



1938.

ANNO SECUNDO.

GEORGII VI. REGIS.

No. 32.

## ANALYSIS.

1. Short title and incorporation with 26 Geo. V. No. 98.
2. Ratification of agreement.
3. Power to Board to give effect to agreement

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AN ACT to ratify and confirm an Agreement entered into between the Board of Management of the Agricultural Bank of Tasmania, the Honourable the Minister for Agriculture, and Associated Pulp and Paper Mills Limited; and to empower the Board of Management of the said Bank to give effect to such Agreement. [25 November, 1938.]

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**B**E 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**—(1) This Act may be cited as the *Homes (Burnie Paper Mills) Act 1938*.

(2) This Act shall be incorporated and read as one with the *Homes Act 1935*.

Short title  
and incor-  
poration with  
26 Geo. V.  
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Ratification  
of agree-  
ment.

**2** The agreement dated the first day of January, one thousand nine hundred and thirty-eight, and made between the Board of the first part, the Minister of the second part, and Associated Pulp and Paper Mills Limited of the third part, a copy of which is set forth in the schedule, is hereby ratified and confirmed.

Power to  
Board to  
give effect to  
agreement.

**3** The Board is hereby authorised and empowered to carry out and give effect to the said agreement.

**THE SCHEDULE.**

THIS INDENTURE made the tenth day of February one thousand nine hundred and thirty-eight BETWEEN THE BOARD OF MANAGEMENT OF THE AGRICULTURAL BANK OF TASMANIA (hereinafter called "the Board") of the first part THE HONOURABLE ROBERT COSGROVE being and as the Minister of the Crown for the time being administering the Homes Act 1935 of the State of Tasmania (hereinafter called "the Minister" which expression shall include the Minister of the Crown for the time being administering the said Act) of the second part and ASSOCIATED PULP AND PAPER MILLS LIMITED a Company registered under Part I. of the Companies Act 1928 of the State of Victoria and under Part X. of the Companies Act 1920 of the State of Tasmania (hereinafter called "the Company") of the third part WHEREAS the Company being about to commence the manufacture of paper-pulp and paper and other manufactures and commodities related to or connected therewith at Burnie in the State of Tasmania has requested the Board to join with it in the formulation of a scheme for the proper housing of certain of the employees of the Company which the Board has agreed to do in manner hereinafter appearing upon the Company entering into the covenants by way of guarantee and indemnity and otherwise hereinafter more particularly set forth. AND WHEREAS doubts having arisen as to the power of the Board under the Homes Act 1935 of the State of Tasmania (hereinafter called "the Act") to enter into such agreement both the Board and the Company have requested the Minister to join in and execute this Indenture for the purposes hereinafter appearing which the Minister has agreed to do.

NOW THIS INDENTURE WITNESSETH as follows:—

1. The Board with the approval of the Minister testified by his entering into and executing this Indenture will pursuant to Section 11 of the Act purchase and acquire for the Crown—

- i. By agreement with the Company the fee simple in possession free from encumbrances of and in the land situate at Burnie aforesaid being the land

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secondly in the conveyance hereinafter mentioned more particularly described for the price or sum of three thousand and three pounds ten shillings being the amount whereat the Company purchased the said land from the Van Diemen's Land Company by conveyance dated the thirteenth day of January one thousand nine hundred and thirty-seven and made between the Van Diemen's Land Company of the one part and the Company of the other part:

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- II. By agreement with the owner thereof the fee simple in possession free from encumbrances of and in such other lands situate at or near Burnie aforesaid as the Company may approve for such price or sum as may be agreed upon between the Board with the approval of the Company and such owner.

2. Upon the conveyance or transfer of each of the said respective pieces of land to the Board the Board will forthwith proceed to subdivide the said piece of land into lots (if such subdivision shall in any case be necessary) and to do such other things in relation thereto as may be required by Section 12 of the Act: And will proceed to determine the cost of each lot in accordance with Section 13 of the Act: And will erect a dwelling-house on each lot or convert into a dwelling-house the existing buildings on such lot in manner set forth in Section 14 of the Act PROVIDED that no such subdivision shall be finalised unless it has first been submitted to and approved by the Company AND PROVIDED FURTHER that the Board will so erect or otherwise provide 40 dwelling-houses or such less number as with the approval of the Company first had and obtained may be hereafter determined IT IS FURTHER DECLARED as an evidence of the intention of the parties that the Board will if so desired by the Company from time to time consult with it as to the erection and provision of further dwelling-houses as may be requisite on the same terms and conditions as are herein provided with the view to the erection of the same by the Board and the obtaining if necessary of further land for such purpose AND the provisions of this Indenture shall subject to any variations thereof that may be mutually agreed upon between the Board and the Company apply to such further dwelling-houses and the lands whereon the same are or are to be erected.

3. In the erection of dwelling-houses or the conversion into dwelling-houses of existing buildings pursuant to Clause 2 hereof the Board will act only with the approval of the Company in relation to—

- I. The design of any such proposed dwelling-house and the material whereof the same shall be constructed by the Board:
- II. The sum proposed to be expended by the Board in the erection of any such dwelling-house or the

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conversion into a dwelling-house of any such existing buildings.

4. Not more than one dwelling-house shall be erected upon any one lot nor shall any existing buildings be so converted as to provide more than one dwelling-house on any one lot.

5. The Board will sell each such dwelling-house and the lot of land whereon the same is erected (hereinafter referred to as "the home") pursuant to Section 17 of the Act to an eligible person within the meaning of the Act for a price or sum equal to the amount of the capital cost thereof to the Board as determined pursuant to the Act PROVIDED that the Board will not sell the home to an eligible person whether or not he is at the time of sale in the employment of the Company without the consent of the Company.

6. Until the sale of the home shall be effected by the Board pursuant to Section 17 of the Act the following provisions shall apply:—

I. The Company will pay to the Board—

(a) Interest on the capital cost of the home to the Board as determined pursuant to the said Act at the rate of five pounds ten shillings per centum per annum reducible to five pounds per centum per annum on payment within twenty-eight days after demand therefor has been made upon the Company by the Board:

(b) The amount of all rates taxes insurance premiums and other payments of a like nature in respect of the home for the payment of which the Board is responsible in law or has properly for the purpose of protecting the respective interests of the Board and the Company assumed responsibility:

(c) The amount of any expenditure incurred by the Board in effecting such repairs to the home as may reasonably be necessary to keep the home in a good and substantial state of repair and condition:

II. The Board will use its best endeavours to let the home pursuant to Section 16 of the Act but only to a tenant and at a rental and upon such terms and conditions as may be approved by the Company and will apply the moneys to be received by it from any such letting in the discharge of the Company's obligations under paragraphs (a) (b) and (c) of Subclause 1. of this Clause. If any such letting shall be to an employee of the Company

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and he or some other person shall thereafter purchase the home from the Board then any surplus of rent which shall remain in the hands of the Board after providing thereout for the said several payments enumerated in paragraphs (a) (b) and (c) of Subclause 1. of this Clause shall be applied by the Board in favour of such purchaser as or towards a deposit upon his purchase. A.D. 1938.

7. In the event of the Board not effecting the sale of the home pursuant to Section 17 of the Act within five years from the date of the completion of the erection of the dwelling-house comprised therein (such date to be determined by the Board in its absolute discretion and notice thereof in writing given to the Company within one month after such determination) then forthwith after the expiration of such period the Board will sell and the Company will purchase the home in manner provided by Section 43 of the Act for a price or sum equal to the amount of the capital cost thereof the Board as determined as aforesaid less any amount which shall then remain in the hands of the Board as a surplus after providing for the several payments enumerated in paragraphs (a) (b) and (c) of Subclause 1. of Clause 6 hereof. The Board agrees to give consideration if and when the occasions therefor shall arise to the payment of such purchase-money being by instalments spread over a period of years.

8. Upon the sale of the home being effected by the Board then as from the date of such sale (or such other date as may be mutually agreed upon between the parties hereto) the provisions of Subclause 1. of Clause 6 hereof shall cease to apply to the home and the following provisions shall thereafter apply to the home:—

- I. If such sale shall be to an eligible person who is not at such date an employee of the Company this Indenture shall thereafter save as provided in Clause 11 hereof cease to apply to the home:
- II. If such sale shall be to an eligible person who is at such date an employee of the Company the Company guarantees the payment by the purchaser of all moneys payable by the purchaser under the agreement of sale whether to the Board or to any other person or body and the performance and observance by the purchaser of the terms of the agreement of sale until such time as the capital indebtedness of the purchaser to the Board in respect of such sale shall have been reduced (whether by the purchaser or by the Company under the latter's guarantee) to sixty per centum of the purchase-price whereupon the Company's guarantee shall determine and this Indenture shall thereafter save as provided in Clause 11 hereof

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cease to have any application to the home PROVIDED that the Company shall not be bound to pay interest at the higher rate provided for in any such agreement unless the Company shall have made default in payment of interest at the lower rate provided for in such agreement for a period of twenty-eight days after demand therefor shall have been made upon the Company by the Board. There shall be reserved to the Company its right of recovering from such purchaser under such guarantee any moneys which it may so pay.

9. With regard to the liability of the Company as surety under Subclause II. of Clause 8 hereof—

- I. Such liability shall not be impaired nor discharged by reason of any time or other indulgence granted by the Board to the purchaser:
- II. The Company will on demand pay to the Board or to such other person or body as aforesaid the whole of the moneys which shall then be due by the purchaser under the agreement of sale to the Board or to such other person or body or will perform or observe the terms of the agreement of sale as the case may be AND will indemnify the Board against all loss of money and all costs charges and expenses which the Board may incur by reason of any default on the part of the purchaser.

10. An agreement of sale entered into between the Board and an eligible person who is an employee of the Company shall be in such form and shall contain such terms and conditions as shall be agreed upon between the Board and the purchaser with the approval of the Company and in particular shall contain a condition that the purchaser shall not assign the benefit of such agreement without the consent of the Board. Such consent shall not be given without the approval of the Company.

11. The Company will use its best endeavours—

- I. To persuade such number of its employees as may be requisite and who shall be eligible persons to apply to purchase homes from the Board pursuant to this Indenture and the Act:
- II. To facilitate the collection by the Board from purchasers who shall from time to time be employees of the Company of all moneys payable by such purchasers to the Board under their respective agreements of sale and notwithstanding the provisions of Clause 8 hereof whether or not at the date of the effecting of any such sale the purchaser was an employee of the Company and whether or

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not the Company's guarantee and indemnity under this Indenture shall have ceased to be applicable to such purchaser. A.D. 1938.

12.—

- I. This Indenture is subject to ratification by the Parliament of the State of Tasmania and the Minister agrees to use his best endeavours to secure the passage through Parliament of the necessary ratifying legislation:
- II. If Parliament shall refuse to ratify this Indenture then the Company will pay to the Board all such moneys and will do all such things as may be necessary to replace the Board in the same position in which it stood in relation to this Indenture immediately before the Board expended any moneys or incurred any obligations in anticipation of or pursuant to this Indenture or otherwise in relation thereto and in order thereto in particular but without restricting the generality of the foregoing covenants the Company will on demand—
  - (a) Reimburse to the Board all moneys expended by the Board in anticipation of or pursuant to this Indenture or otherwise in relation thereto:
  - (b) Purchase or repurchase from the Board all land purchased by the Board for the purposes of this Indenture:
  - (c) Take over from the Board all its undischarged obligations entered into pursuant to this Indenture and indemnify the Board in respect thereof.

13. All notices and demands to be given or made by the Board to or upon the Company under this Indenture shall be deemed to be sufficiently given or made if the same shall be in writing and communicated to the Company by ordinary prepaid post in an envelope addressed to the Company at its registered office in the State of Tasmania or if the Company shall have no such registered office in the State of Tasmania at its registered office in the State of Victoria or if the Company shall have no such registered office in the State of Victoria then at its last registered office in the State of Victoria AND the said notice or demand shall be deemed to have been given to or made upon the Company on the date upon which the same should in the ordinary course of post have reached such address.

14. The proper law of the contract contained in this Indenture shall be deemed to be the law of the State of Tasmania and the formal and essential validity and the construction interpretation and effect of this Indenture shall in all respects be determined by the law of the State of Tasmania.

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15. This agreement shall be deemed to have been executed by all parties thereto on the first day of January one thousand nine hundred and thirty-eight and shall be construed accordingly.

IN WITNESS whereof these presents have been executed by the parties hereto the day and year first hereinbefore written.

The Common seal of the Board of Management of the Agricultural Bank of Tasmania was hereto affixed pursuant to resolution of the Board made on the first day of February one thousand nine hundred and thirty-eight in the presence of—

(Signed)  
S. R. ADAMS, Chairman.

(Signed)  
R. B. RICHARD, Secretary.

Signed sealed and delivered by the said ROBERT COSGROVE in the presence of—

(Signed)  
ROBERT COSGROVE.

(Signed) S. R. ADAMS.

The Common seal of Associated Pulp and Paper Mills Limited was hereto affixed pursuant to a resolution of the Board of Directors made on the tenth day of February one thousand nine hundred and thirty-eight in the presence of—

(Signed)  
W. MASSEY-GREENE  
and  
G. MUSSEN, Directors.

(Signed)  
JOHN A. BULT, Assistant-Secretary.