

INDUSTRY.

20 Geo. V.
No. 16.
THE
INDUSTRIES
ASSISTANCE
ACT OF 1929.

An Act to Foster the Development of Secondary Industries by enabling Advances to be made or guaranteed for the Assistance of Corporations engaged or who may hereafter be engaged in such Industries, and for other purposes.

[ASSENTED TO 5TH DECEMBER, 1929.]

BE it enacted by the King'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:—

- Short title. 1. This Act may be cited as "*The Industries Assistance Act of 1929*," and shall come into operation on a date to be fixed by the Governor in Council by proclamation published in the *Gazette*.
- Interpretation. 2. In this Act, unless the context otherwise indicates or requires, the following terms have the meanings respectively assigned to them, that is to say:—
- Advance. "Advance"—An advance made or deemed to be made under this Act;
- Applicant. "Applicant"—Applicant for assistance under this Act;
- Application. "Application"—Application under this Act;
- Board. "Board"—The Industries Assistance Board appointed under this Act;
- Corporation. "Corporation"—A joint stock company formed and registered or to be formed and registered under the laws relating to the registration of joint stock companies, or a co-operative association registered or to be registered pursuant to *"*The Primary Producers' Co-operative Associations Acts, 1923 to 1928*" or any Act amending the same; or an association registered or to be registered pursuant to †"*The Industrial and Provident Societies Act of 1920*" or any Act amending the same, or such other association as the Governor in Council may by Order in Council prescribe;

* 14 Geo. V. No. 45 and 17 Geo. V. No. 4, *supra*, pages 10776 and 11652.

† 10 Geo. V. No. 32, *supra*, page 9292.

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“Industry”—Any industry for the manufacture of any article of commerce, or such other industry as the Governor in Council may from time to time declare, by Order in Council published in the *Gazette*, to be an industry for the purposes of this Act ; Industry.

“Land”—Any estate or interest in land : where by this Act any remedy is given to the Minister against or with respect to any land, the term “Land” includes not only the land but also all improvements thereon ; Land.

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

“Prescribed”—Prescribed under this Act ; Prescribed.

“This Act”—This Act and all regulations, proclamations, or Orders in Council thereunder ; This Act.

“Works”—Any works or factory for the manufacture of articles, together with all machinery and appurtenances used therein or in connection therewith, and all tramways leading thereto, and the site of the works and all land used in connection with any such tramway. Works.

3. (1.) A Board called “The Industries Assistance Board” shall be constituted. Constitution and appointment of Board.

(2.) The Board shall consist of three members appointed by the Governor in Council, who shall hold office at pleasure of the Governor in Council.

(3.) The Governor in Council may terminate the appointment of any member and appoint any other person to be member in the place of such member.

(4.) Notice of every appointment of a member shall be published in the *Gazette*.

4. (1.) The Board shall during the period of its office— Powers and duties.

(a) Advise the Minister on matters connected with this Act generally ;

(b) Make any inquiry or investigation required by this Act, or which the Minister or the Board may think necessary or expedient so to make.

Board deemed a Commission under the Official Inquiries Evidence Act.

For the purpose of any such inquiry or investigation, the Board and each and every member thereof shall have the same powers, authorities, and protection as a commission under **The Official Inquiries Evidence Acts, 1910 to 1929*” and any Act amending the same.

Regulations.

Regulations may be made prescribing the duties, powers, and responsibilities of such Board, the regulation of meetings, proceedings, and the conduct of business of such Board, the appointment of a secretary or other officers (if necessary), and generally such other matters or things which it may be considered necessary or expedient so to prescribe.

Power to dissolve Board.

(2.) It shall be lawful for the Governor in Council, if and when satisfied that the functions of the Board have been performed and that there is no further need for the existence of the Board, to declare, by proclamation published in the *Gazette*, that the Board shall cease to exist as from the date fixed in that behalf by such proclamation, and the Board shall cease to exist accordingly.

Chairman and deputy chairman.

(3.) The Governor in Council shall appoint one of the members to be the chairman of the Board, and may appoint another member to be the deputy chairman of the Board.

Quorum.

(4.) Any two members of the Board shall constitute a quorum thereof.

Defects in appointment not to invalidate proceedings of Board.

(5.) No act or proceeding of the Board shall be invalid or illegal in consequence only of the number of the members of the Board not being complete at the time of such act or proceeding.

All acts and proceedings of the Board shall, notwithstanding the discovery of any defect in the appointment of any member thereof, or that any member was disqualified or disentitled to act, be as valid as if every such member had been duly appointed and was qualified and entitled to act and had acted as a member of the Board, and as if the Board had been properly and fully constituted.

Deputy member.

(6.) In the case of the illness or other incapacity or absence from the State of any member of the Board, or of a vacancy in the office of any member, the Governor

* 1 Geo. V. No. 26, *supra*, page 748 and 20 Geo. V. No. 2 (this volume).

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in Council may appoint some person to be a deputy member of the Board during such illness, incapacity, or absence, or until such vacancy is filled.

Every person so appointed shall, until his appointment is terminated by notice in the *Gazette*, have all the powers, rights, and privileges and perform all the duties and functions of a member of the Board.

5. In order to foster and stimulate the development of secondary industries in this State, it shall be lawful for the Minister, with the approval of the Governor in Council, under and pursuant to the provisions of this Act, to render financial assistance for the construction of works or for any other purposes for the development of the industry concerned by making advances or guaranteeing the repayment of advances in respect of any corporation to which this Act applies, which is engaged or which intends to engage in an industry to which this Act applies :

Power to make or guarantee advances to corporations engaged in industries.

Provided that it shall be proved to the satisfaction of the Minister, on a report from the Board as hereinafter provided, that—

- (i.) Such application is in accordance with this Act, and
- (ii.) That it is in the interest of the State that such assistance should be given and that the carrying on of such industry is calculated to promote employment in the State.

Moreover, the Minister in approving of such application shall take into consideration the question whether or not it is practicable for the applicant to obtain assistance through the ordinary financial channels :

Provided further that the final approval of any such application shall rest with the Governor in Council.

6. (1.) Every application for financial assistance shall be made to the Minister, and shall contain such particulars as are prescribed.

Method of applying for advances.

(2.) Without limiting the operation of this section, every such application in respect of the construction of works shall state with full particularity the situation, nature, and estimated cost of the works constructed or proposed to be constructed, including all resummptions of land and easements for any purpose.

Particulars.

Accompanying documents.

(3.) Every such application for the construction of works shall be accompanied by—

- (i.) An instrument in the prescribed form executed by the corporation undertaking to conform to the provisions of this Act in all respects ; and
- (ii.) A copy of the prospectus and/or memorandum and articles of association of the company (if any) or in respect of an association, a copy of its certificate of registration and rules ; and
- (iii.) A map or plan of the locality on the prescribed scale, showing the site of the works and such other particulars as may be prescribed ; and
- (iv.) Plans and specifications of the proposed works, authenticated on each sheet by the signature of the secretary and sealed with the seal of the company ; and
- (v.) Particulars of the titles of all lands owned by the corporation and of the site of the works ; and
- (vi.) A description of all easements, rights of way, and other rights and privileges which will be required for the purposes of any road, tramway, wharf, or other work to be constructed or used in connection with the works ; and
- (vii.) A deposit of such money as the Minister considers sufficient to defray the expenses to be incurred by him or the Board in connection with the report upon the application ; and
- (viii.) Such other particulars as the Minister or Board may require, either generally or in any particular case, or as may be prescribed.

(4.) In respect of any application for assistance other than in respect of the construction of works, the provisions of subsections two and three may be, *mutatis mutandis*, applied ; and moreover the Minister or Board may require any further particulars that they may consider necessary for the due consideration of the application concerned.

Reference to Board.

7. (1.) Every application under this Act shall be submitted by the Minister to the Board for its report and recommendation thereon.

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(2.) In inquiry into any such application the Board shall take the application concerned into consideration, and in particular shall investigate and have regard to all or any of the following matters, that is to say :—

Board to investigate.

- (i.) The nature and objects of the corporation ;
- (ii.) The sufficiency of the capital for carrying on the business of the corporation successfully, making allowance for the advance applied for ;
- (iii.) The most suitable site for the proposed works and the value of such site ;
- (iv.) The estimated cost of the works ;
- (v.) The securities offered by the corporation for the advance or guarantee concerned ;
- (vi.) Its opinion as to whether or not the carrying on of such industry is calculated to promote employment in the State ;
- (vii.) Whether it would be in the interest of the State to approve of such application ;
- (viii.) The practicability or otherwise of the company obtaining assistance through the ordinary financial channels ;
- (ix.) Such other matters as may be prescribed or as may be required by the Minister either generally or in any particular case.

(3.) The Board shall at the conclusion of its inquiry forward to the Minister a recommendation in respect of any application concerned.

Recommendation by Board

(4.) The Minister shall consider such recommendation and may in his absolute discretion approve of such recommendation, or may refuse such recommendation, or may refer such recommendation back to the Board for further inquiry.

Minister to consider report.

(5.) The decision as to the approval or otherwise of the Minister in respect of any such application shall be a decision in his absolute discretion, and shall not be subject to any appeal or review by the Supreme Court or by any other tribunal whatsoever.

Decision of Minister to be final.

(6.) It is hereby declared that, before any application for an advance or guarantee is finally approved in respect of a corporation, any such application approved by the Minister shall be submitted to the Governor in Council for final approval.

Approval of Governor in Council.

Notification
of approval
by Order in
Council.

(7.) Any such approval of an application under this Act shall be notified by the Governor in Council by Order in Council published in the *Gazette*.

General
powers as to
guarantee.

8. Notwithstanding the provisions of any Act to the contrary, in any case where the Minister, with the approval of the Governor in Council, is empowered pursuant to this Act to advance moneys by way of loan to any corporation under this Act, then the Minister, in lieu of making such advance by way of loan to such corporation, may with the approval of the Governor in Council authorise such corporation to obtain such advance by way of loan from any bank or other financial institution, and guarantee to such bank or institution the amount or any part of the amount so borrowed with interest at the agreed rate.

And, where any such corporation is unable to offer sufficient security for a loan from any bank or financial institution, the Minister, with the approval of the Governor in Council as aforesaid, on behalf of the Government may guarantee to such bank or institution the amount or any part of the amount of such loan with interest at the agreed rate:

Provided that any amount so guaranteed shall not exceed in any case an amount exceeding sixty-six and two-thirds per centum of the amount of the total cost of the work.

Terms of
guarantee.

Any guarantee entered into by the Minister and approved as aforesaid under this Act shall be limited to such amount and to such period of time, and be subject to such other terms, reservations, and conditions contained in the instrument of guarantee concerned or as may be prescribed.

Special
powers as to
guarantee of
loans.

9. If the Minister, after receiving a report and recommendation of the Board, is satisfied that the proceeds of any loan proposed to be raised by any corporation to which this Act applies are to be applied towards or in connection with the carrying out of any capital undertaking or in or in connection with the purchase of articles manufactured or produced in Queensland required for the purposes of any such undertaking, and that the application of the loan in the manner proposed is calculated to promote employment in Queensland, the Minister may, subject to this Act and with the approval

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of the Governor in Council, guarantee, in such manner and form and on such terms and conditions as he thinks fit and proper or as may be prescribed, the payment of the interest and principal of the loan or of either interest or principal.

In this section the expression "capital undertaking" means an undertaking involving capital expenditure.

10. With the approval of the Governor in Council, advances for the construction of works may be made by the Minister, under this Act, out of moneys annually appropriated by Parliament for the purposes of such advances. Advances out of moneys appropriated annually.

11. Notwithstanding anything in this Act contained, advances may be made to a corporation under this Act in respect of its works already constructed. Advances on existing works.

In any such case the provisions of this Act shall be applicable so far as the same can be applied.

12. (1.) Subject to this Act, no advance for the construction of works shall be made to a corporation under this Act except upon the security of a mortgage or mortgages to the Minister over the works in respect of which such advance is made, and upon such other security as to the Governor in Council may seem fit. Security for advances.

The terms, conditions, and stipulations of the advance (which shall be deemed a loan by the Minister to the corporation), and terms of repayment and all other matters necessary or incidental to the repayment and enforcement of such advance, may be fixed by agreement or may be as prescribed.

Moreover, for securing the repayment of all moneys advanced to or payable by the corporation under this Act, the corporation shall execute all such mortgages, charges, liens, or other instruments over the land, machinery, plant, or other property of the corporation as the Minister may require, and such instruments shall contain all such covenants, stipulations, and remedies in favour of the Crown upon any default or non-compliance by the corporation with any of the provisions of this Act, or with any of the terms of any agreement or instrument, as the Minister may consider proper.

Advance
other than in
respect of
construction
of works.

(2.) Provided that, in respect of an advance other than in respect of the construction of works, the provisions of this Act as to security for such advances shall, *mutatis mutandis*, apply together with any further terms, conditions, provisions, and stipulations which may be contained in any agreement with the corporation concerned or as may be prescribed.

13. Without in any way limiting the operation of any other provision of this Act—

Half-yearly
statement of
arrears to be
published.

(i.) In the month of August (or such other month as may be prescribed) in every year the Minister shall cause to be published in the *Gazette* a statement showing, with respect to every corporation to which a loan has been advanced under this Act, the amount of money which is then overdue and in arrear, and also the total of the principal sum then remaining unpaid.

Power to
enforce the
payment of
arrears.

(ii.) If thereafter on the thirty-first day of October (or such other month as may be prescribed) any part of such money so overdue and in arrear remains unpaid, the Minister may by notification in the *Gazette* appoint a receiver to collect on his behalf and to pay to him all or any moneys from time to time due and owing to the company to the amount stated in such notification; and the Minister may from time to time make all such orders and give all such directions with respect to the powers and duties of such receiver and the management by him of the business of the company as the Minister thinks proper, and judicial notice shall be taken of all such orders and directions.

Thereupon such receiver shall, from the date stated in such notification, be the only person legally entitled to receive the revenues of such company, and shall be deemed to that extent and for that purpose to be a public accountant within the meaning of **The Audit Act of 1874*” or any Act amending or in substitution for that Act.

* 38 Vic. No. 12 and amending Acts, *supra*, pages 74 *et seq.*

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14. Without in any way limiting the operation of any other provisions of this Act, in respect of all moneys paid by the Minister under any guarantee executed under this Act the Minister shall have the following rights and powers :—

Recovery of moneys paid under guarantee.

- (i.) He may recover from the corporation the amount of all such moneys with interest at six pounds per centum per annum, or such interest as may be prescribed by action in any court of competent jurisdiction.
- (ii.) He shall have and may exercise all the powers vested in the Minister under the laws in force relating to local authorities, in any case where a local authority has made default in the repayment of a loan made to it by the Government; moreover, the provisions of **"The Local Bodies' Loans Guarantee Act of 1923"* shall, *mutatis mutandis*, apply together with any additions to or modifications thereof as may be prescribed either generally or in any particular case.
- (iii.) He shall to the extent of any payment made by him be entitled to the benefit of any securities held by the bank or other financial institution as security for the loan, so that—
 - (a) Where the Minister has paid to the bank or other financial institution the whole of the moneys secured by such securities, the bank or such institution shall hand over such securities to the Minister, who may exercise all the powers of the bank or such institution in respect of such securities;
 - (b) Where the Minister has paid only part of the moneys so secured, the bank or such institution shall as and when directed by the Minister realise such securities, and after satisfying its own claims out of the proceeds thereof shall pay the balance (if any) to the Minister.

The powers and remedies of the Minister under this section shall be exercisable singly or concurrently as in his discretion he thinks proper.

* 14 Geo. V. No. 8, *supra*, page 10693.

Appropriation.

All moneys payable by the Minister under any guarantee executed under this Act shall be paid out of moneys to be from time to time appropriated by Parliament for the purpose.

15. Without in any way limiting the operation of any other provision of this Act—

(1.) During the period of the indebtedness of the corporation to the Minister, or the period under which a guarantee under this Act is in force—

Corporation not to dispose of assets without consent.

(i.) The corporation shall not sell or dispose of any of the assets of the works concerned without the express consent in writing of the Minister in that behalf first had and obtained, and every agreement, contract, instrument, or writing made or entered into contrary to this provision shall be void and of no effect whatsoever.

Insurance.

(ii.) The corporation shall insure and keep insured with the State Government Insurance Office or other approved insurance office, in the name and for the benefit of the Minister, such of its assets and in such amount as the Minister may direct ;

The Minister, in the event of the failure of the corporation to comply with his direction, may effect such insurance and from time to time recover the premium thereon from the corporation.

Duty as to maintenance.

(iii.) The corporation shall at all times exercise due care of the assets of the corporation, and shall maintain the works in an efficient manner and to the satisfaction of the Minister.

Inspection, &c.

(iv.) Any officer or officers authorised in that behalf by the Minister shall at all reasonable times be permitted to enter the works for inspection purposes, and shall be given access to the books of the corporation, and generally be afforded every facility for inspecting the assets.

Duty to give information.

(v.) The corporation shall, when required by the Minister, furnish the Minister with such information respecting costs and particulars of manufacture or with such other information in relation to the works as the Minister may require.

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- (vi.) The Minister may from time to time appoint ^{Audit and} some person or persons holding a certificate ^{accounts.} of competency, or some officer or officers of the Department of the Auditor-General, to be the auditor or auditors of the corporation, and the corporation shall pay such auditor or auditors such remuneration as the Auditor-General may determine.
- (vii.) The Minister may at any time appoint a ^{Special} special auditor or auditors to examine and ^{audit.} report upon the accounts of the works for any period fixed by the Minister; the cost and expenses of every such special audit, including the remuneration of the special auditor, shall be paid by the corporation.
- (viii.) The corporation shall keep such books of ^{Accounts.} account and in such form as the Auditor-General may prescribe.

(2.) The provisions of this Act for securing to the Minister the payment to him of the liability of the corporation under this Act, and all other powers and authorities conferred on the Minister under or pursuant to this Act, shall be in addition to any other remedy which the Minister has against the corporation concerned as a creditor, and he may enforce such remedy. ^{Remedies of} ^{Crown} ^{cumulative.}

(3.) Moreover, all moneys advanced to or payable by the corporation under this Act shall be a debt due and payable to His Majesty, and payment thereof may be enforced accordingly.

(4.) Every advance or guarantee under this Act shall, in addition to the conditions and stipulations in this Act contained, be subject to any further conditions ^{Special} ^{conditions} ^{may be} and stipulations as to the Minister may seem fit, or as ^{imposed.} may be prescribed.

(5.) Moreover, any instrument of mortgage may contain the following provisions or provisions to the like effect:— ^{Further} ^{security.}

“ And by way of further security to the Minister in the event of the corporation which has executed such instrument (or of any of the lawful successors in interest or assigns of such corporation which for the time being is the proprietor of the properties of such corporation and of its plant and equipment or any of these) being wound up whether voluntarily or compulsorily on the ground of its inability to meet its or their obligations or taking the benefit of any law for the time being in force in the Commonwealth or any State

relating to bankruptcy or insolvency, such instrument executed by the corporation shall be deemed to be and shall have the effect of a valid and subsisting first mortgage and charge of and over such properties and of a bill of sale of and over all such plant and equipment (notwithstanding that such instrument is not in the form or does not otherwise comply with any of the provisions or conditions prescribed by any law then in force relating to mortgages of properties leases or interests or relating to bills of sale of chattels) to secure each and every amount which may then be payable to the Minister or may thereafter become payable to the Minister under or pursuant to the terms of such instrument. The Minister shall be at liberty to register such agreement pursuant to the provisions of *'The State Securities Registration Act of 1925,' and upon such registration such instrument shall operate as a security to the Minister in accordance with the provisions of this subsection, and the Minister shall be entitled, by motion made to the Supreme Court or a judge thereof, to obtain an order for the sale of all or any of the property comprised or deemed to be comprised in such mortgage or bill of sale in priority to any mortgage, lien, or other encumbrance whatsoever then existing over any such property or claimed or alleged so to be."

Security.

16. For the purposes of this Act the Minister may hold, until the same can be advantageously disposed of, any property real or personal taken by him as security for or in satisfaction, liquidation, or discharge of any debt owing to him.

Minister to be a corporation sole.

For the purposes of this section the Minister representing the Crown shall be a corporation sole by the name of "The Minister of Industries' Assistance," and by that name shall have perpetual succession and an official seal, and shall be capable in law of suing and being sued, and shall have power to take, purchase, sell, exchange, lease, and hold land, goods, chattels, and other property, and subject to this Act may do any acts not otherwise unlawful which may be necessary to the proper exercising and performance of the powers, functions, and duties of the Minister under this Act to the same extent as a private person can do.

Annual report to be laid before Parliament.

17. In the month of August or as soon after as may be convenient in each year, the Minister shall prepare a report of all moneys advanced or loans guaranteed for the purposes of this Act during the previous financial year, with detailed statements of his accounts with any corporations, and lay the same before Parliament as soon as practicable.

Regulations.

18. The Governor in Council may from time to time make such regulations, providing for all or any purposes, whether general or to meet particular cases, as may be convenient for the administration of this Act

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or as may be necessary or expedient to carry out the objects and purposes of this Act, and, where there may be in this Act no provision or no sufficient provision in respect of any matter or thing necessary or expedient to give effect to this Act, providing for and supplying such omission or insufficiency.

Without limiting the generality of the foregoing provisions, regulations may be made for the following purposes :—

- (i.) The form and manner of applications under this Act, and the particulars, instruments, undertakings, and documents to be furnished with any such application ;
- (ii.) The security to be given by applicants in respect of such applications, and the recovery of moneys thereby secured ;
- (iii.) All such observances as are not specifically provided for in this Act and which the Governor in Council considers it desirable that applicants should comply with in regard to any matter concerned.

19. All Orders in Council and regulations made or purporting to be made under this Act shall be published in the *Gazette*, and upon such publication shall be read as one with this Act and construed as being of equal validity, and shall be judicially noticed, and shall not be questioned in any proceedings whatsoever.

Orders in Council and regulations to form part of this Act.

Any such Order in Council may be rescinded or amended, whether by addition or otherwise, by a subsequent Order in Council under this Act.

The production of a copy of the *Gazette* purporting to contain any such Order in Council or regulation shall be conclusive evidence of the matters contained therein and of the power and authority to make such Order or regulation.

All Orders in Council and regulations shall be laid before the Legislative Assembly within fourteen days after such publication, if Parliament is in session, and, if not, then within fourteen days after the commencement of the next session.