

TASMANIA

THE HOMES ACT, 1919.

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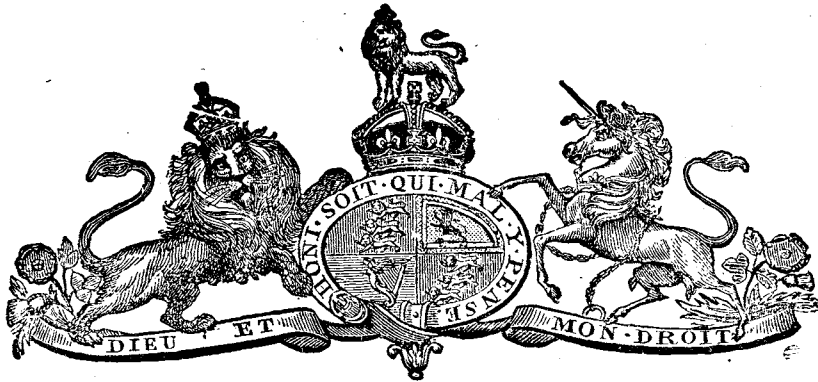
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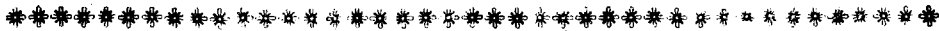


1919.

ANNO DECIMO

GEORGII V. REGIS.

No. 39.



AN ACT to provide Homes and Advances for
Homes for Persons of Limited Means, and
for other purposes. [24 December, 1919.]

A.D.
1919.

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 :—

PART I.

PRELIMINARY.

1 This Act—

- I. May be cited as “The Homes Act, 1919”:
- II. Shall commence on a date to be fixed by proclamation.

Short title.
Commencement.

2 This Act is divided into Parts, as follows :—

- Part I.—Preliminary.
- Part II.—Administration.
- Part III.—Funds.
- Part IV.—Acquisition of Land and Erection of Dwelling-houses.
- Part V.—Disposal of Dwelling-houses.
- Part VI.—Advances.
- Part VII.—Conditions of Contracts of Sale and Advances.
- Part VIII.—Miscellaneous.

Parts.

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Interpretation.

3 In this Act, unless a contrary meaning appears—

“Advance” means advance under this Act :

“Applicant” means an applicant for an advance :

“Bankruptcy” includes the liquidation by arrangement of the affairs of a debtor :

“Borrower” means a person who has obtained an advance :

“Capital cost” includes the price agreed upon or paid for the land and dwelling-house, and such sum as the trustees determine as sufficient to cover the cost of acquisition and subdivision, including construction of streets (if any), together with interest on expenditure for purchase of the land and purchase or erection of the dwelling-house up to the time of the sale of the dwelling-house :

“Contract of sale” means a contract for the sale by the trustees of land or a dwelling-house and land :

“Dwelling-house” includes the house and its appurtenances, necessary outbuildings, fences, and permanent provision for lighting, water-supply, drainage, and sewerage, but does not include any land :

“Eligible person” means a person who satisfies the trustees—

- i. That his income at the time of his application for an advance under this Act does not exceed Three hundred Pounds a year, and that not more than Twenty Pounds of such income is income from property within the meaning of “The Land and Income Taxation Act, 1910”; and

ii. That he—

(a) Is married; or

(b) Has dependants for whom it is necessary for him to maintain a home :

“Fund” means the Homes Act Fund created by this Act, and kept in the books of the Treasury :

“Holding” means land of which an applicant or borrower is the beneficial owner in fee simple in possession :

“Inspector” means an inspector appointed under “The State Advances Act, 1907” :

“Manager” means the Manager of the Bank, as defined by this section :

“Minister” means the Minister for Lands for the time being :

“Purchaser” means a person who has purchased from the trustees land or a dwelling-house and land :

“Section” means section of this Act :

“The Bank” means the Agricultural Bank of Tasmania constituted under “The State Advances Act, 1907” :

“The Fund” means the Homes Act Fund constituted by this Act :

“The Treasurer” means the the Treasurer for the time being of the State :

“This Act” includes regulations made under this Act :

1 Geo. V. No.
47, s. 4.Cf. N.Z., 39, 1906,
s. 3 (i.).

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“Town” means a town duly proclaimed by the Governor under “The Police Act, 1905,” or any other Act : A.D. 1919.

“Trustees” means the trustees for the time being of the Bank, as defined by this section :

“Valuer” means a valuer appointed under “The State Advances Act, 1907.”

Where by this Act any remedy is given to the trustees against or with respect to any land, the expression “land” shall include not only the land but also all improvements thereon.

PART II.

ADMINISTRATION.

4 This Act and the fund constituted by this Act shall under the Minister be administered by the trustees, and such administration shall be deemed to be a part of the duties and business of the trustees. Administration.

5 The trustees shall hold all property, all estates and interests in property, and all moneys acquired by them under this Act for and on account of the Crown. Property held on behalf of Crown.

6 The provisions of “The State Advances Act, 1907” and the regulations thereunder, as to the proceedings at and the conduct of meetings of the trustees, and as to the appointment and powers of the chairman of a meeting, shall apply when the trustees are transacting business under this Act. Meeting of Trustees for purposes of the Act, and quorum.
7 Ed. VII. No. 20.

7 The Manager shall, under the trustees, be the chief executive officer of the trustees for the purposes of this Act. Officers.

The inspectors, valuers, and other officers and servants appointed under “The State Advances Act, 1907,” shall also be the inspectors, valuers, officers, and servants of the trustees for carrying out the provisions of this Act; and the Governor may, upon the recommendation of the trustees, appoint under “The State Advances Act, 1907,” such additional inspectors, valuers, and officers and servants as may be necessary for carrying out the said provisions.

PART III.

FUNDS.

8—(1) For the purposes of this Act, the Treasurer is hereby empowered to borrow or raise by way of loan, in Tasmania or elsewhere, any sum or sums of money which shall not exceed in the whole the sum of Seventy thousand Pounds. Treasurer may raise moneys.

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9 Geo. V. No 8.

Homes Act
Fund.

(2) Any moneys authorised by this Act to be borrowed or raised may be borrowed or raised by the sale of State securities as defined by and under, and subject to, the provisions of "The State Securities Act, 1918."

(3) All moneys raised or received under this Act shall be kept separate from the funds at the disposal of the trustees under "The State Advances Act, 1907," and all other moneys of the Bank.

9—(1) For the purposes of this Act there shall be created and kept at the Treasury, an Account to be called "The Homes Act Fund."

(2) The said Account shall consist of, and to it there shall be credited:—

- i. Amounts borrowed by the Treasurer for the purpose of moneys borrowed and raised under the authority of this Act:
- ii. Moneys appropriated by the Parliament, or advanced by the Treasurer for the purpose of this Act: and
- iii. Purchase money, repayments of advances, interest, rents, and all other moneys received by the manager, trustees, or other persons in accordance with this Act, and paid into the Treasury.

(3) The said Account shall be debited with—

- i. Moneys paid for the acquisition of land and buildings under this Act:
- ii. Moneys paid for the building of dwelling-houses under this Act:
- iii. Advances made in pursuance of this Act:
- iv. Interest and all other expenses and charges incurred in administering this Act, or incidental to the carrying out of this Act: and
- v. All other payments made in accordance with this Act.

(4) Moneys raised under the authority of this Act or appropriated by Parliament for the purposes of this Act, when available, shall at the request of the Minister, and as, and when, and in such amounts as may be required for the purposes of this Act, be placed by the Treasurer to the credit of the Homes Act Fund.

(5) All advances or other payments required to be made under or for the purposes of this Act shall be made out of the moneys from time to time standing to the credit of the Fund without any further appropriation other than this Act.

(6) All purchase money, repayments of advances, interest, rents and other moneys received by the Manager or other officer of the Bank under the provisions of this Act shall forthwith, on receipt thereof, be paid into the Treasury and credited to the Fund.

Pending raising of moneys, Treasurer may make advances.

10 Pending the raising under Section Eight of this Act of the moneys thereby authorised to be raised, the Treasurer may, by the authority of the Governor, from time to time advance to the credit of the fund by way of loan, such sums as he thinks fit out of the Consolidated Revenue in aid of the purposes for which the first-mentioned moneys are to be raised; and every such advance shall be repayable at such time, and bear interest at such rate as the Treasurer determines.

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PART IV.

ACQUISITION OF LAND AND ERECTION OF DWELLING HOUSES.

11—(1) The Governor may, on the recommendation of the Minister, from time to time by notification in the "Gazette," set apart any Crown land, to be used for the purposes of this Act, and whether or not such land is vacant or has dwelling houses or other buildings already erected thereon; and thereupon such land shall become and be available for the purposes of this Act.

Setting apart
Crown land for
the purposes of
this Act.

It shall be lawful for the Governor in the name and on behalf of His Majesty the King for the purposes of this Act to grant any Crown land so set apart to and vest the same in "The Trustees of the Agricultural Bank of Tasmania" in fee simple and without payment of any grant fee.

(2) The value of the Crown land so set apart, or where such land shall be subdivided by the trustees into lots, the value of each lot shall be determined by mutual agreement between the Commissioner of Crown Lands and the trustees, and in the case of a subdivision regard shall be had to the size of the lot and to its position in the subdivision. Every such determination of value shall be recorded in the offices of the said Commissioner and the trustees, and the record thereof shall be signed by the said Commissioner and the Manager.

(3) In the event of the trustees selling any such Crown land or lot, they shall be debited by the Commissioner of Crown Lands in the books of his Department with the amount of the value of such land or lot so determined as aforesaid, as the price thereof.

When the trustees shall have been paid the whole of the purchase-money payable to them under the contract of sale made by them in respect of such land or lot, they shall pay the said price so debited against them as aforesaid out of the Homes Act Fund into the Treasury to the credit of the Department of Lands and Surveys, and thereupon the said Commissioner shall duly credit the trustees with such payment.

The trustees shall, as from the date of the contract of sale of any such land or lot, pay out of the Homes Act Fund into the Treasury to the credit of the Department of Lands and Surveys, at such times as the Treasurer deems convenient, interest at the rate of Four Pounds per centum per annum upon the price so debited against the trustees as aforesaid in respect of such land or lot until the purchase-money under the said contract shall have been paid to the trustees, or, in case such contract becomes cancelled, until it is cancelled.

(4) Whenever any such Crown land or lot is disposed of by way of lease for any tenancy, the trustees shall from the commencement of the tenancy, during its continuance, pay out of the Homes Act Fund into the Treasury to the credit of the Department of Lands and Surveys interest at the rate of Four Pounds per centum per annum upon the price so debited against the trustees in respect of such land or lot.

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Acquisition by purchase of land for the purposes of this Act.

12 The trustees of the Agricultural Bank of Tasmania may with the approval of the Minister purchase and acquire for the Crown by agreement the fee simple in possession, free from encumbrances of and in any land in Tasmania, which the trustees recommend should be purchased for the purposes of this Act, and whether or not such land is vacant or has dwelling houses or other buildings already erected thereon; and thereupon such land shall become and be available for the purposes of this Act. The trustees may execute all deeds and instruments and do and perform all acts necessary for the completion of any such purchase.

All land purchased and acquired under this section shall be conveyed to and vested in "The Trustees of the Agricultural Bank of Tasmania," for an estate in fee simple in possession freed and discharged from all trusts, obligations, estates interests, contracts, licences, charges, rates, and easements.

Plan, &c., of land, and building thereon.

13 The trustees may cause a plan of subdivision to be made of any Crown land set apart for the purposes of this Act or of any land acquired by agreement, for the purposes of this Act, showing the proposed roads and reserves and the land set apart as sites for dwelling-houses.

The trustees may cause any work to be done on such land for the purpose of rendering it fit for the use to which it may be put under this Act.

The trustees may, with the consent of the Minister, dedicate reserves for public recreation or for other public purposes, and fence, plant, and improve such reserves

Trustees may determine cost of each lot.

14 Where land acquired by agreement by the trustees is subdivided by the trustees into lots for dwelling-houses and portion of the land is reserved for streets or other purposes, the trustees may determine the cost of each lot, having regard to its size and to its position in the subdivision, but the aggregate cost of all the lots as so determined shall be equal to the total cost of all the land including that which is reserved for streets and other purposes.

Trustees may erect dwelling-houses.

15 On any Crown land so set apart or land acquired by agreement, the trustees may cause dwelling-houses to be erected, or may convert any buildings into dwelling-houses; and may from time to time alter, enlarge, repair, and improve such dwelling-houses.

Total cost of land and dwelling-house.

16 The total cost to the trustees of any dwelling-house acquired or erected in pursuance of this Part together with the cost of the land on which it is erected or held therewith, shall not exceed Seven hundred Pounds.

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PART V.

DISPOSAL OF DWELLING-HOUSES.

Division I.—*Rental.*

17 Until any dwelling-house together with the land on which it is erected or to be held therewith, becomes the subject of a contract of sale by the trustees on the rent-purchase system or otherwise, the trustees may let such dwelling-house and land, by agreement, for a weekly, monthly, or quarterly tenancy, and at such rent, and on such other terms and conditions as may be mutually agreed upon.

Power to let dwelling-houses.

Division II.—*Sale of Homes on Rent-Purchase System.*

18—(1) Subject to this Act, the trustees may sell to any eligible person a dwelling-house acquired or erected in pursuance of the last preceding Part, together with the land on which it is erected or to be held therewith, provided that such person or his wife (if any) is not the owner of a dwelling-house within this State.

Sale of dwelling-houses.

(2) The sale may be upon such terms and subject to such conditions as are prescribed or are fixed by the trustees.

(3) The price shall not exceed the capital cost to the trustees of the dwelling-house and land.

(4) With the approval of the trustees a dwelling-house together with the land on which it is erected, or to be held therewith, may be sold to an eligible person without a deposit

(5) The purchaser shall be permitted to occupy the dwelling-house and land as a weekly tenant, and shall pay therefor a rental sufficient to cover interest at a rate to be determined by the trustees, not exceeding the annual rate of interest to be charged purchasers fixed by the Treasurer and in force under Section Twenty-eight, on the capital cost of the property (less any deposit paid), together with insurance, rates, repairs, and such sum in reduction of the purchase-money as the trustees may determine.

(6) At any time after the purchaser has paid in reduction of the purchase-money a sum amounting to not less than one-fifth of the purchase-money, and has paid to the trustees the amount due to them up to that time by way of instalments, and has complied to the satisfaction of the trustees with the conditions contained in the contract of sale relating to the land, he may, if he so desires, upon giving to the trustees the prescribed notice in writing of his intention so to do, execute in favour of the trustees a mortgage in the prescribed form for the balance of the purchase-money, and interest securing the payment thereof by instalments of principal and interest combined or by such other method as the trustees may determine, and thereupon the purchaser shall be entitled to obtain from the trustees a transfer of the land; but except as in this sub-section provided he shall not be entitled to obtain from the trustees a transfer of the land.

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(7) For the purposes of the last preceding sub-section the amount standing to the credit of the purchaser by way of deposits paid in pursuance of Subsection (2) of Section Twenty-nine of this Act, and of interest accumulated thereon, shall be deemed to be money paid in reduction of the purchase-money.

(8) Subject to this Act, cost and expense of any transfer or mortgage executed in pursuance of this section shall be borne by the purchaser.

PART VI.

ADVANCES.

Advances for homes.

19—(1) Subject to the provisions of this Act the trustees may make advances to any eligible person on the prescribed security for the purpose of enabling him—

- i. To erect, as a home for himself and his dependants, a dwelling-house on his holding : or
- ii. To purchase land, and erect a dwelling-house thereon : or
- iii. To purchase a dwelling-house, together with the land on which it is erected, or which is occupied therewith, as a home for himself and his dependants : or
- iv. To complete a partially erected dwelling-house owned by him : or
- v. To enlarge a dwelling-house owned by him : or
- vi. To discharge any mortgage, charge, or encumbrance already existing on his holding.

Maximum advance.

(2) The amount of the advance which may be made to any applicant under this Part shall be the amount (not exceeding Ninety per centum of the total value of the property in respect of which the advance is made) which the trustees consider necessary in order to give effect to the purpose for which the advance is made, but the amount of the advance shall not in any event exceed the sum of Seven hundred Pounds.

For the purposes of this subsection “ the total value of the property ” means such sums as, in the opinion of the trustees, will be the total value of the land and dwelling-house upon the completion of the work for which the advance is applied for.

(3) Any advance may be made by instalments and subject to such conditions as are prescribed.

(4) If the advance is for the purpose mentioned in Subsection (1) hereof (excepting Paragraphs iii. and vi.) then :—

- i. An instalment or instalments of such advance may be made before the building is commenced, provided that the total of the amounts so advanced shall not exceed Four-fifths of the fair estimated value of the applicant's estate or interest in the holding and the permanent improvements thereon :

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- ii. The total of the amounts advanced up to any given time shall not exceed the value of the progress theretofore made with the building, as certified in writing by a valuer to the satisfaction of the trustees, in addition to the amount (if any) advanced as provided for by Subdivision i. of this subsection. A.D. 1919.

20 Every application for an advance shall—

- i. Be made to the trustees and in the prescribed form, and shall contain such particulars as are prescribed :
- ii. Be accompanied by a statutory declaration by the applicant in the prescribed form that his income does not exceed Three hundred Pounds per annum, and that not more than Twenty Pounds of such income is income from property within the meaning of "The Land and Income Taxation Act, 1910," and if the advance is for the purpose of erecting a dwelling-house, that he desires the loan for the sole purpose of erecting a dwelling-house as a home for himself and wife, or for himself and dependants (naming them) for whom it is necessary for him to maintain a home, and that the applicant or his wife (if any) is not the owner of a dwelling-house within this State :
- iii. Be supported by such evidence (if any) as is prescribed, or as the trustees require.

Application for advance and evidence thereunder.

(2) The trustees shall not in any case make an advance for the purpose of erecting, completing, or enlarging a dwelling-house unless it is shown to their satisfaction that— Conditions of grant of advance.

- i. The dwelling-house when erected, completed, or enlarged, as the case may be, will be substantial and durable :
- ii. In the case of a house to be erected it is needed in the proposed locality : and
- iii. The plans and specifications thereof comply with the prescribed conditions and have been approved by the trustees.

(3) Whenever any question arises whether any applicant is the owner of the land in respect of which his application is made, or as to the amount of his income, the decision of the trustees on such question shall be final and conclusive for all purposes of this Act.

21—(1) If at any time in the opinion of the trustees, any money advanced under this Act has not been applied for the purpose for which it was advanced, or has not been carefully and economically expended, the trustees may refuse to pay any further instalment of the proposed advance, and may, by notice in writing, at once call in the whole or part of the amount already advanced. Advances by instalments.

(2) If the trustees in pursuance of this section call in the whole or part of the amount advanced, the borrower shall forthwith repay the same, and in default the trustees shall have the same remedies for the recovery of the amount called in, or such part thereof as remains unpaid, as are provided by this Act for the recovery of sums payable by the borrower.

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Advance to be secured by mortgage.

22—(1) No advance shall be made except upon the security of a mortgage or mortgages in the prescribed form to the trustees of the borrower's estate and interest in his holding, including the improvements already thereon, and the improvements (if any) for the purpose of which such advance is made, and such additional security (if any) as the trustees require. The borrower may, notwithstanding anything to the contrary in any enactment or law, lawfully execute such mortgage or other security.

64 Vict. No. 70.

(2) The provisions of "The Bills of Sale Act, 1900," or any Act amending that Act or substituted therefor, shall not apply to any mortgage or other security executed under the provisions of this Act, or affect the validity of any such mortgage or security in respect of any chattels comprised therein.

Advances only to be made on first mortgages.

23—(1) No advance shall be made on any property which is encumbered by any previous mortgage or charge, other than a mortgage or charge under this Act, or a charge in favour of the Crown, unless the advance is applied for the purpose of discharging a previous mortgage or charge.

(2) Notwithstanding anything hereinbefore contained a Second mortgage may be taken as collateral security.

Purchase-money or advance, how payable or repayable.

24—(1) Repayment of an advance shall be made in monthly or quarterly instalments, in accordance with the mortgage executed at the time of the advance, provided that in no case shall the period over which such instalments are repayable exceed in the case of a dwelling-house composed of or to be composed of—

(a) Stone or brick, or stone and brick, ordinary concrete, ferro-concrete, reinforced concrete, or other similar material, Forty-two years ;

(b) Tasmanian hardwood, Thirty years ;

(c) Other wood, Twenty years.

(2) Every such instalment shall consist partly of principal and partly of interest, and every such instalment shall, in respect of each One hundred Pounds thereof, be of the amount set forth opposite to the term for which the loan is made in the fixed table which is in force at the time when the loan is made and is applicable to the case, and in respect of any part of One hundred Pounds shall be of an amount proportionate to the amount so set forth.

Provisions relating to advances.

25 With respect to every advance under this Act the following provisions shall apply :—

1. The loan, if made in One sum, shall date as from the First day of the month next following that in which it is made, and if made by instalments, shall date as from the First day of the month next following that in which the final instalment is made :

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- ii. Interest at the fixed rate per annum (but subject to a rebate, as provided by the next succeeding section) shall be paid on the loan or each instalment thereof, computed from the date when the loan or instalment is made: A¹D. 1919.
- iii. If the loan is made in One sum, interest at the fixed rate per annum, less the rebate mentioned in the next succeeding section, computed from the date when the same is made to the First day of the next following month, shall be paid to, or may be deducted by, the trustees at the time when the loan is made:
- iv. If the loan is made by instalments, then, until and including the First day of the month next following after that in which the final instalment is made, interest at the fixed rate per annum (less the rebate mentioned in the next succeeding section) shall be paid to the trustees on the First day of each month on all instalments theretofore made, computed from the dates of making the same respectively; or such interest may be deducted by the trustees from any instalment of the loan:
- v. After the First day of the month next following that in which the loan or the final instalment thereof is made, the principal, with interest thereon as provided by Paragraph ii. hereof, shall be repaid to the trustees by instalments as agreed between the trustees and the mortgagor.

26 In order to encourage the early payment of the prescribed instalments of principal and interest the following provisions shall apply with respect to every instalment in respect of an advance:— Rebate of interest when instalments paid punctually.

- i. If the borrower (not being in arrear with any previous instalment or other payment under the mortgage) pays the instalment not later than the Fourteenth day after the due date thereof, he shall be entitled to such a rebate of so much thereof as consists of interest as will reduce the annual rate of interest by One-half per centum:
- ii. Such rebate may be deducted and retained by the borrower from the full nominal amount of the instalment when making the payment.

PART VII.

CONDITIONS OF CONTRACTS OF SALE AND ADVANCES.

27 The trustees may, at their discretion, refuse to enter into a contract for the sale or letting of any land or land and dwelling-house to or to make an advance to any eligible person, and the decision of the trustees shall be final. Discretion of trustees as to making advances,

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Treasurer may
from time to time
fix rate of interest
and tables of
instalments.

28—(1) The Treasurer may, from time to time, by notice published in the "Gazette," fix—

- I. The maximum annual rate of interest to be charged to any purchaser in respect of any purchase-money in accordance with this Act; and
- II. The annual rate of interest to be charged to any borrower in respect of any advance in accordance with this Act; and
- III. Tables of the amounts of the monthly or quarterly instalments of principal and interest combined to be paid by borrowers in respect of advances under this Act, showing the amounts payable for the various terms of years during which repayment of an advance may be made—

and may, in the same manner, annul any rate or table so fixed.

What rate and
tables to be in
force.

(2) Any rate or table so fixed shall come into force on the Fourteenth day after the date of the "Gazette" in which the same is published, and shall continue in force until the Fourteenth day after the date of the "Gazette" in which the notice annulling the same is published.

Meaning of "the
fixed rate" and
"fixed table."

(3) In this Act the expression "the fixed rate" means the rate fixed as aforesaid which is in force at the time when the purchase or loan in question is made, and the expression "fixed table" means table fixed as aforesaid.

Power for pur-
chaser or borrower
to pay amounts
on account.

29—(1) In addition to making any payment in accordance with his contract, the purchaser or borrower may from time to time deposit with the trustees any sum being not less than Five Pounds, and being either Five Pounds or a multiple of Five Pounds, and any sum so deposited shall be credited to the purchaser or borrower with compound interest calculated yearly at the same rate as is charged on the purchase-money or advance.

(2) Deposits and interest accumulated to the credit of a purchaser or borrower under this section shall be available for payment of any instalments, or arrears of instalments, or other payments due to the trustees by the purchaser or borrower.

Property to be
kept in repair
until payment in
full.

30—(1) Every purchaser and every borrower shall, until the whole amount of purchase-money or advance due by him has been paid or repaid, insure and keep in good and tenantable repair, to the satisfaction of the trustees, all buildings, fences, fixtures, and improvements upon the land comprised in contract of sale, mortgage, or other security.

(2) If after the expiration of Two months' notice in writing by the Manager any purchaser or borrower has not complied with the requirements of this section—

- I. The Manager, or any person acting under his authority may, enter and take possession of the land or land and dwelling-house, as the case may be, and the like consequences shall follow as are provided by Section Thirty-five in case of breach of the terms or conditions of the contract of sale, mortgage or other security, or default made in the payment of any instalment of money payable in respect of any contract of sale or advance under this Act: or

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- ii. The Manager, or any person acting with his authority, may enter upon the property and effect all repairs which the Manager deems necessary; and the expense thereby incurred, with interest at the same annual rate as that which is payable on the purchase-money or advance, as the case may be, shall be paid to the trustees by the purchaser or borrower on demand, and until repayment, shall be a charge under the contract of sale or mortgage or other security upon the property, notwithstanding that the amount of the purchase-money or advance is thereby increased to more than Seven hundred Pounds. A.D. 1919.

31—(1) As between the trustees and the purchaser or borrower with respect to the land or land and dwelling-house forming the subject of a contract of sale, mortgage or other security, the following condition shall be imposed, so long as any money due to the trustees under the contract of sale, mortgage or other security remains unpaid, namely—

Conditions operative so long as money owing to trustees.

- i. The land or land and dwelling-house, as the case may be, shall not be let, sublet, or mortgaged by the purchaser or borrower without the consent in writing of the trustees; and
- ii. Every lease, sublease, mortgage or agreement entered into or made in contravention of the provisions of this section, shall be void and of no effect.

(2) If the purchaser or borrower lets, sublets or mortgages the land or land and dwelling-house, or any part thereof, in contravention of the provisions of this section, the trustees may—

- i. In the case of a purchaser, cancel the contract of sale, and, in their discretion, forfeit the instalments previously paid by the purchaser; and
- ii. In the case of a borrower, sell the estate and interest of the borrower in the land or land and dwelling-house.

32 When the borrower's title to any land or land and dwelling-house, over which the trustees hold a mortgage in pursuance of this Act, is divested from him under any law relating to bankruptcy, the trustees may cause his estate and interest in the land or land and dwelling-house to be sold at such time and place, in such manner and on such terms and conditions as they think fit.

Sale where borrower insolvent.

33 The provisions of Section Thirty-five of this Act as to the sale of any land or of land and a dwelling-house and the application of the proceeds of the sale shall apply to any sale made in pursuance of either of the last Two preceding sections.

Application of Section 35 to sales under Sections 31 and 32.

34—(1) So long as any land or land and dwelling-house is subject to a contract of sale, mortgage, or other security in accordance with this Act, a transfer of that land or land and dwelling-house or of any

Land, &c., not to be transferred, &c. while subject to mortgage, &c.

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estate or interest therein shall not have any force or effect, nor shall it be registered in the Lands Titles' Office or Registry of Deeds, unless it—

- i. Arises through the operation of any law relating to bankruptcy : or
- ii. Is made to a devisee by a person acting in the capacity of executor or administrator of the purchaser or borrower : or
- iii. Is made with the consent in writing of the trustees.

(2) Consent to the transfer of land or of land and dwelling-house, or of any estate or interest therein, shall not be granted by the trustees in pursuance of this section, except in the following cases and subject to the following conditions :—

- i. Where the proposed transferee is an eligible person—such conditions as are prescribed : and
- ii. Where the proposed transferee is not an eligible person—
 - (a) In the case of a transfer within Five years after the making of the advance—where it is proved to the satisfaction of the trustees that the refusal thereof would inflict great hardship ; and
 - (b) In the case of a transfer after the expiration of Five years after the making of the advance—such conditions as are prescribed.

(3) In dealing with applications for consent to any transfer, the trustees shall, as between Two alternative transferees, one of whom is an eligible person and the other is not, give preference, as far as reasonably practicable, to the former.

(4) In this section "transfer" includes conveyance, assignment, and surrender.

Remedies for
recovery of
instalments.

35—(1) In addition and without prejudice to any other remedy, if at any time any instalment or money payable in respect of any contract of sale or advance under this Act, or any part thereof, is unpaid for Thirty days next after the time appointed for the payment thereof, then, although no legal demand has been made for the payment thereof, the trustees may enter upon the land or land and dwelling-house with respect to which the contract of sale was entered into or the advance was made and recover the amount due by distress and sale of any goods and chattels on such land or land and dwelling-house, or such amount may be recovered in any court of competent jurisdiction by action, in the name of the trustees, from the owner for the time being of such land or land and dwelling-house.

How land to be
sold.

(2) If at any time any instalment, or any part thereof, is unpaid for Three calendar months next after the time appointed for the payment thereof, then, although no legal demand has been made for the payment thereof, the trustees may enter upon and take possession of the land or land and dwelling-house with respect to which the contract of sale was entered into or the advance has been made, and may—

- i. In the case of a purchaser, cancel the contract of sale and, in their discretion, forfeit the deposits and instalments or any part thereof previously paid by the purchaser ; and

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ii. In the case of a borrower, or in the case of a purchaser (who has obtained from the trustees a transfer and executed a mortgage to them of such land or land and dwelling-house), sell the estate and interest of the borrower therein, either by private sale or public tender or auction, and subject to such terms and conditions of sale as they think expedient, and, after such notice of the time, place, terms, and conditions of sale as they think just and expedient, with power to give time for payment of purchase-money, or to allow the purchase-money to remain on mortgage at the risk of the borrower, and to vary or rescind any contract for sale, and to buy in at any auction, and to resell without being answerable for any loss, and may transfer such land or land and dwelling-house to the purchaser and give a good and valid title thereto. Provided further that, before any land or land and dwelling-house, is sold by private sale under this section, it shall first be offered at public auction, due notice of which shall be publicly advertised in a daily newspaper circulating in the locality where the same is situated.

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(3) As against mortgagors, the trustees shall not be responsible for involuntary losses or the default of agents or auctioneers.

(4) The trustees shall apply the proceeds derived from any sale made in pursuance of this Part in payment, in the first instance, of all moneys due in respect of the land or land and dwelling-house and in payment or repayment of any amount charged thereon in favour of the trustees, or of so much thereof as remains unpaid, and of all expenses incurred by the trustees in relation to such sale or otherwise with respect to the land or the land and dwelling-house, and shall pay the balance (if any) to the persons appearing to the trustees to be entitled to receive the same.

Application of proceeds of sale.

36 In addition to any other remedy provided by this Act for the recovery of any sum of money payable under any provision of this Act to the trustees by a purchaser or borrower, it is hereby declared that every such sum of money shall be and remain until payment a debt due by the purchaser or borrower to the Crown, and shall be recoverable, with interest, by the trustees accordingly.

Money due by purchaser or borrower is a debt to Crown.

37 Whenever any land or land and dwelling-house, authorised to be sold by the trustees under this Act, is offered for sale by public auction, and the amount of the highest bidding at such sale is not sufficient to satisfy the moneys due to the trustees together with the cost and expenses of and occasioned by such attempted sale, or there is no bid, the trustees may advertise the land or land and dwelling-house for private sale in the "Gazette" and in at least one newspaper circulating in the locality where such land or land and dwelling-house are situated, once at least in each of three successive weeks, and shall in such advertisement name a day and time, not less

In event of no purchaser, land to re-vest in Crown.

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than One month from the date of the First of such advertisements upon or after which the land or land and dwelling-house shall revert to the Crown, together with all improvements thereon, unless in the interval a sufficient amount has been obtained by the sale thereof to satisfy the moneys due to the trustees and all costs and expenses of and occasioned by such sale and proceedings, and upon such reversion the land or land and dwelling-house shall revert in His Majesty, his heirs and successors, accordingly.

PART VIII.

MISCELLANEOUS.

Notices.

38 Any notice by this Act to be given may be served personally or by post.

Extension of time for repayment.

39—(1) In cases of hardship the trustees may extend for such period, and on such terms and conditions as they think fit, the time for making any payment required by this Act.

(2) Where the time for making any payment has been so extended, the payment shall bear interest for the time so extended at the same annual rate as that which is payable on the purchase-money or advance.

Trustees to obtain reports from inspectors and valuers.

40—(1) The trustees shall from time to time obtain a report from any inspector or valuer as to the manner in which any advance has been expended and used by the borrower, and generally as to the state and condition of any land or land and dwelling-house or any improvements in respect of which a contract of sale or tenancy has been entered into or an advance has been made.

(2) The inspector or agent directed to make the report may at any reasonable hour in the daytime enter and make an inspection of any land or land and dwelling-house or improvements for the purpose of making his report.

Register of advances to be kept for inspection.

41 The trustees shall keep registers or lists of all advances, purchases, and tenancies, with the names of the respective borrowers, purchasers, and tenants, and also an alphabetical index of the names of the persons included in each register or list. Each such register or list and index shall be open to public inspection on the payment of a fee of One Shilling.

Financial statements, accounts, and audit.

42—(1) The provisions of Sections Thirty-two and Thirty-six of "The State Advances Act, 1907," as to the annual report and audit shall apply to the trustees and Bank in connection with the administration of this Act and the Fund.

(2) Sections 31A, 31B, and 33 of "The State Advances Act, 1907," are hereby incorporated with and shall be read as one with this Act.

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43 If the trustees are satisfied that any property subject to or held by them under this Act is not immediately required for the purposes of this Act, they may sell or let the property at such price or on such terms and conditions as they think fit.

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Sale or leasing of land, &c., not immediately required.

44 The trustees may compound and agree with any person who has entered into any contract in pursuance of or under the authority of this Act, or against whom any action or suit is brought for any penalty contained in the contract, or in any bond or other security for the performance thereof, or for or on account of any breach of performance of the contract, bond, or security for such sum of money, or other consideration as the trustees think proper.

Trustees may compound where breach of contract occurs.

45 No judgment, order, or decree of any court of law shall in any way affect the security or remedies of the trustees or Minister under a contract of sale or mortgage; and until the contract of sale has been fully performed or the terms and conditions of the mortgage complied with, no process of law shall interfere with such security or remedies.

Judgment of court not to affect contract of sale or mortgage.

46 The annual report required by virtue of Section Thirty-two of "The State Advances Act, 1907," shall show, in respect of the previous financial year—

Annual report—
Particulars.

- i. The profit and loss account for the year:
- ii. The balance-sheet for the year:
- iii. Such other accounts and records (if any) as are prescribed.

47 For the purposes of this Act, the Governor may from time to time make regulations for all or any of the following purposes, namely:—

Regulations.

- i. Prescribing the duties of the officers and servants of the trustees under this Act:
- ii. Prescribing the mode in which applications for advances or to rent or purchase on rent-purchase system are to be made:
- iii. Regulating the consideration and granting of applications:
- iv. Prescribing what inquiries and valuations shall be made in relation to applications:
- v. Prescribing the manner in which the amounts of instalments of advances shall be determined and paid to borrowers:
- vi. Prescribing plans and specifications for buildings to be erected with the assistance of advances:
- vii. Prescribing the principle and method to be adopted by valuers in valuing the progress made with buildings, and reporting thereon:
- viii. Prescribing the forms of contracts and of mortgages and securities to be taken and of leases to be granted by the trustees, and of other documents under this Act, and providing for the registration of such mortgages and securities and leases:

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- ix. Prescribing the records, registers, books, and accounts to be kept by the trustees :
- x. Prescribing the mode in which buildings shall be insured :
- xi. Providing for the receipt and payment of moneys under this Act, and the safe custody of securities :
- xii. Prescribing the fees to be paid in respect of advances, leases, and rent purchase contracts :
- xiii. Providing that any specified provisions of or regulations made under "The State Advances Act, 1907," shall—with modifications (if any) stated in the regulation—apply for the purposes of this Act :
- xiv. Prescribing anything which by this Act is required to be or may be prescribed :
- xv. Prescribing anything further which, in the opinion of the Governor, may be necessary or convenient for carrying out the objects and provisions of this Act.