



ANNO VICESIMO SECUNDO

# GEORGII V REGIS.

A.D. 1931.

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## No. 2057.

An Act to make provision for financing Farmers for the Season 1932-33, to make certain amendments to the Farmers Relief Act, 1931, and for purposes incidental thereto.

*[Assented to, December 9th, 1931.]*

**B**E it Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. (1) This Act may be cited as the " Farmers Relief Act Extension Act, 1931".

(2) The Farmers Relief Act, 1931, is hereinafter called " the Short title. principal Act".

2. Sections 24 to 26 of this Act are incorporated with the Incorporation. Farmers Relief Act, 1931, and those sections and that Act shall be read as one Act.

*Provisions for finance of farmers for season 1932-33.*

3. In this Act, unless the context otherwise requires—

Interpretation.

" Applicant " means a person who has submitted an application to the Bank under this Act and whose application has not been refused or withdrawn :

" Bank " means the State Bank of South Australia established by the State Bank Act, 1925 :

" Board " means the Board of Management of the Bank :

" Crop "

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“Crop” means crop of wheat, barley, oats, or rye, and any such crop cut for hay, and includes the grain harvested from any such crop, and, in relation to a share farmer, means his share or interest in a crop :

“Farmer” means any person who otherwise than as an employee of another person is engaged in the cultivation of land for the production of wheat, barley, oats, or rye, or the hay of any of these crops, or any party to a share-farming agreement under which land is cultivated for such production :

“Merchant” includes any person other than a pool to whom a crop is sold or delivered for sale.

**Administration.**

4. This Act shall be administered on behalf of the Bank by the Board of Management of the Bank, but the Board may delegate to any person the performance or exercise of any duties, functions, or powers of the Bank under this Act.

**Applications.**

5. (1) Any farmer who in good faith intends to put, or has put, land under crop for the season 1932-33, and who requires assistance under this Act for all or any of the following purposes, namely, to sow, harvest, and market his crop for the said season, to maintain himself and his family throughout the said season, to feed his stock during that season or to fallow land for cropping in the season 1933-34, may apply to the Bank for assistance under this Act.

(2) The assistance which may be applied for shall be—

(a) the supply by the Bank of commodities required for any of the purposes aforesaid :

(b) payment by the Bank on behalf of the applicant of fees, wages, or other amounts which in the opinion of the Bank are expenses reasonably incurred for any of the purposes aforesaid.

(3) Every application shall be in the form fixed by the Bank, and contain all particulars reasonably required by the Bank.

**Assignment of crops.**

6. (1) With every application the applicant shall execute and forward to the Bank an assignment to the Bank of all crops to be grown by the applicant during the season 1932-1933.

(2) If the applicant is a party to a share-farming agreement he shall be deemed to be the grower of that share of a crop to which or to the proceeds of which he is entitled under the agreement.

(3) The assignment shall be in a form to be fixed by the Bank.

(4) Every assignment shall operate to pass the legal ownership of the crops mentioned therein (whether growing or sown or not yet sown at the time of the assignment) to the Bank free from all rights, claims, and remedies of all persons except those provided for in this

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Act and shall be valid and effectual for all purposes and no disposition of or interest created in the land on which the crops exist or come into existence shall affect the Bank's ownership of the said crops.

(5) If any applicant fails to assign to the Bank all crops which he is by this section required to assign, this Act shall operate as an assignment to the Bank as from the date of the application of any crop which the applicant so failed to assign.

(6) The Bills of Sale Act, 1886, shall not apply to any assignment under this section.

(7) If the application of any applicant is refused or withdrawn the assignment of his crops shall be void.

7. (1) The Bank shall keep at its head office at Adelaide a record of every application made under this Act showing—

Record of applications.

- (a) the name and address of the applicant :
- (b) the section and hundred of the land on which his crops are growing or are to be grown :
- (c) the acreage of that land :
- (d) the date of the application and assignment :
- (e) whether the application has been granted or not and if it has been granted, the date on which it was granted.

(2) The said record shall be open to inspection by the public during the hours during which the office of the Bank is ordinarily open to the public.

8. The Bank shall consider every application and may in its discretion grant or refuse any application or may grant any application in part only.

Decision on applications.

9. (1) The amount fixed in each case by the Bank as the cost of any commodities supplied to or on behalf of any applicant, and the amount of any money paid by the Bank to or on behalf of any applicant, shall be deemed to be a loan of money made by the Bank to the applicant.

Repayment of cost of commodities supplied or moneys paid on behalf of applicant.

(2) The applicant to whom such loan is made shall repay the amount thereof together with simple interest thereon at the rate fixed by the Bank (being as nearly as practicable the average rate paid by the Bank on money borrowed by it for purposes of this Act) on or before the twenty-eighth day of February, nineteen hundred and thirty-three. The interest shall be computed from the date when the Bank supplied the commodities, or as the case may be, paid the money, until the time of repayment.

(3) The Bank may in any case which it considers to be one of special hardship extend from time to time the date of repayment of the whole or any part of any moneys due by any applicant.

Special hardship

10. (1) Where

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Applications by farmers financed by persons other than the State Bank.

**10.** (1) Where any trading bank, merchant, or other person (in this section referred to as "the lender") has advanced or is about to advance money to a farmer for all or any of the purposes mentioned in section 5 of this Act, the farmer may, by application to the Bank in the prescribed form, request the Bank to distribute the proceeds of his crop for the season 1932-33 in accordance with the provisions of this Act, and to pay the amounts due to the lender in the same order of priority as amounts due to the Bank under this Act. The Bank shall not consider any such application unless the lender consents thereto.

(2) Every such application shall be accompanied by an assignment to the Bank of all crops grown or to be grown by the applicant during the season 1932-33. The provisions of sections 6 and 7 of this Act shall apply to the assignment, and the farmer shall be deemed to be an applicant within the meaning of this Act, and shall be entitled to all the rights, privileges, and immunities, and subject to all the duties and liabilities of an applicant who has received assistance from the Bank under section 5 of this Act.

(3) If the Bank approves of the said application it shall notify the lender of its approval.

(4) Upon being satisfied that the lender has advanced money for any of the purposes aforesaid the Bank shall issue to the lender a certificate or certificates in the prescribed form.

(5) Every such certificate shall—

(a) state the amount advanced by the lender, the date of the advance, and the rate of interest payable thereon, which shall not include any interest at a rate in excess of seven per centum per annum :

(b) when endorsed by the lender be deemed a negotiable instrument :

(c) confer on the lender or the holder in due course a claim to be paid by the Bank the amount of the moneys advanced by the lender and the interest specified in the certificate out of the proceeds of the assigned crops of the applicant in the order of priority mentioned in paragraph (c) of section 14 of this Act, but if those proceeds are insufficient to pay in full the amount specified in all the certificates issued in respect of advances by the lender to the applicant the said amounts shall abate in equal proportions between themselves :

(d) be signed by some person authorised by the Bank.

Insurance of crop.

**11.** The Bank may insure any crop assigned to it under this Act against such risks as it thinks proper and shall deduct the cost of insurance from the proceeds of that crop coming into its hands.

**12.** (1) An

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**12.** (1) An applicant whose application has been granted under this Act shall duly—

Duty of applicant to sow and harvest crop.

- (a) sow, care for, harvest, and render marketable the crops grown or to be grown by him during the season 1932-33 :
- (b) within one month of harvesting deliver the crop for sale on behalf of the Bank to a merchant or pool, nominated by the applicant and approved by the Bank : Provided that, with the approval of the Bank, the crop may be delivered in portions to different pools or merchants : Provided further that the applicant may retain with the approval of the Bank a reasonable amount of his crop for seed and fodder for the next ensuing season.

(2) If any such applicant neglects or refuses to comply with any requirement of this section, or if the Board has reasonable cause to believe that any applicant is likely so to neglect or refuse, the Bank may—

- (a) itself do the act or carry out the operations in which default has been made or is likely to be made :
- (b) reimburse itself for any expenditure incurred in so doing out of the proceeds of the crop coming into its hands :
- (c) for the purposes aforesaid by its servants, agents, or any person authorised by it enter and remain upon any land or premises upon which the crop is.

(3) Further, if any such applicant neglects or refuses to comply with any requirement of this section he shall be guilty of an offence.

**13.** (1) If the applicant delivers the crop, or any portion thereof, to a merchant, the applicant shall, on behalf of and in the name of the Bank within three months after delivery, but in no case later than the thirtieth day of April, nineteen hundred and thirty-three, sell the crop, or portion so delivered, and direct the merchant to pay the proceeds of the sale to the Bank : Provided that the Bank may in special circumstances extend the period of sale as regards any applicant. A merchant so directed by the applicant, or though not so directed, when required by the Bank, shall pay the proceeds of the sale directly to the Bank accordingly and if the proceeds are not so paid, the Bank may recover them from the merchant as a debt by action in any Court of competent jurisdiction. If any applicant fails to sell any crop or portion of a crop as required by this section the Bank may sell that crop or portion of a crop and retain the proceeds for distribution under this Act.

Sale of crop.

(2) If the applicant delivers the crop, or any portion thereof, to a pool the applicant shall forthwith notify the manager, secretary, or the agent of the pool taking delivery that the crop, or portion thereof, is delivered on behalf of the Bank, and shall direct the said manager, secretary, or agent to pay all moneys due by the pool in respect of the crop, or portion thereof, to the Bank, and, if the said proceeds

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are not so paid, the Bank may recover them from any person into whose hands they have come as a debt in any Court of competent jurisdiction.

When such a direction has been given by the applicant, or if the Bank directs, the manager, secretary, or agent of the pool to the same effect, the pool shall pay all the said moneys to the Bank accordingly.

(3) If any proceeds of the sale of any crop of an applicant, or any portion thereof, or any money due by a pool in respect of any such crop, or any portion thereof, is paid to the applicant, he shall forthwith pay the amount thereof to the Bank, and if the amount is not so paid the Bank may recover it as a debt by action in any Court of competent jurisdiction.

(4) If any person fails to comply with any requirement of this section he shall, without prejudice to any civil liability, be guilty of an offence.

Disposal of proceeds  
of sale of crop.

**14.** (1) The Bank shall apply the proceeds of the sale of each applicant's crop in payment of debts due and payable by the applicant, or in respect of the farm on which the applicant's crop is grown, or the machinery or chattels used in the production or harvesting of such crop as at the first day of March, nineteen hundred and thirty-three (hereinafter called "the date of distribution") in the following order of priority:—

- (a) Firstly, in payment of commission to the Bank at a rate to be fixed by the Bank, which rate shall be the same for all applicants, shall not exceed two and a half per centum of the said proceeds, and shall be of such amount as, in the Bank's opinion, will produce a sum sufficient to cover the actual cost incurred by the Bank in the administration of this Act:
- (b) Secondly, in payment, at the discretion of the Bank and to the extent fixed by the Bank, of any money due to any labourer (whether remunerated by a share of the crop or otherwise) for services rendered in connection with the production and marketing of the crop or any part thereof:
- (c) Thirdly, in payment of the amounts due to the Bank under this Act:
- (d) Fourthly, in payment of the following amounts specified in this paragraph ranking equally between themselves:—
  - (i.) Any interest becoming due and payable under any legal or equitable mortgage of the farm on which the crop was grown during the period of twelve months immediately prior to the date of distribution, including, if the Bank so determines, any interest due and payable in respect of the said period on any advance made to the applicant under any Acts relating to drought relief or under the principal Act:
  - (ii.) In

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- (ii.) In payment of any interest becoming due and payable during the period of twelve months immediately prior to the date of distribution under any registered stock mortgage or bill of sale over any chattels used in the production or harvesting of the crop for the season 1932-33, but if any stock mortgage or bill of sale comprises chattels other than those used as aforesaid the interest payable under this subdivision shall be a part of the total interest payable under the said mortgage or bill of sale which, in the opinion of the Bank, bears the same relation to the total interest as the value of the chattels used as aforesaid bears to the value of the chattels comprised in the stock mortgage or bill of sale :
- (iii.) If the farm on which the crop was grown is held under lease, any rent which became due and payable under such lease, during the period of twelve months immediately prior to the date of distribution, or, if the said farm is held under an agreement to purchase, any interest due and payable on the balance outstanding of the purchase price in respect of the said period :
- (iv.) Any instalments due and payable in respect of the period of twelve months immediately prior to the date of distribution on any farming machinery or chattel, which was used in the production or harvesting of the crop for the season 1932-33, and was being purchased on extended terms of credit or held under hire purchase agreement: Provided that where no instalments are due and payable in respect of the said period, but instalments are due and payable in respect of a previous period of twelve months, the instalments due and payable in respect of the last previous such period shall be payable under this subdivision. In no case shall the amount payable under this subdivision exceed one-quarter of the total purchase-money or of the total money payable under the hire purchase agreement :
- (v.) Any municipal or district rates, water rates, charges for excess water, or land tax due and payable in respect of the farm on which the crop was grown, and any income tax under any Commonwealth or State Act due and payable by the applicant, but not exceeding in any case the amount of any such rates, charges, or taxes which became due and payable during the twelve months preceding the date of distribution :
- (vi.) Any

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- (vi.) Any medical, dental, or nursing expenses reasonably incurred by the applicant for medical, dental, or nursing attention to himself or his family during the period of twelve months immediately prior to the date of distribution.
- (e) Fifthly, in payment of the remaining debts of the applicant other than principal moneys secured by mortgage or bill of sale or stock mortgage and other than any part of the balance outstanding of the purchase price of the farm on which the crop was grown in any case where such farm is held under agreement to purchase:
- (f) Sixthly, the surplus, if any, shall be returned to the applicant.
- (2) The interest payable under paragraph (d) of subsection (1) of this section shall be at the rate payable under the mortgage, bill of sale, hire-purchase agreement, or agreement in cases where the interest is paid on the due date, and shall in no case be paid at a rate in excess of seven per centum per annum.
- (3) The Bank shall at a convenient time determined by it publish in the *Gazette* a notice setting out the names and addresses of all applicants who have received assistance under this Act, and may by the notice fix a date on or before which any person claiming payment of any debt payable out of the proceeds of any crop pursuant to this section is to forward particulars of his claim to the Bank. The Bank shall also publish in a daily newspaper published in Adelaide an advertisement calling attention to the notice in the *Gazette*. The Bank shall be deemed to have duly made all payments payable under subsection (1) if it duly pays to the extent to which funds are available the debts of which particulars are given to it as aforesaid.
- (4) The Bank shall not incur any liability with respect to any amount paid to any person pursuant to this section, whether such person was legally entitled to payment or not, unless it is shown that the bank acted negligently or in bad faith.
- (5) If the Bank is of opinion that any debt the payment of which is claimed out of the proceeds of any applicant's crop is not such a debt as in the opinion of the Bank ought to be paid out of those proceeds the Bank may in its discretion refuse payment of such debt out of the said proceeds.
- (6) In this section "farm" includes all lands, whether in blocks contiguous to each other or not, which the Bank is satisfied are worked in conjunction with each other for the production of crops, as one farm.

Suspension of  
certain liabilities  
of applicant.

**15.** (1) Notwithstanding any Act or law to the contrary, and notwithstanding the provisions of The Real Property Act, 1886, or any term, covenant, or condition of any agreement, during the period from the making of the application until the thirty-first day



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day of August, nineteen hundred and thirty-three, the following provisions shall, subject to subsections (2) and (6) hereof, apply with respect to every applicant :—

- I. No action shall be commenced in any Court of Law for the recovery of any debt, demand, or damages against the applicant, nor to enforce any security alleged to have been given by him. If any such action is commenced it shall be, and is hereby declared to be, stayed :
- II. No proceedings in the nature of an execution of a judgment or order already obtained and no proceedings in the nature of discovery in aid of execution shall be had or taken against the applicant. Every such judgment or order shall be and is hereby declared to be stayed for all purposes whatsoever :
- III. No steps shall be taken by any mortgagee, grantee of any bill of sale, holder of a lien or any other holder or grantee of any form of security over any property of the applicant or over the farm on which the applicant's crop is growing or was grown or any chattel used for the production or marketing of that crop to realise his security or put the same into force whether by entry into possession, the exercise of a power of sale, seizure, or otherwise howsoever, but all the remedies available to any such mortgagee, grantee, holder of a lien, or other holder or grantee shall be and the same are declared to be suspended :
- IV. No steps shall be taken by the vendor under any agreement for sale and purchase of the farm on which the applicant's crop was grown to terminate the agreement, nor shall any such agreement become void by reason of any breach thereof :
- V. The owner of any such chattel used as aforesaid which is held under a hire-purchase agreement shall not take the chattel out of the possession of the hirer nor take any steps to terminate the agreement :
- VI. No chattel on the farm on which the applicant's crop is growing or was grown shall be distrained for any purpose.

(2) The Bank may, upon the application of any person, declare in writing that the provisions of this section shall not apply to any specified land, interest in land, or chattels, and upon such declaration the provisions of this section shall cease to apply accordingly.

(3) If any proceedings are commenced in contravention of subsection (1) they shall be void, and if any proceedings are continued in contravention of subsection (1) every step in the proceedings taken after the granting of the application shall be void.

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(4) If any person takes possession of any chattels contrary to the provisions of subdivision v. of subsection (1) hereof, he shall, without prejudice to any other liability, be guilty of an offence against this Act. Where the Bank has just cause to suspect that any offence against this section has been committed, it shall institute and prosecute such proceedings as are justified by the facts coming to its knowledge.

(5) The period during which any right of action or other right or remedy of any person is suspended under this section shall not be included in the period fixed by any statute of limitations within which such right of action, right, or remedy must be commenced, or exercised.

(6) Any person whose right of action or other right or remedy is stayed or suspended under this section may apply to a Special Magistrate for leave to proceed. Such application shall be made to a Special Magistrate exercising jurisdiction in the Local Court nearest to the applicant's place of abode. The provisions of this subsection are in addition to the provisions of subsection (2) hereof.

Every such application shall be heard in a summary way, and the Special Magistrate may receive evidence by affidavit or *viva voce* or otherwise as he thinks fit.

The Special Magistrate—

- (a) shall have an absolute discretion as to granting or refusing any leave :
- (b) shall take into consideration the circumstances of the applicant and of the person aforesaid and the objects of this Act.

The decision of the Special Magistrate shall be final.

(7) No mortgage, bill of sale, charge, lien, pledge, or other security given or created by any applicant over any real or personal property during the period during which this section is in operation shall have any force or validity whatsoever unless it is given or created with the consent of the Bank expressed in writing.

Penalty for false statements.

**16.** Any person who wilfully makes any false statement in any application, declaration, assignment, or other document under or for the purposes of this Act, or wilfully neglects to disclose fully in any application under this Act any matter required to be disclosed shall be guilty of an offence and liable to imprisonment for any term not exceeding twelve months.

Penalty for selling commodities supplied under this Act.

**17.** Any person to whom any commodity has been supplied under this Act, and who without the written consent of the Bank barter or sells or attempts to barter or sell the said commodity, or any quantity thereof, shall be guilty of an offence and liable to imprisonment for any term not exceeding three months.

**18.** Where

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**18.** Where any offence is created by this Act, but no penalty provided therefor, the penalty for such offence shall be a fine not exceeding One Hundred Pounds, or imprisonment for any term not exceeding six months. General penalty.

**19.** Notwithstanding the provisions of the Stamp Duties Act, 1923, no stamp duty shall be payable upon any application, declaration, certificate, or assignment made pursuant to this Act. Exemptions from stamp duties.

**20.** Any application or assignment pursuant to this Act may be in any form prescribed or fixed pursuant to this Act with any modifications, additions, or alterations which the Bank thinks fit. Forms.

**21.** Offences against this Act shall be disposed of summarily. Summary proceedings for offences.

**22.** The Governor may make any regulations necessary or convenient for carrying this Act into effect, and may, by regulation, impose penalties recoverable summarily and not exceeding Fifty Pounds for breach of any regulation. Regulations.

**23.** (1) The Treasurer of the State may from time to time out of moneys to be provided by Parliament for the purpose, make advances to the Bank for carrying out the provisions of this Act. Financial provision.

(2) So far as is practicable, the advances made under subsection (1) of this section shall be repaid to the Treasurer out of the moneys paid to the Bank in repayment of the loans made by it under this Act; and any deficiency which may arise and any other money required for purposes of this Act shall be made good or paid out of money provided by Parliament for that purpose.

*Extension and Amendment of Principal Act.*

**24.** Section 13 of the principal Act is amended—

(a) by inserting after the word “delivered” in the third line thereof the words “but in no case later than the thirtieth day of April, nineteen hundred and thirty-two”:

Amendment of principal Act, s. 13—  
Sale of assigned crop.

(b) by inserting after the word “accordingly” at the end of subsection (2) the following:—

“If any applicant fails to sell any crop or portion of a crop as required by this section the Bank may sell that crop or portion of a crop and retain the proceeds for distribution under this Act”.

**25.** The provisions of sections 16 and 33 of the principal Act shall, subject to subsections (2), (7), (8), and (9) of section 16 and subsections (2), (7), (8), and (9) of section 33, operate with respect to applicants under the principal Act until the thirty-first day of August, nineteen hundred and thirty-two. Extension of period during which farmers are protected against creditors.

**26.** (1) Section

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Amendment of  
principal Act, s. 14.

**26.** (1) Section 14 of the principal Act is further amended by adding at the end thereof the following subsection :—

(7) In this section any reference to “one year’s interest” shall mean the interest becoming due and payable during the period of twelve months immediately preceding the first day of March, nineteen hundred and thirty-two, and any reference to “one annual instalment” shall mean the instalment or instalments becoming due in respect of the said period, and any reference to “one year’s rent” shall be construed to mean the rent becoming due and payable during the said period: Provided that where no instalments are due and payable in respect of the said period of twelve months, but instalments are due in respect of some previous period of twelve months, the instalments due and payable in respect of the last such period shall be paid under this section.

(2) The amendments made by this section shall operate as if they had been enacted at the time of the commencement of the principal Act.

In the name and on behalf of His Majesty, I hereby assent to  
this Bill.

A. HORE-RUTHVEN, Governor,