, and No. 7 1960, s. 2.

* * * * *

Sub-section (3.) omitted by No. 1, 1934, s. 5.

(4.) The Board shall not grant assistance to a producer, whether by way of advance of money or otherwise, unless it is satisfied—

Amended by No. 1, 1934, s. 5; substituted by No. 6, 1954, s. 3.

- (a) that the producer is unable to obtain assistance of equal value from any other source on reasonable terms;
- (b) that the producer has a reasonable prospect of successfully carrying on primary production if the assistance is granted;
- (c) that the granting of the assistance is likely to promote primary production; and
- (d) that the producer is possessed of capital to the amount of not less than one-third of the value of the assistance to be granted.

Added by
No. 1, 1934,
s. 5.

(5.) The Board may require any person, whom it believes to be in a position to do so, to furnish to it a confidential report as to the circumstances or the financial transactions of any producer who has applied for any advance or assistance under this Ordinance; and any person who, on being required to do so by the Board, fails to furnish a report within a reasonable time, or furnishes a report containing any statement which is untrue in any particular, shall be guilty of an offence.

Penalty: One hundred pounds or imprisonment for six months.

Power of Board
to make
advances.

Inserted by
No. 1, 1934,
s. 6;
amended by
No. 15, 1938,
s. 4; and
No. 19, 1956,
s. 6.

9A.—(1.) Notwithstanding anything contained in this Ordinance, the Board may, out of moneys voted by Parliament for the purposes of this Ordinance, make an advance for any purpose specified in paragraphs (a) to (n) of sub-section (1.) of the last preceding section to any producer on such terms or conditions as are agreed upon between the Board and the producer:

Provided that the Administrator may, if he thinks fit, give directions to the Board in regard to the carrying out of the provisions of this section by the Board.

Debt due
to Board.

10.—(1.) The value of any material, plant and machinery provided for or of other assistance given to a producer, as charged by the Board to that producer, shall be a debt due by the producer to the Board and the Board shall take security for the payment thereof as if the advance or assistance were a money advance to the amount of the debt:

Proviso omitted
by No. 1,
1934, s. 7.

* * * * *

Added by
N. 1, 1934,
s. 7.

(2.) Notwithstanding anything contained in this Ordinance, the value of any rations or seeds provided for any producer, as charged by the Board to that producer, shall, if the Board so requires, be repaid to the Board out of the income derived from the first crop harvested by the producer after the date of the provision of the rations or seeds, as the case may be, and shall be a first charge on that crop:

Provided that, where the income derived from the first crop is less than the value of the rations or seeds, or where the amount owing by the producer to the Board in respect of rations or seeds is not fully paid out of the income derived from the first crop, the Board shall have a first charge on each subsequent crop until the value of the rations or seeds, as the case may be, is repaid in full.

(3.) The Board may enter upon any land and may seize and sell the produce of any crop on which any charge referred to in this section still exists, and may retain out of the proceeds of any such sale any moneys due in respect of the charge on the crop and any expenses incurred by the seizure and sale of the produce of the crop.

Added by
No. 1, 1934,
s. 7.

11. A producer to whom any advance has been made in pursuance of this Ordinance shall, within such time as is specified by the Board, use the advance for the purpose for which it was made and shall not at any time use any goods or articles advanced for any other purpose.

Duty of
producer as
regards
advances.

Penalty: Fifty pounds or imprisonment for six months.

12. So long as any debt due to the Board in respect thereof is unpaid, the stock, material, implements, plant, vehicles, machinery and other things advanced to a producer under this Ordinance, or under the *Encouragement of Primary Production Ordinance 1927-1928* of North Australia or the *Encouragement of Primary Production Ordinance 1927* of Central Australia, the *Encouragement of Primary Production Ordinance 1924-1926* of the Northern Territory or the *Advances to Settlers Ordinance 1913* of the Northern Territory, or purchased by a producer out of an advance made to him under one of those Ordinances shall be subject to a charge in favour of the Board, and shall not be capable of being alienated or charged, or seized or taken under process of law or otherwise, except to or by the Board or by consent of the Board.

Charge in
favour of
the Board.
Amended by
No. 1, 1934,
s. 8; and
No. 19, 1956,
s. 7.

13. Subject to the regulations advances shall be made by the Board by instalments as progress is effected.

Advances by
instalments.

14.—(1.) If at any time in the opinion of the Board any money advanced in pursuance of this Ordinance has not been applied for the purpose for which it was advanced, or has not been carefully and economically expended, the Board may refuse to pay any further instalment of any advance, and may at once call in the whole amount due by the producer.

Misapplication
of instalments.

(2.) Where the amount of an advance is called in under this section the producer shall forthwith repay the amount and in default the Board shall have the same remedies for recovery of the amount as it has for the recovery of any amount due in respect of any advances.

15.—(1.) The Board may take such security for an advance under this Ordinance as it thinks fit.

Security.

(2.) Any costs and expenses incurred by the Board in giving effect to this section shall be paid by the producer to the Board, and may, if the Board thinks fit, be added to and become part of the advance.

Added by
No. 1, 1934,
s. 9.

Repayment
of advances.
Sub-section (1.)
amended by
No. 1, 1934,
s. 10.

16.*—(1.) On the first day of July in each year during the period of five years next following the date on which an advance is made, the producer shall pay to the Board interest on the advance at the rate of Four and one-half per centum per annum.

(2.) Where an advance is made by instalments, interest shall be calculated on the actual amounts of the several instalments and from the dates when the instalments were advanced.

Amended by
No. 1, 1934,
s. 10.

(3.) After the expiration of the period of five years from the date on which an advance is made, the producer shall repay the advance to the Board by ten equal yearly instalments, together with simple interest on the balance of the advance for the time being unpaid at the rate of Four and one-half per centum per annum.

(4.) The first of the yearly instalments shall become due on the first day of July next after the day upon which the last payment of interest due was under sub-section (1.) of this section.

Amended by
No. 1, 1934,
s. 10.

(5.) If any instalment or interest is not paid within one month after it becomes due, the producer shall pay to the Board a penalty of Two and one-quarter per centum on the amount of the instalment or interest for each month or part of a month during which the instalment or interest remains unpaid, but so that the aggregate of the penalties under this section shall not exceed Nine per centum on the amount of the instalment or interest:

Provided that for special reasons the Board may remit the whole or any part of the penalty.

(6.) Any advance may, at the option of the producer, be repaid in larger instalments or at earlier dates than are provided in this section.

(7.) If any interest on an advance or if any instalment of principal and interest is not paid for three calendar months after it becomes due, the Board may treat the whole advance and interest thereon as being immediately repayable.

Perfecting
security where
freehold
acquired.

17.—(1.) Where an advance has been made by the Board on the security of a mortgage of any holding the freehold of which may be acquired from the Crown, a land grant of the freehold of the holding shall not be issued to the producer unless and until a mortgage of the freehold to the Board has been executed in a form approved by the Board and has been registered.

* With the exception of an amendment to sub-section (3.), the amendments to this section made by the *Encouragement of Primary Production Ordinance 1934* are deemed to have commenced on the first day of August, 1931—*Vide* sub-section (2.) of section 10 of that Ordinance.

(2.) The Board shall be entitled to receive and to hold the land grant of any holding so long as the holding is subject to any mortgage to the Board.

(3.) Any costs and expenses incurred by the Board in giving effect to this section shall be paid by the producer to the Board, and may, if the Board thinks fit, be added to and become part of the mortgage debt.

18. No new lease of a holding subject to any mortgage to the Board shall be issued to the producer in place of the lease which is subject to the mortgage unless the new lease is issued subject to the mortgage.

New lease.

19.—(1.) Where an advance has been made on security of any holding the freehold of which may be acquired from the Crown, the Board may acquire the freehold on behalf of the producer and may make any necessary payments for that purpose.

Power of Board to acquire freehold.

(2.) Any payments made under this section shall be added to and form part of the mortgage debt, and may be made notwithstanding that the advance is thereby increased to more than Three thousand pounds.

Amended by No. 6, 1954, s. 4.

(3.) The land grant of the holding shall be delivered to the Board, and the Board may require any additional mortgage or security to be executed to its satisfaction and registered.

20.—(1.) If any instalment, or part of an instalment, of an advance is unpaid for thirty days next after it becomes due the Board may—

Recovery of instalments.

(a) without making any legal demand for payment enter upon the holding and recover the amount due together with expenses by distress and sale of any goods and chattels on the holding; or

(b) recover the amount due by action in any court of competent jurisdiction.

(2.) The remedies provided by this section are in addition to any other remedies.

21.—(1.) If any instalment of an advance is unpaid for three months after it becomes due, or if at any time the Board is entitled to treat any advance as being immediately repayable, the Board may, although no legal demand has been made for payment of the instalment or advance—

Power of Board to sell. Sub-section (1.) amended by No. 1, 1934, s. 11.

(a) enter upon and take possession of the holding in respect of which the advance was made;

- (aa) enter upon any land and take possession of and sell any goods and chattels which have been advanced by the Board to the producer or purchased out of an advance made by the Board to the producer, and may also take possession of and sell any goods and chattels which belong to the producer or to his legal personal representative;
- (b) retain possession of the holding for such time as it thinks fit; and
- (c) sell the estate and interest in the holding held by producer or his legal personal representative.

(2.) Any sale under this section may be made by public auction, private contract or public tender and subject to such conditions of sale as the Board thinks fit.

(3.) The Board may transfer the holding and any lease or agreement relating thereto to the purchaser, and the transfer of the Board shall be sufficient to vest in the purchaser all the estate and interest of the producer in the holding.

(4.) Any memorandum of transfer, which is signed by the Board and in which it is recited that the Board has, in pursuance of the provisions of this Ordinance, sold the estate and interest of any producer in any land and that the Board transfers that estate and interest to any person, shall be as effective as if that memorandum of transfer were a memorandum of transfer signed by the producer whose estate and interest have been sold by the Board and transferring his estate and interest to that person.

(5.) Notwithstanding anything contained in "The Real Property Act, 1886" of the State of South Australia in its application to the Northern Territory, as amended by the *Real Property Ordinance 1918-1932*, on the receipt of any such memorandum of transfer signed by the Board the Registrar-General at the Lands Titles Registration and General Registry Office for the Northern Territory shall register the transfer and do all things necessary to effect the registration of the transfer or incidental thereto.

22. When the estate and interest in any holding held by a producer or his legal personal representative have been sold by the Board in pursuance of this Ordinance, the Board shall apply the proceeds of the sale as follows:—

- (a) Firstly, in payment of the expenses of and incidental to the sale;
- (b) Secondly, in discharge of the advance made by the Board to the producer and any interest thereon; and
- (c) Thirdly, in payment of any balance to such person or persons as the Board in its absolute discretion thinks fit.

Added by
No. 1, 1934,
s. 11.

Added by
No. 1, 1934,
s. 11.

Application of
proceeds of
sale.
Amended by
No. 1, 1934,
s. 12.

23.—(1.) A producer to whom an advance has been made by the Board shall, until the advance is repaid, keep all improvements, material, implements, plant, vehicles and machinery in his possession in efficient repair to the satisfaction of the Board.

Producer to keep improvements in repair.
Sub-section (1.) amended by No. 19, 1956, s. 8.
Amended by No. 15, 1938, s. 5.

(2.) If, after two months' notice in writing, by the Chairman of the Board requiring him to do so, any producer fails to comply with the provisions of sub-section (1.) of this section, the Board may enter upon the holding and effect such repairs as it thinks necessary, and the expenses incurred in so doing, with interest at the rate of Four pounds ten shillings per centum per annum, shall be repaid to the Board by the producer on demand and until repayment shall be charged on the holding and the producer's estate or interest therein to the same extent as if the amount thereof formed part of the advance.

24.—(1.) A producer to whom an advance has been made by the Board shall not, without the consent of the Board—

Producer not to assign or transfer holding or chattels included in security.
Sub-section (1.) amended by No. 1, 1934, s. 13.

- (a) assign or transfer his estate or interest in his holding or sub-let his holding or part with the possession thereof; or
- (b) part with the possession of any goods or chattels included in any security held by the Board; or
- (c) remove or permit to be removed from the holding in respect of which the advance has been made any goods or chattels which have been advanced by the Board to the producer or which have been purchased out of an advance made by the Board to the producer.

(2.) If a producer commits or attempts to commit any contravention of this section, the Board may, after notice in writing to the producer to that effect, treat the advance and any interest thereon as being immediately repayable.

(3.) Any assignment, transfer or sub-lease made in contravention of this section shall be void and of no effect.

25. Where a producer is adjudicated insolvent or his estate is sequestrated or he makes any deed of assignment for the benefit of his creditors, the Board may treat any advance made to him and the interest thereon as immediately repayable.

Insolvency of producer.

26.—(1.) In case of hardship, the Board may extend the time for the payment of any sum due by any producer on account of any advance.

Extension of time for payment.

(2.) Where the time for the payment of any sum is extended in pursuance of this section, the sum shall bear interest at the rate of Four pounds ten shillings per centum per annum from the time when it becomes due.

Amended by No. 15, 1938, s. 6.

Register of
advances.

27.—(1.) The Board shall keep a register of advances made by the Board, including the names of the persons to whom the advances were made and an alphabetical index of the names of those persons.

(2.) The register of advances and index shall be open to public inspection at all reasonable times during office hours on payment of a fee of Two shillings and sixpence.

Accounts to be
kept by Board.

28.—(1.) The Board shall keep such accounts and furnish such returns as are prescribed.

(2.) The accounts of the Board shall be subject to audit and inspection by the Auditor-General of the Commonwealth.

Power of
inspection.
Sub-section (1.)
amended by
No. 19, 1956,
s. 9.

29.—(1.) The Board, or any person thereto authorized in writing by the Chairman of the Board, may at all reasonable times enter upon any holding in respect of which any advance has been made, and inspect any improvements thereon and any implements, plant, machinery, vehicles, material and stock of the producer.

(2.) A producer to whom any advance has been made shall to the best of his power facilitate the exercise by the Board of its powers under this section, and supply the Board with any information relating to the holding and improvements, and implements, plant, machinery, vehicles, material and stock which the Board requires.

Penalty: Ten pounds.

Moneys
received to be
paid to
revenue.

30. All moneys received by the Board in payment of any advance or interest thereon, or for fees, shall be paid to the Consolidated Revenue Fund.

Penalty for
misrepresentation.

31. Every producer or person who knowingly makes any untrue statement or representation to the Board for the purpose of obtaining any advance or who obtains any advance by means of personation or any fraudulent device shall be guilty of an offence.

Penalty: Imprisonment for one year.

Punishment
for offences.

32. Any offence against this Ordinance may be punished on summary conviction by any court of summary jurisdiction constituted or presided over by a special magistrate or any magistrate authorized by the Minister to exercise jurisdiction with respect to offences against this Ordinance.

Exercise of
certain powers.

33. Any powers of the Board in relation to the entry on any holding for any purpose, the recovery of any moneys by distress and sale of any goods and chattels, the taking possession of and sale of any holding, the inspection of any improvements, the requiring of information, or any other prescribed matter, may be exercised by any officer or person authorized in writing by the Board to exercise those powers.

34.—(1.) The Minister may make regulations, not inconsistent with this Ordinance, prescribing all matters which by this Ordinance are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance. Regulations.

(2.) All regulations made in pursuance of this Ordinance shall—

- (a) be published in the *Gazette*;
- (b) take effect from the date of publication in the *Commonwealth of Australia Gazette*, or from a later date specified in that *Gazette* at the time of their publication; and
- (c) be laid before both Houses of the Parliament within thirty days after the making thereof, or, if the Parliament is not then sitting, within thirty days after the next meeting thereof.

(3.) If either House of the Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations have been laid before the House disallowing any regulation, that regulation shall thereupon cease to have effect.
