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QUEENSLAND

AGRICULTURAL BANK (LOANS) ACT 1959–1981

[Reprinted as at 1 December, 1981]

Agricultural Bank (Loans) Act of 1959, 8 Eliz. 2 No. 26

As amended by

Age of Majority Act 1974, No. 57

Commenced 1 March 1975 (Proc. pubd. Gaz. 16 November 1974, p. 1083).

**State Development and Public Works Organization Act and Other Acts
Amendment Act 1979, No. 26, Part X**

**Agricultural Bank (Loans) Act and Another Act Amendment Act 1980,
No. 11, Part II**

Agricultural Bank (Loans) Act Amendment Act 1981, No. 15

An Act to Make further Provision Relating to the Making of Loans for the purposes of Primary Production by the Corporation of the Agricultural Bank, and for other purposes.

[ASSENTED TO 16 APRIL, 1959]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. (1) **Short title.** This Act may be cited as "*The Agricultural Bank (Loans) Act of 1959.*"

(2) **Commencement.** Save as herein otherwise provided this Act shall come into operation on a date to be fixed by the Governor in Council by Proclamation published in the *Gazette*.

Collective title conferred by Act of 1981, No. 15, s. 1 (3).

Commenced 1 January 1960 (Proc. pubd. Gaz. 26 December 1959, p. 2285).

2. **Meaning of terms.** In this Act, unless the context otherwise indicates or requires, the following terms shall have the meanings respectively assigned to them, that is to say—

“**Bank**” —The Corporation of the Agricultural Bank as constituted under "*The Co-ordination of Rural Advances and Agricultural Bank Acts, 1938 to 1951*";

“Board”—The Agricultural Bank Board as established under “*The Co-ordination of Rural Advances and Agricultural Bank Acts, 1938 to 1951*”;

“Commodity Board”—

- (a) Any commodity board under and within the meaning of “*The Primary Producers’ Organisation and Marketing Acts, 1926 to 1957*”; or
- (b) The Committee of Direction constituted under “*The Fruit Marketing Organisation Acts, 1923 to 1956*”; or
- (c) The State Wheat Board constituted under “*The Wheat Pool Acts, 1920 to 1957*”; or
- (d) The Brisbane Milk Board or any other Milk Board constituted under “*The Milk Supply Act of 1952*”;

“Farm land”—Land used or about to be used for primary production;

“Fund”—The fund established at the Treasury under the name of The Agricultural Bank Fund pursuant to “*The Co-ordination of Rural Advances and Agricultural Bank Acts, 1938 to 1951*”;

“Land”—Any—

- (i) Freehold land;
- (ii) Land held for an estate of leasehold from the Crown;
- (iii) Other estate or interest in land declared by the Governor in Council by Order in Council to be land for the purposes of this Act;

“Minister”—The Treasurer or other Minister of the Crown for the time being charged with the administration of this Act;

“Primary producer”—A person, engaged in the occupation of—

- (a) dairy farmer; or
 - (b) wheat, maize, or cereal grower; or
 - (c) cane grower; or
 - (d) fruit grower; or
 - (e) grazier; or
 - (f) bee keeper; or
 - (g) farmer, whether engaged in general or mixed farming, cotton, potato, or vegetable growing, or poultry or pig raising; and
 - (h) any other occupation whatever declared by the Governor in Council, by Order in Council, to be primary production for the purposes of this Act;
- and “Primary production” has a correlative meaning;

“Year”—The period of time from and including the first day of July in one calendar year to and including the thirtieth day of June in the next following calendar year.

3. (1) The Bank. The Corporation of the Agricultural Bank shall be deemed for all purposes of this Act to be constituted hereunder.

(2) Bank may exercise powers, &c., of Crown. For all purposes of this Act the Bank shall have and may exercise all or any of the powers, privileges, rights and remedies of the Crown in right of this State.

This subsection applies so as not to exempt the Bank from any liability in respect of rates or charges for which a mortgagee of land is liable under "*The Local Government Acts, 1936 to 1958*," or, in respect of the Area of the City of Brisbane, "*The City of Brisbane Acts, 1924 to 1959*".

(3) General function. The Bank may carry on the business of lending moneys under, subject to and in accordance with the provisions of this Act.

4. Administration. (1) This Act shall be administered by the Bank and, subject to the Bank, by the Board, the General Manager and Assistant General Manager and by such inspectors, valuers and other officers as are appointed from time to time for the purpose of administering this Act.

(2) All inspectors, valuers and other officers appointed for the purpose of administering "*The Co-ordination of Rural Development* and Agricultural Bank Acts, 1938 to 1951*," prior to and in office at the date of the coming into operation of this Act shall, without further or other appointment, be deemed to have been appointed for the purpose of administering those Acts and this Act and shall continue in their respective offices accordingly.

As amended by Act of 1980, No. 11, s. 5.

5. Powers of Bank. (1) The Bank has such powers as are necessary for the purpose of carrying out the function of making advances under this Act.

(2) Without limiting the generality of subsection one of this section, the Bank—

(a) Has power to take and do all such steps and things as in its opinion are necessary or convenient for carrying out the function of making advances under this Act;

(b) Without prejudice to any other power, authority, right or remedy of the Bank, may exercise, in respect of any advance under this Act, any power, authority, right or remedy agreed upon between the Bank and the person, board, association or other body to which or whom the advance has been made.

As amended by Act of 1980, No. 11, s. 6.

6. Agricultural Bank Board. The Board shall be deemed for all purposes of this Act to be established hereunder.

7. Corporation of The Agricultural Bank Fund. (1) The fund shall for all purposes of this Act be deemed to be established at the Treasury hereunder.

**Sic Advances.* The word *Development* appears to be an obvious error. See *Co-ordination of Rural Advances and Agricultural Bank Act 1938-1982.*

- (2) There shall be paid into the fund—
- (a) All moneys borrowed by the Bank for the purposes of this Act;
 - (b) All moneys received by the Bank in respect of the repayment of advances made under this Act, and the payment of interest thereon, or received by the Bank otherwise howsoever;
 - (c) All moneys appropriated by Parliament for the purposes of this Act.
- (3) There shall be paid out of the fund—
- (a) All advances made by the Bank under this Act;
 - (b) All moneys payable by the Bank in respect of the repayment of loans borrowed by the Bank for the purposes of this Act, and the payment of interest thereon.

8. Power of Bank to borrow, etc. (1) For the purpose of enabling it to carry on the business of making advances under this Act the Bank may borrow or raise money or make financial arrangements and the provisions, with respect to the borrowing or raising of money or the making of financial arrangements by the Bank, of the *Co-ordination of Rural Advances and Agricultural Bank Act 1938–1979* shall with and subject to all necessary adaptations, apply and extend accordingly.

(2) Without limiting the generality of the provisions of the *Co-ordination of Rural Advances and Agricultural Bank Act 1938–1979*, with the prior approval of the Governor in Council, the Bank may from time to time borrow or raise money or make financial arrangements—

- (a) by the sale of debentures, bonds or inscribed stock;
- (b) in such other way as is approved by the Treasurer; or
- (c) partly in one way and partly in another way or other ways specified in provision (a) or approved pursuant to provision (b).

Substituted by Act of 1979, No. 26, s. 59.

9. Schedule. (1) The provisions of the Schedule to this Act shall apply to the business of the Bank and to the several matters and things whereto those provisions are expressed to apply.

(2) The Governor in Council may, from time to time by Order in Council, amend the said Schedule by revoking, amending, altering or otherwise modifying any of the provisions thereof, or by inserting therein or adding thereto new provisions, and thereupon the said Schedule as so amended for the time being shall become and be the Schedule to this Act.

10. Bank may make indeterminate advances. (1) Subject to this Act the Bank may make or agree to make from time to time but only during the pleasure of the Bank advances to—

- (a) a person, other than a body corporate, who is a primary producer;

- (b) a proprietary company incorporated under the *Companies Act 1961–1978*, which carries on the business of primary production;
- (c) a primary producers' co-operative association registered under the *Primary Producers' Co-operative Associations Act 1923–1979*;
- (d) a commodity board;
- (e) a society registered under the *Co-operative and Other Societies Act 1967–1978* which carries on the business of primary production;
- (f) a person, other than a body corporate, or a proprietary company incorporated under the *Companies Act 1961–1979* who or which carries on a business of providing goods or services to primary producers in an area affected by drought or flood, the profitability of which business having been adversely affected by reason of the effect of the drought or flood on primary producers.

(2) The Bank may make or agree to make any advance under this Act upon such security as it deems fit.

As amended by Act of 1980, No. 11, s. 7; Act of 1981, No. 15, s. 2 (1).

Section 2 (2) of Act of 1981, No. 15, reads as follows:—

(2) Any advance made or agreed to be made by The Corporation of the Agricultural Bank after 21 October 1980 and prior to the commencement of this Act which advance would have been authorized by section 10 of the Principal Act as amended by subsection (1) if made or agreed to be made after that commencement shall be, and it is declared, always was an advance authorized by section 10 of the Principal Act.

11. (Repealed).

Repealed by Act of 1980, No. 11, s. 8.

12. Interest. (1) In respect of an advance under this Act, interest shall be payable to the Bank on moneys for the time being owing or remaining unpaid at such rate or rates per centum per annum as shall from time to time be prescribed in respect thereof by Order in Council.

The Governor in Council may, from time to time by one or more than one Order in Council prescribe either generally or in respect of particular advances or classes of advances different rates per centum per annum of the interest payable in respect of advances made under this Act.

(2) (a) The Governor in Council may from time to time, by Order in Council, vary the rate per centum per annum of the interest payable in respect of any advance made under this Act by increasing above or reducing below the rate fixed by the preceding Order in Council.

(b) An Order in Council made under this subsection shall come into force on the date of the publication thereof in the Gazette or, if a later date is specified therein, on that date and shall continue in force until and including the day next preceding the date when the next following such Order in Council comes into force.

(c) Where immediately prior to the commencement of the *Agricultural Bank (Loans) Act and Another Act Amendment Act 1980* a prescribed rate of interest per centum per annum is in force in respect of advances made under this Act, that rate shall continue in force until varied as provided for in this subsection.

(3) Interest shall be calculated from the date or, where the advance is made by instalments, the dates when the advance or, as the case may be, instalments are made and shall accrue from day to day and be payable at six monthly intervals commencing on a date determined in each case by the Bank or if not so determined on 31 December and 30 June in each and every year.

Substituted by Act of 1980, No. 11, s. 9.

13-15. (Repealed).

Repealed by Act of 1980, No. 11, s. 10.

16. Effect of assignment. (1) If any owner or occupier of farm land who has given an assignment on any produce of such land or the proceeds thereof to secure any advance made to such owner or occupier by the Bank, diverts any of such produce from the person named in such assignment to some other person, the Bank may notify such other person of the existence of such assignment, and of the amounts payable thereunder and the times at which such amounts are payable.

Such notice shall require such other person to retain and pay to the Bank sufficient of the moneys from time to time payable by him to the owner or occupier concerned to meet the payments under such assignment and shall be legally binding upon such other person accordingly.

(2) An assignment as heretofore mentioned in subsection one of this section shall be legally binding on every person who supplies any produce referred to therein from the farm land mentioned in such assignment.

(3) Any person paying to the Bank in satisfaction of an assignment on the produce of any farm land, or the proceeds of such produce, any moneys payable to the owner or occupier of such farm land or to any other person whomsoever in respect of such produce shall be deemed to act under the authority of such owner or occupier and of all other persons concerned and is hereby indemnified accordingly.

17. Securities. (1) Any proprietary company, primary producers' co-operative association, or society referred to in section 10 and any owner or occupier of land may, notwithstanding any enactment or law to the contrary, lawfully execute any mortgage or other security required by the Bank.

(2) In all cases where a special form of mortgage or other security is prescribed by any Act, the fact that a mortgage or security under this Act is not in such form shall not in any way prevent or hinder its registration (where necessary) or limit its effect as a valid mortgage or security.

As amended by Act of 1980, No. 11, s. 11.

18. Restricted application of 4 Eliz. II. No. 14. The provisions of “*The Bills of Sale and Other Instruments Act of 1955*,” shall not to apply to any mortgage or other security executed under this Act or affect the validity or operation of such mortgage or security in respect of any chattels comprised therein.

19. No stamp duty. No mortgage or other security executed to secure an advance under this Act or any release of any such mortgage or security or any document or instrument executed for the purpose of this Act shall be liable to stamp duty, any enactment to the contrary notwithstanding.

20. Penalty for procurement fees. It shall not be lawful to charge, recover or receive any moneys for or in respect of the procuring, negotiating or obtaining any advance to a borrower under this Act.

Any person, firm, company or association which charges or receives or attempts to charge or receive any moneys for or in respect of the procuring, negotiating or obtaining any such advance as aforesaid shall be guilty of an offence and liable to a penalty of not less than one hundred dollars or more than four hundred dollars.

Decimal currency reference substituted pursuant to section 7 of the Decimal Currency Act of 1965.

21. Powers of officers to act as auctioneers. Notwithstanding anything in any Act to the contrary, the General Manager, Assistant General Manager or any inspector or other officer of the Bank or other person appointed by the Bank in that behalf shall, in respect of any sales made by or under the authority of the Bank pursuant to this Act, be deemed to be a licensed auctioneer, and shall have the powers and authorities to conduct sales of property by public auction and perform other acts and things in the same manner and with the like powers and authorities as an auctioneer who holds a licence under the *Auctioneers and Agents Act 1971-1978*:

Provided that the General Manager, Assistant General Manager, inspector, officer or other person shall not be required to take out an auctioneer’s license.

As amended by Act of 1980, No. 11, s. 12.

22. Lessee or tenant wrongfully holding over. (1) Without prejudice to any other right, power or remedy of the Bank where the Bank, acting as mortgagee in possession of any land, has let the land, and the term of the lease or other tenancy has expired by effluxion of time or has been determined by notice to quit or demand of possession, and the lessee or tenant or any person claiming under him shall neglect to quit and deliver up possession of such land and any part thereof, it shall be lawful for the Bank, by its Assistant General Manager or any inspector thereof or person authorised in that behalf by the Assistant General Manager, to make a complaint before a police magistrate or any two justices of the peace, who shall hear and determine the matter in a summary way; and on being satisfied of the truth of the complaint

such police magistrate or justices may issue his or their warrant addressed to the Assistant General Manager or inspector or person authorised as aforesaid or to a member of the Police Force requiring and authorising him, within a period to be therein named, and not being less than seven nor more than thirty clear days from the date of the warrant, to enter (by force if needful) into such land and any improvements thereon, and to remove such lessee or tenant or person claiming under him and to give possession of the same to the Bank, and such warrant shall be a sufficient authority to such Assistant General Manager, inspector, authorised person or member of the Police Force to enter upon such land and improvements with such assistants as he shall deem necessary to remove such lessee or tenant or person claiming under him and to give possession to the Bank accordingly:

Provided that no entry upon any such warrant shall be made on a Sunday, Good Friday, Christmas Day or Anzac Day, or at any time except between the hours of nine o'clock in the morning and four o'clock in the afternoon.

(2) **Penalty.** Any person who shall have been removed from any lands and improvements pursuant to the provisions of this section and who shall, without the permission of the Bank having been obtained in that behalf, subsequently re-enter such lands shall be guilty of an offence.

Penalty: Two hundred dollars.

As amended by Act of 1980, No. 11, s. 13.

Decimal currency reference substituted pursuant to section 7 of the Decimal Currency Act of 1965.

23. (Repealed).

Repealed by Act of 1980, No. 11, s. 14.

24. Regulations. (1) The Governor in Council, upon the recommendation of the Bank, may from time to time make regulations, not inconsistent with this Act, prescribing all matters and things necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without limiting the generality of the foregoing provisions of this section, regulations may be made for all or any of the following purposes:—

- (i) **Applications and advances.** Providing for, regulating and controlling applications for and the making of advances under this Act;
- (ii) **Deposits and fees.** Prescribing the deposits and fees payable to the Bank in respect of such applications for advances and other matters arising under this Act;
- (iii) **Forms, &c.** Forms and the respective purposes for which the same shall be used, including forms of mortgage and other securities;

- (iv) **Implied covenants.** Prescribing covenants on the part of the mortgagor which shall be deemed to be inserted in mortgages and other securities for advances under this Act (which prescribed covenants it is hereby declared shall be binding upon the mortgagor as if the same were inserted in and formed part of the mortgage or security in question executed by him);
- (v) **Costs.** Providing for the charging and recovery by the Bank of costs, including administrative charges and expenses, incurred by it in pursuing remedies had by it in respect of defaults by borrowers under this Act;
- (vi) **Generally.** All matters necessary or expedient for enabling the Bank to undertake and carry on the business of making advances under this Act.

(3) Subject to this Act, including the regulations hereunder, all regulations under “*The Co-ordination of Rural Advances and Agricultural Bank Acts, 1938 to 1951,*” shall, with and subject to all necessary adaptations thereof, apply for the purposes of this Act.

(4) All borrowers and their representatives shall be deemed to have notice of the regulations.

25. Publication of Proclamations, &c. (1) Every Proclamation, Order in Council and regulation made under this Act shall—

- (a) Be published in the *Gazette*;
- (b) Upon its publication in the *Gazette*, be judicially noticed and such publication shall be conclusive evidence of the matters contained therein;
- (c) Take effect from the date of such publication unless, in the case of any such Order in Council or regulation a later date is specified in that or any other Order in Council or regulation for its commencement when in such event it shall take effect from that later date; and
- (d) Be laid before the Legislative Assembly within fourteen sitting days after such publication if the Legislative Assembly is in session, and if not, then within fourteen sitting days after the commencement of the next session.

(2) If the Legislative Assembly passes a resolution of which notice has been given at any time within fourteen sitting days after any such Proclamation, Order in Council or regulation has been laid before it disallowing such Proclamation, Order in Council or regulation or part thereof, that Proclamation, Order in Council or regulation or part shall thereupon cease to have effect, but without prejudice to the validity of anything done in the meantime or to the making of a further Proclamation, Order in Council or regulation.

SCHEDULE

[Section 9]

1. Protection of Bank and employees from personal liability. No matter or thing done and no agreement entered into by the Bank or any officer or other person on its behalf or under its direction shall, if the matter or thing was done or the agreement was entered into *bona fide* for the purposes of this Act, subject the Bank or any such person to any personal liability in respect thereof.

2. Recovery of penalties. All penalties imposed by or under this Act may be recovered in a summary way upon complaint under “*The Justices Acts, 1886 to 1958*,” and when so recovered shall be paid into the Fund.

3. First mortgagee may forego priority. Notwithstanding anything in any other Act contained or implied—

(i) If any land intended to be mortgaged to the Bank is subject to any existing mortgage or encumbrance, and the existing mortgagee or encumbrancee, by writing indorsed on the instrument evidencing the same, consents to such intended mortgage to the Bank taking priority over such existing mortgage or encumbrance, such intended mortgage to the Bank shall, when executed, and without any release or re-execution of the existing mortgage or encumbrance, take priority over the same, and particulars of such priority shall be noted in the proper register.

(ii) If any land is already subject to a mortgage to the Bank and also to a subsequent mortgage or encumbrance other than to the Bank, and such subsequent mortgagee or encumbrancee, by writing indorsed on the instrument evidencing the same, consents to further advances being made by the Bank and to such further advances taking priority over the moneys secured by such subsequent mortgage or encumbrance, such further advances, when made, shall take priority over any sum or sums secured by such subsequent mortgage or encumbrance, and particulars of such priority shall be noted in the proper register.

4. Special provisions as to liens. Liens on crops and liens on wool may be given to the Bank in one document in respect of the crop or wool growing or to grow in any one or more years to secure any advance made or to be made by the Bank to the lienor, and every such lien so given may be enforced from time to time as occasion may require against the crop or wool, as the case may be, grown in any particular year covered by the lien.

5. Provision as to Crown tenure. Notwithstanding anything in this or any other Act contained—

(i) In the case of an advance on the security of a mortgage of land held under any form of leasehold tenure from the Crown, the condition hereunder set forth shall be deemed to be a condition of the instrument of mortgage:—

In the event of the determination of the tenancy of the land for any reason other than by effluxion of time, the whole amount of the advance, with interest at the prescribed rate, then remaining unpaid shall forthwith, without any demand or any legal process whatsoever, be and become repayable; and, notwithstanding anything contained in "*The Land Acts, 1910 to 1958*," the Bank shall have a first charge against any improvements then on the land, or the value thereof, if paid by an incoming lessee, for the purpose of liquidating the amount then remaining unpaid.

- (ii) Where the Bank is the mortgagee of a license or lease of land held under any form of leasehold tenure from the Crown, and such license or lease is forfeited with the consent of the Bank before the moneys secured by such mortgage have been paid to or recovered by the Bank, the land included in such license or lease may, if the Minister for Public Lands thinks proper, be opened to selection with priority to a person approved by the Bank.
- (iii) A mortgage to the Bank, or a transfer subject to a mortgage to the Bank, of any land held under any leasehold tenure from the Crown may be registered by the proper officer, notwithstanding that any rent or other money payable to the Crown in respect of such land is due and in arrear.
- (iv) In every case where an advance has been made upon the security of a mortgage of any land held under leasehold tenure from the Crown the freehold whereof may be acquired from the Crown—
 - (a) Section one hundred and sixty of "*The Land Acts, 1910 to 1958*," or any enactment amending the same or in substitution therefor, shall apply.

All costs and expenses occasioned in giving effect to this provision shall be borne by the mortgagor, and may, if the Bank thinks fit, be added to and become part of the mortgage debt.

- (b) The Bank may, at any time, acquire the freehold of the land in the name and on behalf of the mortgagor or his successor in interest, and for that purpose may make all such payments to the Crown as are necessary.

All payments so made by the Bank shall be added to and become part of the mortgage debt, notwithstanding that the amount of the advance is thereby increased to more than the amount prescribed under this Act.

6. Conditions annexed to land whereon advance secured. As between the Bank and the owner or occupier for the time being of any land, the following conditions shall be imposed so long as such land is subject to any mortgage or charge in favour of the Bank namely:—

- (i) Such land or any part thereof shall not be transferred, subdivided, or let, or abandoned by such owner or occupier, or agreed to be so transferred, subdivided, or let, without the written consent of the Bank.

The Bank may impose in respect of such consent any condition which it thinks fit, and unless and until such condition has been complied with the consent may be refused or cancelled by the Bank; and the Bank may require that the transferee, lessee, or other person in possession of the land pursuant to any such consent shall comply with any such condition as though he were the original borrower, and may provide and pursue any remedies, whether cumulative or in the alternative, in the event of any default in such compliance by such transferee, lessee, or other person.

Every such agreement shall, if required by the Bank, be produced for its inspection.

Every agreement for transfer or letting contrary to this paragraph (i) shall be void and of no effect.

If the owner or occupier transfers, subdivides, or lets such land or any part thereof, or agrees so to do, or abandons such land, in contravention of this paragraph (i), the Bank may cause the land to be sold or leased;

- (ii) If the owner or occupier lets or agrees to let the land or any part thereof with the written consent of the Bank, the Bank may, by not less than fourteen days' notice in writing to the lessee or tenant, determine the said letting or tenancy and cancel the lease or sub-lease (if any) constituting the same if the Bank, at any time during the currency of the said letting or tenancy, in exercise of the powers conferred upon the Bank in that behalf, enters upon and takes possession of the said land or any part thereof then subject to such letting or tenancy, and if such lease or sublease shall have been registered, the Registrar of Titles in the case of lands held under the provisions of "*The Real Property Acts, 1861 to 1956,*" and in the case of lands held under lease or license from the Crown, then the proper officer of the Department concerned shall, upon proof to his satisfaction of the cancellation of the said lease or sub-lease, note the same by entry in the register book, and shall cancel the said lease or sub-lease if delivered up to him for that purpose;

The provisions of "*The Agricultural Holdings Act of 1905*" shall not apply, so far as relates to the Bank, to any letting or tenancy determined, or to any lease or sub-lease cancelled by the Bank in manner aforesaid;

- (iii) When the title to the land is divested from the owner or occupier, under any law relating to bankruptcy, the Bank may cause the land to be sold or leased;
- (iv) When on the death of the owner or occupier the land would by reason of any demise, bequest, intestacy, or otherwise become subdivided, the Bank may require the land to be sold within twelve months after the death of the owner or occupier to some one person, and if default is made in selling the same the Bank may cause the same to be sold or leased;

- (v) No mortgage or encumbrance of or over any land which is subject to a subsisting mortgage in favour of the Bank, and no stock mortgage, bill of sale, lien, or charge over any stock, machinery, implements, wool, crops, goods, chattels, or effects shall be given by such owner or occupier without the written consent of the Bank.

Every mortgage, encumbrance, agreement, contract, instrument, or writing made or entered into contrary to this paragraph (v) shall be void and of no effect.

The provisions of this Act as to sale and the application of the proceeds of sale and leasing in lieu of sale shall apply to every sale or lease made under this section.

7. Remedies of the Bank. (1) Without prejudice to any other right or remedy of the Bank—

- (i) If the borrower commits any breach of any covenant or condition to be observed by him or it under any mortgage or under this Act, the Bank may, with or without making any demand for repayment of moneys due to the Bank in respect of any advance, enter upon and take possession (for that purpose using such force as may be necessary) and sell the whole or any part of the land on the security whereof the advance has been made, with all improvements thereon, and all live stock, machinery, farm equipment, plant, goods, chattels, or effects wherever the Bank holds any security for the advance (or, as deemed expedient, all or any of such improvements, live stock, machinery, farm equipment, plant, goods, chattels, or effects apart from the land, and authorise the removal of the same when sold, and with or without a subsequent sale of the whole or any part of the land), either (subject as hereinafter provided) by private sale or public auction, and subject to such terms and conditions of sale as it thinks expedient, and after such notice of the time, place, terms, and conditions of sale as it thinks 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 the Bank may transfer or convey such land to the purchaser, and give a valid title thereto free from any encumbrance, lien, or charge whatsoever, save only any duly registered prior mortgage over such land;

- (ii) Before any land is sold by private sale under this clause it shall first be offered at public auction, due notice of which shall be publicly advertised, as prescribed, in the locality where such land is situated.

(2) **Occupation rent.** After the Bank has taken possession of any land, any occupant who is permitted by it to be or remain in occupation thereof shall pay to the Bank such occupation rent as the Bank may fix.

(3) **In event of no purchaser, land to vest in Bank.** As an additional remedy and power, and without modification or abatement of the provisions of any other enactment of this Act, whenever land authorised to be sold by the Bank 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 Bank, together with the costs and expenses of and occasioned by such attempted sale, or there is no bid, the Bank shall advertise the land for private sale in at least one newspaper circulating in the district where such land is situated, once at least in each of three successive weeks, and shall in such advertisement name a day and time, not less than one month from the date of the first of such advertisements, upon or after which the land shall vest in the Bank, together with all improvements thereon, unless in the interval a sufficient amount has been obtained by the sale of such land to satisfy the moneys due to the Bank and all costs and expenses of and occasioned by such sale and proceedings, and thereupon if such amount has not been so obtained the land shall vest in the Bank for the whole estate of the borrower, free from any encumbrance, lien, or charge whatsoever save only a duly registered first mortgage over such land if there shall be such a mortgage then subsisting.

(4) **Application of proceeds of sale.** The Bank shall apply the proceeds derived from the sale under this clause in payment, in the first instance, of all moneys due and payable in respect of the subject land for the payment whereof the Bank is liable, or paid by the Bank in respect of such land in discharge of its liability therefor, and in redemption of any amount charged thereon in favour of the Bank, or of so much thereof as remains unpaid and of any other moneys due and payable by the borrower to the Bank, and of all expenses incurred by the Bank in relation to such sale or otherwise with respect to such land including the costs of taking possession, sale expenses and administrative charges, and shall pay the balance (if any) to the person appearing to the Bank to be entitled to receive the same.

(5) **Limited liability.** As against mortgagors, the Bank shall not be responsible for involuntary losses or the default of agents or auctioneers.

8. Mortgages of miners' homesteads. In case of a mortgage to the Bank of a miner's homestead—

- (i) The Bank, on exercising its powers under this Act, may retain possession for any period in its discretion;
- (ii) It shall not be necessary to furnish the proof required by section eighty-five of "*The Mining Acts, 1898 to 1955*," so long as the rent has been paid for a period of not less than thirty years;
- (iii) Section ninety-eight of "*The Mining Acts, 1898 to 1955*," shall not apply.

9. Power to lease in lieu of selling, &c. Whenever under this Act or any security power is conferred upon the Bank to cause any land to be sold, the Bank may, if it thinks fit, from time to time previous to exercising such power of sale, lease or agree to lease such land or any part thereof for any term not exceeding thirty years.

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

10. Money due by borrower is a debt to Crown. (1) In addition to any other remedy provided by this Act or any security for the recovery of any sum of money payable to the Bank by a borrower in respect of any advance under this Act, it is hereby declared that every such sum shall be and remain until payment a debt by the borrower to the Crown, and shall be recoverable, with interest, by the Bank accordingly.

(2) **Remedies of Crown cumulative.** The provisions of this Act for securing to the Bank the repayment to it of all advances under this Act shall be in addition to any other remedy which the Bank has, as mortgagee or creditor, against the borrower, and the Bank may enforce any such remedy.

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