

TASMANIA.

THE RURAL REHABILITATION ACT 1937.

ANALYSIS.

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TASMANIA.



1937.

ANNO PRIMO

GEORGII VI. REGIS

No. 56.



AN ACT to make provision for the Rehabilitation of the Affairs of Farmers. [13 December, 1937.]

A.D.
1937.
—

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 *Rural Rehabilitation Act 1937*. Short title.

2—(1) Subject to this section, this Act shall be incorporated and read as one with Part IV. of the *State Advances Act 1935*. Incorporation with Part IV. of 26 Geo. V. No. 41, as modified.

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(2) For the purposes of such incorporation, the said Part IV., shall be read and construed as though—

- i. The words “on the prescribed security” in the first and second lines of subsection 1. of section thirty-six were deleted :
- ii. The words “within such period after the making thereof as the Board may determine” were substituted for the words “within a period of ten years after the making thereof” in subsection (7) of the said section thirty-six : and
- iii. There were substituted for section thirty-seven the following sections thirty-seven to thirty-seven B—

“**37**—(1) The Board may guarantee to any person the payment of—

- i. Any rent payable by a farmer :
- ii. The price of, or remuneration for—

(a) Any land, livestock, chattel, commodity, or thing purchased by : or

(b) Any act, service, or work done, rendered, or performed by any person for—

or on behalf of the farmer with the consent of the Board or the repayment of moneys advanced to the farmer with such consent, for any of the purposes mentioned in subsection (1) of section thirty-six with interest if any such is reserved in respect of such moneys.

(2) Such moneys as the Board shall be called upon to pay in pursuance of a guarantee given under subsection (1) hereof shall be deemed to be an advance to the farmer by the Board under subsection (1) of section thirty-six.

“**37A**—(1) The Board, at the time an advance is made under this Part to a farmer, or at any time thereafter, may require the farmer to give security or further security, as the case may be, for the repayment thereof.

Board may guarantee payment of debts of farmer.

Security for advances.

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(2) Such security may comprise—

i. A mortgage of or a charge upon—

(a) Freehold land or a credit holding: or

(b) Crops, wool, stock, poultry, plant, machinery, or implements—

the property of the farmer:

ii. A guarantee approved by the Board: or

iii. Such other security as may be prescribed, or as may be determined by the Board in any particular case.

(3) If a farmer, to or in respect of whom a stay order has been issued under section four of the *Rural Rehabilitation Act 1937*, and who has obtained an advance under this Part, fails or refuses, when required by the Board so to do, to give the security required by the Board in respect of such advance, the supervisor of his affairs appointed by the Board under section seven of that Act may, as the statutory attorney of the farmer, execute all such mortgages, charges, or other instruments as may be necessary for giving the security required by the Board for such advance.

(4) Any instrument so executed by such supervisor shall be as valid and effectual as if the same had been executed by the farmer.

“**37B** The Board if it thinks it desirable in the interests of a farmer so to do may consent to the postponement of any security given by the farmer to the Board under this Part, in favour of any person, who in consideration of such postponement, has agreed in writing with the Board to make an advance to the farmer for any purpose approved by the Board.”

Postponement of security.

3 In this Act unless the contrary intention appears—

“Bank” includes any local branch of a bank:

“Farmer” means a person engaged in a rural industry as referred to in Part IV. of the *State Advances Act 1935*:

Interpretation.

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“Stay order” means an order issued by the Board under this Act as provided by section five :

“Supervisor” means a person appointed by the Board under section seven to control and direct the management of the affairs of the farmer in relation to whom the term is used.

Administration of Act.

4—(1) This Act shall be administered by the Board constituted under the *State Advances Act 1935* (in this Act called “the Board”).

(2) For the purposes of such administration the Board may apply any moneys at its disposal under, or for the purposes of, Part IV. of the Act last cited.

Power to Board to issue stay orders.

5—(1) A stay order may be issued by the Board under this Act in respect of any farmer who has—

i. After the commencement of this Act, obtained an advance under this Act, if—

(a) The farmer makes application therefor as prescribed : or

(b) The Board is of opinion that, in the interests of the farmer, such stay order should be issued :

ii. Been required by the Board, under section sixty-one of the *Farmers’ Debt Adjustment Act 1936*, to submit his affairs to rehabilitation under this Act.

(2) An application by a farmer for a stay order shall be made in such manner and form, and shall contain such particulars, as may be prescribed.

Incorporation of certain provisions of 1 Edw. VIII. and 1 Geo. VI. No. 48.

6—(1) Subject to this section the following provisions of the *Farmers’ Debt Adjustment Act 1936* shall be incorporated in this Act—

i. Subsections (1), (2), and (3) of section nineteen :

ii. Subsections (1), (2), and (4) of section twenty :

iii. Sections twenty-one to twenty-three :

iv. Section fifty-four : and

v. Sections sixty-five and sixty-six.

(2) For the purposes of such incorporation any reference in such provisions to —

i. “The Board” shall be deemed to be a reference to the Board constituted under this Act :

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- ii. A protection certificate shall be deemed to be a reference to a stay order issued under this Act : A.D. 1937.
- iii. The cancellation of a protection certificate shall be deemed to be a reference to the discharge of a stay order under this Act : and
- iv. "This Act" shall be deemed to be a reference to this present Act—

and the provisions of section sixty-six aforesaid shall apply only in respect of agreements to which the consent in writing of the Board shall have been obtained.

7—(1) On the issue of a stay order in respect of any farmer the manager shall appoint a person to be supervisor of the affairs of the farmer. Appointment of supervisors.

(2) During the continuance of the stay order the supervisor, subject to any order or direction of the Board, shall control and direct the management of the affairs of the farmer, the carrying on of his farming operations, and the marketing of the produce thereof.

(3) The manager may appoint any person to assist the supervisor of the affairs of any farmer, and such assistant-supervisor shall have all the powers and perform all the duties of the supervisor, which shall, with the consent of the Board, be delegated to him by the supervisor.

(4) No supervisor shall exercise any power or perform any act which the manager or the Board has, by general or special order, forbidden him to exercise or perform.

(5) For the purposes of the administration of this Act, the Director of Agriculture shall, if and when required by the Board so to do, make available to the Board the services of all such officers and employees of the Department of Agriculture as the Public Service Commissioner shall approve.

8 A supervisor shall, whenever required so to do, account to the Board for all his receipts and payments in relation to any farmer of whose affairs he has been appointed supervisor, and shall forthwith pay all moneys coming to his hands to the Board, or to the credit of such bank account as the Board shall direct. Supervisors to account to the Board.

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Application
of sections
10 to 16.Powers of
Board in
respect of
farm r's
affairs.

9 Sections ten to sixteen shall apply to, and in relation to, farmers in respect of whom stay orders have been issued under this Act, but not otherwise.

10—(1) The Board may require—

i. The farmer to—

(a) Carry on his farming operations in accordance with a programme approved by the Board, and to follow such advice or technical guidance as the Board or the supervisor may give him in respect of such farming operations :

(b) Forward to the Board a statement, verified by statutory declaration, of his receipts and payments during such period as the Board may determine, in respect of his farming operations, or any other business carried on or transaction effected by the farmer.

ii. The payment to the Board, of—

(a) All moneys derived from the carrying on of the farmer's business, or otherwise howsoever payable to the farmer :

(b) The nett proceeds of the marketing of any stock of the farmer or of the produce of his farm, whether or not any other person would, but for this section, have been entitled, by reason of any stock, wool, or crop mortgage under the provisions of the *Stock Mortgages Act 1925* or the *Stock, Wool, and Crop Mortgages Act 1930*, or any other mortgage, charge, or lien on, or any agreement relating to, such stock or produce, to receive the whole or any part of such proceeds :

iii. The manager of any bank, or any other person, to state whether any sum of money is standing to the credit of the farmer in the books of such bank or person, and to pay such sum, if any, to the Board.

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(2) For the purposes of paragraph II. of subsection (1) hereof, the Board during the subsistence of a stay order, shall be the agent of the farmer, and shall have full power and authority to demand, collect, sue for, recover, and give effectual receipts for the moneys therein mentioned.

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(3) For the purposes of paragraph II. of subsection (1) hereof "nett proceeds" used in relation to the marketing of any stock or produce of a farmer, means—

- I. The amount realised by a broker, merchant, auctioneer, agent, or other person employed by the farmer in the marketing of such stock or produce after deduction therefrom of all expenses incurred by such broker or other person as aforesaid and the reasonable commission or remuneration of such broker or other person in respect of such marketing: and
- II. All moneys payable to the farmer in respect of any such stock or produce delivered by or on behalf of the farmer to, and for sale by, any marketing Board constituted by law for the purpose of marketing primary products.

11—(1) The Board shall, out of the moneys received by it as the proceeds of the marketing of the produce of the farmer or otherwise received by the Board in respect of the farmer, make the following disbursements—

Application
of moneys
received by
Board.

- I. Out of any moneys received from the marketing of any stock subject to a valid mortgage, charge, or lien in payment to the mortgagee of the principal moneys and interest secured by such mortgage, but the onus of proving that any such mortgage is valid and binding shall be on the mortgagee:
- II. All interest due to the mortgagee of any land of the farmer which has accrued due since the issue of the stay order, and all rent which has accrued due to the landlord of the farmer since such issue:
- III. Subject to paragraph II. hereof out of any moneys received from the marketing of any crops or wool which are subject to a valid mortgage, charge, or lien, in payment to the mortgagee of the principal moneys and interest secured thereby. The foregoing provision of this paragraph shall only apply where the principal moneys secured by

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such mortgage, charge, or lien have been advanced to the farmer to enable him to carry on during the season in which the crops or wool given as security were grown or produced. Where the mortgage was given by the farmer, either wholly or in part, as security for a debt incurred prior to the season in which such wool or crops were grown or produced, then such debt or such part thereof, as the case may be, as was incurred prior to the commencement of such season as aforesaid, shall, for the purposes of this Part, be deemed to be an unsecured liability of the farmer :

- iv. Out of any moneys received from the sale of any other property or assets of the farmer, in payment to the holders of any securities over such property or assets sold of the moneys secured thereby in the order of the respective priorities of such securities, but excepting therefrom any such security to which such property or assets remained subject after sale.

(2) After making the disbursements mentioned in subsection (1) hereof, the Board shall apply the moneys in that subsection first mentioned in or towards satisfaction of—

- i. Any liabilities of the farmer which have been incurred, subsequently to the issue of the stay order, by the farmer to the Board or to any person with the consent of the Board for the purpose of enabling the farmer to carry on his farming operations or for the maintenance of his wife and family while such operations were being so carried on : and (subject thereto)
- ii. Such other liabilities of the farmer as the Board may deem expedient, having regard to the enabling of the farmer to continue to carry on his farming operations and to the desirability of the ultimate rehabilitation of his affairs.

Capital
realisation
of farmers'
assets.

12—(1) The farmer may, with the consent of the Board, sell his farm or any part thereof and any of his property or assets.

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(2) The proceeds of such sale shall be paid to the Board, and such proceeds shall, subject to the satisfaction in the order of their respective priorities, of any of the securities to which the property so sold was subject at the time of such sale, be deemed to be moneys received by the Board under section eleven, and shall be paid and applied accordingly, and the balance, if any, remaining shall be paid to the farmer.

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13 Every farmer shall pay to the Board forthwith after the receipt thereof all moneys received by him as the proceeds of the marketing of his produce or which the Board might under this Act have required the farmer or any other person to pay it.

Farmer to pay moneys received by him to Board.

Penalty : Fifty pounds or imprisonment for six months.

14 Where any person has been required by the Board, by notice in writing signed by the Chairman or the Secretary to the Board, to pay to the Board any moneys payable by such person to the farmer, and such person fails to comply with such notice within fourteen days after the same has been served upon him by post, the Board may recover such moneys in any court of competent jurisdiction from the person so failing as aforesaid.

Board may recover moneys payable to farmer.

15—(1) The Board may apply to a judge in chambers for the determination of any question or dispute that may arise in the exercise of its powers under this Act.

Application to judge by Board.

(2) Any farmer, or any creditor of a farmer, who is aggrieved by any decision, act, or omission of the Board under this Act, may apply to a judge in chambers for redress, and upon such application the judge may make such order in the premises as he thinks just; but this provision shall not abridge, or make subject to review, the exercise by the Board in good faith of any power under this Act in the exercise of which it has a discretion.

Application by farmer or creditor.

(3) Every application under this section shall be by way of summons, and the judge shall have full power and authority to regulate the procedure to be followed, and the parties to be served, and to give such directions and make such orders, including an order as to the payment of costs, as to the judge shall seem fit.

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Limitation
of operation
of stay
orders.

16 No stay order shall—

- i. Affect the operation of any such agreement as is referred to in the second proviso to subsection 1) of section thirty-eight of the *Farmers' Debt Adjustment Act 1935*, and which, before the commencement of this section, was entered into by the farmer with any person to the effect mentioned in that proviso, and such agreement shall continue to be binding on the farmer in accordance with the terms thereof, save and except that for the purposes of such continuance any reference in such agreement to a protection certificate shall be deemed to be a reference to a stay order under this Act :
- ii. Relate or extend to any real or personal property in respect of which the farmer, after the commencement of this section, becomes a mortgagor, lessee, purchaser under a contract of sale (in the case of any land), grantor of a charge, bill of sale, or lien, hirer under a hiring or hire purchase agreement, or grantor of any other form of security if—
 - (a) Such mortgage, lease, contract, charge or bill of sale, lien, agreement, or other form of security negatives the operation of the provisions of this Act in respect of the property comprised in or affected by such security or lease :
 - (b) In the case of any security, the same is given or made for some valuable consideration no part of which is past debt, and gives rise to an obligation on the part of the farmer unrelated to any obligation of the farmer existing at the commencement of this section : and
 - (c) The previous consent in writing of the Board, has been obtained thereto, in any case in which an advance under this Act has been made to the farmer after the commencement of this Act : or

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- III. Relate or extend to any real or personal property A.D. 1937.
 in respect of which the farmer, after the commencement of the *Farmers' Debt Adjustment Act 1935*, hereinafter called "the Act of 1935", became a mortgagor, lessee, purchaser under a contract of sale (in the case of any land), grantor of a charge, bill of sale, or lien, hirer under a hiring or hire-purchase agreement, or grantor of any other form of security if—
- (a) Such mortgage, lease, contract, charge or bill of sale, lien, agreement, or other form of security negatived the operation of the provisions of the Act of 1935 in respect of the property comprised in or affected by such security or lease : and
- (b) In the case of any security, the same was given or made for some valuable consideration no part of which was a past debt, and gave rise to an obligation of the farmer unrelated to any obligation of the farmer existing at the commencement of the Act of 1935.

17—(1) No person shall—Offences.
Penalties.

- I. Wilfully conceal from the Board any property of a farmer :
- II. Having been required by the Board, pursuant to paragraph III. of subsection (1) of section ten, to state whether any sum of money is standing to the credit of a farmer in the books of any bank or person, fail, without reasonable excuse, to comply with the Board's requirement, or supply a statement to the Board which is false in any material particular :
- III. With intent to defraud, in any proceeding under this Act make any false claim, or furnish the Board with any account, declaration, or statement of account, which is untrue in any material particular : or

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- iv. Without reasonable excuse, fail or neglect to comply with any lawful requirement of the Board, as and when required by the Board under this Act—

Penalty : One hundred pounds, or imprisonment for twelve months.

(2) No farmer shall—

- i. Make any false representation, or employ any other fraudulent means, for the purpose of obtaining the benefit of any provision of this Act : or
- ii. During the subsistence of a stay order made in respect of him—

(a) Either alone or jointly with any other person, obtain credit to the extent of five pounds or upwards from any person, without informing him : or

b) Trade under an assumed name or in the name of any other person, or in the name of a firm, without disclosing to every person with whom he deals his true name and the fact—

that he is a person in respect of whom a stay order is in force.

Penalty : One hundred pounds, or imprisonment for twelve months.

(3) No person shall contravene, or, without reasonable excuse, fail to comply with any provision of this Act (not being a provision in respect of which a specific penalty is otherwise prescribed).

Penalty : Twenty pounds.

(4) No farmer shall be exempt from any proceeding under this Act by reason only that the stay order issued in respect of him has been discharged after his alleged offence was committed.

Repeal of
1 Edw. VIII.
and 1 Geo.
VI. No. 50.

18 The *State Advances Act* (No. 2) 1936 is hereby repealed.

Expiry of
Act.
Saving.

19 Except in respect of advances made by the Board under this Act to a farmer after the commencement of this Act, this Act shall expire on the thirty-first day of December, one thousand nine hundred and forty.