

# THE STATE ADVANCES ACT, 1912.

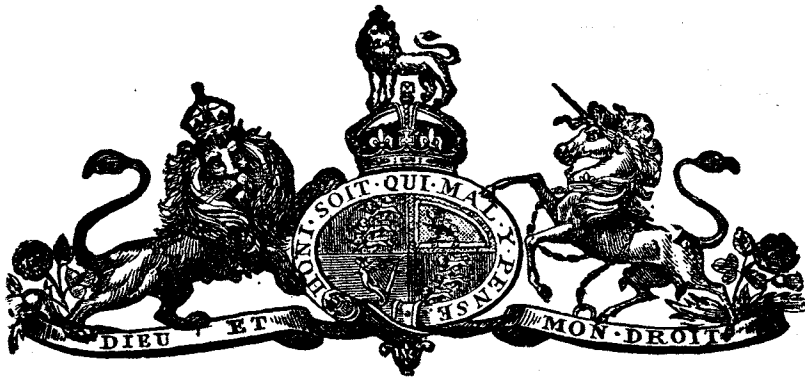
## ANALYSIS.

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| <p>1. Short title and incorporation with 7 Ed. VII. No. 20.</p> <p>2. Amendment of Section 2 of Principal Act.<br/>Remedy against land includes improvements.</p> <p>3. Property held on behalf of Crown.</p> <p>4. Repeal and re-enactment of Section 21 of Principal Act.<br/>Bank may make advances to farmers and other producers.<br/>Mode of application.<br/>No advances less than £25, nor more than £1000.<br/>Maximum rate of advance.<br/>As to freehold land.<br/>Rate of advance.<br/>Advance in respect of freehold land to be secured by mortgage.<br/>Advances only to be made on first mortgages.</p> <p>5. Amendment of Section 25 of Principal Act.</p> | <p>6. Remedy, by distraint, for recovery of instalments.<br/>Money due by borrower is a debt to Crown.</p> <p>7. Amendment of Section 26 of Principal Act.</p> <p>8. Amendment of Section 28 of Principal Act.</p> <p>9. Power to lease in lieu of selling, &amp;c. Transfer of holding.<br/>Letting of land.</p> <p>10. Amendment of Section 29 of Principal Act.<br/>When freehold acquired subsequent to mortgage.</p> <p>11. Amendment of Section 30 of Principal Act.<br/>Power to trustees to acquire freehold.</p> <p>12. Protection of trustees and officers from personal liability<br/>Protection of officers, &amp;c.</p> <p>13. Regulations.</p> <p>14. Amendment of Section 34 of Principal Act.</p> <p>15. Crown Lands Act.</p> |
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8d.]



T A S M A N I A.



1912.

ANNO TERTIO

GEORGII V. REGIS.

No. 53.



AN ACT to amend "The State Advances Act, 1907." [21 December, 1912.] <sup>A.D.</sup> 1912.

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 State Advances Act, 1912," and shall be incorporated and read as one with "The State Advances Act, 1907," in this Act referred to as the Principal Act. Short title and incorporation with 7 Ed. VII. No. 20.

2 Section Three of the Principal Act is hereby amended as follows:— Amendment of Section 3 of Principal Act.

- I. As to the definition "farmers and other producers," by inserting therein, after the word "agricultural," the words "dairying, grazing":
- II. By inserting after the definition "farmers and other producers" the following definition:—  
 " 'Holding' means land of which an applicant or borrower is the beneficial owner in fee simple, or which he holds under purchase from the Crown upon the credit system";

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Remedy against  
land includes  
improvements.

iii. By inserting the following provision at the end of the section :—

“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.”

**3** After Section Seven of the Principal Act the following section is inserted :—

Property held on  
behalf of Crown.

“**7a** The trustees shall hold all property, all estates and interests in the property, and all moneys acquired by them under this Act, for and on account of the Crown.”

Repeal and  
re-enactment of  
Section 21 of  
Principal Act.Bank may make  
advances to  
farmers and other  
producers.

**4** Section Twenty-one of the Principal Act is hereby repealed, and the following substituted therefor :—

“**21**—(1) The manager, with the approval of the trustees, may make advances on the prescribed security to farmers and other producers owning land in fee simple or holding land under purchase from the Crown upon the credit system, for any of the following purposes, namely :—

i. Payment of liabilities already existing with respect to the holding or payment of the balance of any purchase-money in respect of the purchase of the holding or any stock, machinery, or implements therefor :

ii. Agricultural, dairying, grazing, or horticultural pursuits on the holding :

iii. Making the prescribed improvements on the holding :

iv. Adding to the improvements already made on the holding.

“(2) Every application for an advance shall be made in the prescribed form, and shall contain such particulars as may be prescribed.

“(3) No advance shall be granted for a sum less than Twenty-five Pounds, nor more than One thousand Pounds.

“(4) At no time shall the advance or advances to any one person exceed the sum of One thousand Pounds.

“(5) No advance to a borrower in respect of land held by him under purchase from the Crown upon the credit system shall exceed One-half of the capital value of the land as estimated by the trustees after deducting from such capital value the amount of instalments due to the Crown in respect of such land at the date of the loan.

“(6) No advance in respect of freehold land shall be granted for an amount exceeding Three-fifths of its capital value as estimated by the trustees.

“(7) No advance in respect of freehold land shall be granted except upon the security of a mortgage or mortgages to the trustees of the land and improvements with respect to which such advance is made, with or without such additional security as to the trustees may seem fit,

Mode of  
application.No advance less  
than £25 nor  
more than £1000.Maximum rate  
of advance.As to freehold  
land.

Rate of advance.

Advance in  
respect of free-  
hold land to be  
secured by mort-  
gage.

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“(8) 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; but a second mortgage may be taken as collateral security.”

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Advances only to be made on first mortgages.

**5** In Subsection One of Section Twenty-five of the Principal Act, the words “subject to such conditions” are repealed, and the words “subject to such terms and conditions” are inserted in lieu thereof; also, after the words “just and expedient,” the words “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,” are inserted.

Amendment of Section 25 of Principal Act.

In the proviso to the said subsection the words “Five Pounds per centum,” “Seven and a half Pounds per centum,” and “Ten Pounds per centum” are repealed, and the words “Two and a half Pounds per centum,” “Three and three-quarter Pounds per centum,” and “Five Pounds per centum” are respectively inserted in lieu thereof.

The following provision is added to the said subsection :—

“Provided further that, before any land 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 land is situated.”

The following subsections are added to the said Section Twenty-five :—

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

“(4) Where the advance is made upon the security of a holding purchased from the Crown on the credit system, no power given by this section shall be exercisable without the consent of the Commissioner of Crown Lands, so long as any part of the purchase money to be paid to the Crown is unpaid; and in giving such consent the Commissioner of Crown Lands may impose such terms and conditions as he thinks fit, and he may in the event of a sale rescind the terms and conditions under which the land was originally sold on credit and impose such fresh terms and conditions as he may think fit in lieu thereof.”

**6** After Section Twenty-five of the Principal Act, the following sections are inserted :—

“**25a** In addition and without prejudice to any other remedy, if at any time any principal or interest moneys payable by a borrower or his successor in interest are in arrear and 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 charged, or any part thereof, and recover the amount due, together with costs and expenses, by distress and sale of any goods and chattels on such land, or the same may be recovered from the borrower or his successor in interest in any court of competent jurisdiction by action, in the name of the trustees.”

Remedy, by distraint, for recovery of instalments.

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Money due by  
borrower is a  
debt to Crown.

“**25b** 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 borrower, it is hereby declared that every such sum of money shall be and remain until payment a debt due by the borrower to the Crown, and shall be recoverable, with interest, by the trustees accordingly.”

Amendment of  
Section 26 of  
Principal Act.

**7** Section Twenty-six of the Principal Act is hereby amended by omitting from the Sixth line the word “shall,” and substituting therefor the word “may.”

Amendment of  
Section 28 of  
Principal Act.

**8** Section Twenty-eight of the Principal Act is hereby amended by inserting after the word “land,” in line Two, the words, “other than land purchased from the Crown upon credit, and not paid for.”

**9** After Section Twenty-eight of the Principal Act, the following sections are inserted :—

Power to lease in  
lieu of selling, &c.

“**28a** Whenever under this Act power is conferred upon the trustees to cause any land to be sold by reason of any default or breach of covenant or condition or otherwise, then in every such case, save and except so far as relates to land purchased from the Crown upon credit, and not paid for—

i. The trustees may, if they think fit, from time to time previous to exercising such power of sale, lease such land or any part thereof, for any term not exceeding Fourteen years : Provided that, upon the determination of any such lease, and before any new lease or renewal of lease is granted, the trustees shall offer to sell the fee-simple of the land at public auction as hereinbefore prescribed.

Every such lease shall contain a covenant to pay such rent and observe such conditions as the trustees in each case think fit.

The rents and profits from time to time derived from any such lease shall be applied—

(a) In payment of the costs and expenses from time to time incurred in connection with the lease ;

(b) In payment of the instalments and other payments (if any) due under this Act ;

(c) In payment of the balance (if any) to the borrower :

ii. Moreover, and without prejudice to any other remedy under this Act, the whole of the debt remaining unpaid by the borrower under this Act shall forthwith become due and payable, and shall be recoverable with interest by the trustees accordingly.”

Transfer of  
holding.

“**28b**—(1) Where the consent of the trustees is sought to the transfer of any land with respect to which an advance under this Act has been made—other than land purchased from the Crown upon credit and not paid for—the trustees may require as a condition to their consent that the transferee shall enter into and execute in favour

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of the trustees, such mortgage, bonds, covenants, and other instruments and securities as will effectually secure the payment by the transferee of all sums of money with the prescribed interest advanced to the transferor under this Act, and upon entering into and execution of the same the transferee shall be equally bound thereby as if such advance had been made to him in the first instance. A.D. 1912.

“(2) Where the consent of the trustees is sought to the letting of any land with respect to which an advance under this Act has been made—other than land purchased from the Crown upon credit and not paid for—the trustees may require as a condition to their consent that the lessee shall enter into and execute in favour of the trustees such agreement as will secure to the trustees, when so demanded, all the rents and profits of the land and the attornment of such lessee to the trustees.” Letting of land.

**10** Section Twenty-nine of the Principal Act is hereby repealed, and the following substituted therefor :— Amendment of Section 29 of Principal Act.

“**29**—(1) When an advance has been made upon the security of a mortgage of a holding purchased from the Crown on the credit system, the grant in respect of such holding shall not be issued while such mortgage is in existence, except to the trustees, nor unless it bears an endorsement showing that it is subject to the mortgage. When freehold acquired subsequent to mortgage.

“(2) When a grant has been endorsed as mentioned in this section, such grant shall be subject to the mortgage as if it were expressly charged thereby, and, notwithstanding the provisions of the ‘Real Property Act,’ the Recorder of Titles shall make any entry in the register-book which may be necessary for the purpose of showing that the grant is subject to the mortgage.

“(3) The trustees shall be entitled to retain possession of every such grant while such mortgage is in existence.”

**11** Section Thirty of the Principal Act is hereby repealed, and the following substituted therefor :— Amendment of Section 30 of Principal Act.

“**30**—(1) Where an advance has been made upon the security of mortgage of a holding purchased from the Crown on the credit system, the trustees may, at any time and notwithstanding the provisions of any Act, acquire the freehold of the holding on behalf of the mortgagor or his successor in interest, and for that purpose may make all such payments to the Crown and otherwise as are necessary. Power to trustees to acquire freehold.

“(2) All payments made by the trustees shall be added to and become part of the mortgage debt, notwithstanding that the amount of the advance is thereby increased beyond the prescribed limits.

“(3) The grant of the holding shall be delivered to the trustees, and shall bear an endorsement showing that it is subject to the mortgage, and thereupon the provisions of Subsections (2) and (3) of Section Twenty-nine shall apply in respect to the grant.”

**12** After Section Thirty-one of the Principal Act, the following sections are inserted, and the Principal Act shall be read and construed

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- A.D. 1912. as if the said sections were inserted in the Principal Act at the date of the passing thereof :—
- Protection of trustees and officers from personal liability. “ **31a** No matter or thing done and no agreement entered into by the trustees or any of them, and no matter or thing done by any officer of the bank or other person acting under the direction of the trustees, shall, if the matter or thing was done or the agreement was entered into *bonâ fide* for the purposes of this Act, subject the trustees or any of them, or any such officer or person, to any personal liability in respect thereof.”
- Protection of officers, &c. “ **31b** No action shall lie against the trustees or any of them, or any officer of the bank or other person, for anything done in pursuance of this Act unless notice in writing of such action and the cause thereof is given to the defendant, as provided by the Act, 63 *Victoriæ* No. 36.”
- Regulations. **13** The power given to the Governor by the Principal Act to make regulations shall extend to regulations for giving effect to the objects and provisions of this Act.
- Amendment of Section 34 of Principal Act. **14** Section Thirty-four of the Principal Act is hereby amended by inserting after Paragraph vi. the following paragraph :—  
“ *via.* For prescribing the form of mortgage to be given in respect of freehold land.”
- Crown Lands Act. **15** After Section Thirty-seven of the Principal Act the following section is inserted, and the Principal Act shall be read and construed as if the said section was inserted in the Principal Act at the date of the passing thereof :—  
“ **38** Except where otherwise expressly provided, none of the provisions of “The Crown Lands Act, 1911,” shall be affected or limited by anything contained in this Act, and the powers conferred by “The Crown Lands Act, 1911,” may be exercised in the same manner as if this Act had not been passed.”