



FARM WATER DEVELOPMENT ACT 1985

No. 42 of 1985

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AN ACT to provide for the making of loans to assist in the development of water resources for use on farms and to make provision for incidental matters.

[Royal Assent 23 May 1985]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—This Act may be cited as the *Farm Water Development Act* Short title. 1985.

Commence-
ment.

2—This Act shall commence on the day on which it receives the Royal assent.

Interpretation.

3—In this Act, unless the contrary intention appears—

“Authority ” means the Tasmanian Development Authority;

“eligible person ” means a person who is engaged in farming operations and whose sole or principal source of income is derived from those operations;

“loan ” means a loan under this Act.

Power of
Authority to
make loans.

4—Subject to this Act, the Authority may, out of the money available to it under section 12, make loans to eligible persons for the purposes specified in section 5.

Loans for
development of
farm water.

5—A loan may be made to an eligible person for the purposes of—

(a) the construction of a dam or weir across a river in order to store water for use on a farm owned or occupied by that eligible person if the dam or weir is approved by the Rivers and Water Supply Commission as suitable for irrigation as proposed by that eligible person; or

(b) the drilling or construction of a well or bore in order to take water for use on a farm owned or occupied by that eligible person,

so long as the construction of the dam or weir or the drilling or construction of the well or bore occurs after the commencement of this Act.

Terms and
conditions of
loans.

6—(1) Subject to this section, a loan shall be made subject to such terms and conditions as the Authority may determine.

(2) Except as provided by subsection (6), a loan—

(a) is repayable in full within 7 years after the day on which it is made or within such lesser period as the Authority may determine;

(b) is subject to the payment of interest in accordance with this section; and

(c) is repayable as to interest only during the first 2 years of the term of the loan.

(3) For the purposes of subsection (2) (*b*), the rate of interest payable on a loan is a rate equivalent to the average rate of interest payable by the Treasurer, as at 30th June immediately preceding the financial year in which the interest on that loan is payable, on the public debt of the State existing on that day.

(4) The average rate of interest on the public debt of the State shall be the rate that is ascertained, as nearly as practicable by the Under Treasurer, and certified to by the Auditor-General, for the purposes of this or any other Act.

(5) For the purposes of subsection (4), there shall be taken into account any exchange payable by the Treasurer for the transfer to any country outside the Commonwealth of any interest payable in that country in respect of the relevant financial year on any portion of the public debt of the State.

(6) Where the Authority is satisfied that the repayment of a loan granted under this section would occasion special hardship to the borrower, the Authority may—

(*a*) extend the term of the loan for such period as it may determine; and

(*b*) with the approval of the Treasurer, reduce the rate of interest payable on the amount of the loan remaining unpaid so long as the difference between the rate of interest payable under subsection (3) and the rate as so reduced, both rates being expressed as percentages, does not exceed 2,

and any such extension or reduction may be made on such terms and conditions as the Authority may determine.

7—(1) An eligible person who seeks a loan may make application for the loan to the Authority. Applications for loans.

(2) An application for a loan—

(*a*) shall be in writing in a form provided for that purpose by the Authority; and

(*b*) shall contain such particulars and information as may be specified in the form.

(3) The Authority may require an applicant under this section to provide it with such information as the Authority considers necessary in order to show to its satisfaction whether or not the applicant is an eligible person.

(4) On receipt of an application made in accordance with this section, the Authority may grant the application or refuse to grant the application.

Power of Authority to obtain information.

8—Where a person has applied for a loan, the Authority may require that person—

- (a) to give the Authority an authorization to obtain from any person information available to him with respect to the applicant; and
- (b) to produce to the Authority such documents as the Authority may require.

Security.

9—The Authority shall take and require such security for the repayment of loans as in each case it considers to be adequate in the circumstances.

Exemption from fees and stamp duty.

10—An instrument made by the Authority for the purposes of this Act is exempt from stamp duty and may be filed, recorded, or registered without payment of any fee.

Repayment of loans.

11—The Authority shall pay all money received by it under this Act in repayment of loans and payment of interest on loans into such accounts created in the Treasury as the Treasurer may require in such manner as the Treasurer may direct.

Appropriation from the Loan Fund, &c.

12—The money required for the purposes of this Act shall be paid from—

- (a) money appropriated by Parliament from the Loan Fund for the purpose; or
- (b) the other funds of the Authority available for the purpose.

False or misleading statements.

13—(1) A person shall not, in connection with, or in support of, an application for a loan, make, whether orally or in writing, a statement that, to his knowledge, is false or misleading in a material particular.

Penalty: \$1 000.

(2) A person shall not obtain payment of a loan by means of a statement, whether orally or in writing, that, to his knowledge, is false or misleading in a material particular or by means of impersonation or a fraudulent device.

Penalty: \$5 000 or imprisonment for 6 months.

(3) Where a person is convicted of an offence against this section, the court may, in addition to imposing a penalty in respect of the offence, order him to pay to the Authority an amount equal to the amount of the outstanding balance of the loan paid under this Act in consequence of the act, failure, or omission in respect of which he was convicted, together with interest calculated up to a date determined by the court.

(4) It is a defence to a charge under this section if it is proved that, at the time the application or statement was made, the defendant believed on reasonable grounds that it was neither false nor misleading.

(5) Where an offence against this Act is committed by a body corporate—

(a) every director, or member of the governing body, of the body corporate; and

(b) every manager or secretary of the body corporate, shall be deemed also to have committed the offence, and may be convicted of the offence, unless he proves that the act or omission constituting the offence took place without his knowledge or consent.

(6) A person referred to in subsection (5) may be convicted of an offence under that subsection whether or not the body corporate is charged with, or convicted of, the offence.

14—(1) The Governor may make regulations for the purposes Regulations. of this Act.

(2) Regulations under subsection (1) may be made subject to such conditions, or be made so as to apply differently according to such factors, as may be specified in the regulations or according to such limitations or restrictions, whether as to time or circumstance or otherwise, as may be so specified.

(3) Regulations under subsection (1) may provide that it is an offence, punishable on summary conviction, for a person to contravene or fail to comply with, any of the regulations and may provide in respect of any such offence for the imposition of a penalty not exceeding \$500 and, in the case of a continuing offence, a further penalty not exceeding \$20 for each day during which the offence continues.

(4) A regulation under subsection (1) may authorize any matter or thing to be from time to time determined, applied, or regulated by the Authority or any person or body specified in the regulation.