

Rural Development Bank Bill

No.

TABLE OF PROVISIONS

PART 1—PRELIMINARY

Clause

1. Purpose.
2. Commencement.
3. Definitions.

PART 2—ADMINISTRATION

4. Rural Development Bank of Victoria.
5. Objectives of the Bank.
6. Functions of the Bank.
7. Powers of the Bank.
8. Ministerial direction.
9. Delegation.
10. Board of Management.
11. Conditions of membership of the Board.
12. Acting appointments.
13. Proceedings of the Board.
14. Disclosure of interests, etc.
15. Chief Executive Officer.
16. Staff.
17. Application of public service legislation.

PART 3—OPERATIONS AND FINANCIAL PROVISIONS

18. Financial services.
19. Bank as agent for the Treasurer.
20. Capital.
21. Deposits.
22. Financial accommodation.
23. Government guarantees.
24. Trustees may invest with the Bank.
25. Advances from the Public Account.
26. Payments from profits to Consolidated Fund.
27. Accounts and records.
28. Annual report.
29. Audit.

PART 4—LAND SETTLEMENT AND SOLDIER SETTLEMENT

30. Saving of interests.
31. Additional rights and obligations.
32. Transfer of purchase leases.
33. Soldier settlement—right to obtain Crown grant early.
34. Land settlement—if Crown grant obtained early.
35. Provisions applying to dealings with respect to purchase leases.
36. Advance payments under purchase leases.
37. Surrender of purchase lease and grant of new lease.
38. Crown grant on satisfaction of purchase lease.
39. Crown grants generally.

40. Settlers are owners and occupiers for certain purposes.
41. Rental purchase deemed to be rent.
42. Forfeiture of purchase leases.
43. Payments on surrender or forfeiture.
44. Mortgages under Part VII. of the *Soldier Settlement Act*.
45. Interest on overdue instalments.
46. Land under contract of sale.
47. Vesting of land in the Bank on forfeiture, etc.
48. Unused land under the repealed Acts to vest in the Bank.
49. Generally as to vesting.

PART 5—MISCELLANEOUS

50. Insurance.
51. Payment of municipal rates, etc.
52. Appointment of attorneys.
53. Offence to misapply money received from the Bank.
54. Immunity.
55. Confidentiality.
56. Regulations.

PART 6—TRANSITIONAL PROVISIONS, REPEALS AND AMENDMENTS

57. Transitional provisions relating to the Bank.
58. Repeals and transitional provisions.
59. Consequential amendments.

LEGISLATIVE ASSEMBLY

Read 1 14 October 1987

(Brought in by Mr Jolly and Mr Fordham)

A BILL

relating to the provision of financial services and assistance to rural industries; to provide for the administration of the remaining leases, mortgages, contracts of sale and other interests created under the *Land Settlement Act 1959* and the *Soldier Settlement Act 1958*; to repeal the *Rural Finance and Settlement Commission Act 1961*, the *Rural Finance Act 1958*, the *Land Settlement Act 1959* and the *Soldier Settlement Act 1958*; to make consequential amendments to certain other Acts; and for other purposes.

Rural Development Bank Act 1988

The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

Purposes.

1. The purposes of this Act are—

- 5 (a) to provide for the constitution, powers and functions of the Rural Development Bank of Victoria; and
- (b) to provide for the administration of the remaining leases, mortgages, contracts of sale and other interests created under the *Land Settlement Act 1959* and the *Soldier Settlement Act 1958*.
- 10

Commencement.

2. (1) This Act (apart from section 48) comes into operation on a day to be proclaimed.

(2) Section 48 comes into operation on a day to be proclaimed.

Definitions.

5

3. In this Act—

“**Bank**” means the Rural Development Bank of Victoria established under this Act.

“**Board**” means the Board of Management of the Bank.

“**Chairperson**” means the Chairperson of the Board.

10

“**Discharged soldier**” means an eligible person under the Agreement made between the Commonwealth and the State on 23 November 1945 in relation to soldier settlement.

“**Purchase lease**” means a purchase lease under the *Land Settlement Act 1959* or a settlement purchase lease under the *Soldier Settlement Act 1958*.

15

“**Rural industries**” means—

(a) primary industry (including fishing) carried on, wholly or partly, in Victoria; or

(b) secondary industry or service industry—

20

(i) that is carried on, wholly or partly, in Victoria and that is related to primary industry (including fishing) carried on, wholly or partly, in Victoria; or

(ii) that is carried on, wholly or partly, in Victoria in an area outside the metropolis (as defined in the *Melbourne and Metropolitan Board of Works Act 1958*); or

25

(c) the business of exporting processed or unprocessed primary products (including fish) from Victoria; or

(d) activities incidental to (a), (b) or (c).

30

“**Security**” includes inscribed stock and debenture, bond, debenture stock, notes or any other document creating, evidencing or acknowledging indebtedness in respect of financial accommodation whether constituting a charge on property or not.

35

“**Settler**” means—

(a) the lessee under a purchase lease; or

(b) the transferee or assignee of the lessee under a purchase lease; or

(c) the legal personal representative of the lessee under a purchase lease.

40

PART 2—ADMINISTRATION

Rural Development Bank of Victoria.

4. (1) There shall be a bank called the Rural Development Bank of Victoria.

5 (2) The Bank—

(a) shall be a body corporate with perpetual succession and an official seal; and

(b) may sue and be sued in its corporate name; and

10 (c) may acquire, hold and dispose of real and personal property; and

(d) may do and suffer all acts and things that bodies corporate may by law do and suffer.

(3) The Bank holds all its real and personal property on behalf of the Crown.

15 (4) Sub-section (3) does not—

(a) limit the right of the Bank to sue or be sued in its own name; or

(b) affect any right to enforce a judgment against the Bank; or

20 (c) give the Bank or the Crown any priority of right to payment of money owing to the Bank under this Act.

Objectives of the Bank.

5. The objectives of the Bank are—

(a) to promote the establishment, growth and stability of, and increased opportunities in, rural industries in Victoria; and

25 (b) to promote economic growth in regional Victoria; and

(c) to provide financial and other services primarily for investment purposes for rural industries in accordance with this Act in a profitable, efficient and competitive manner and, if appropriate, in co-operation with other financial institutions.

30

Functions of the Bank.

6. The functions of the Bank are—

(a) to provide financial and other services to rural industries; and

35 (b) on the direction of the Treasurer, to administer State and Commonwealth schemes of assistance or other schemes; and

(c) to administer the remaining purchase leases, mortgages, contracts of sale and other interests created under the *Land*

Settlement Act 1959 and the Soldier Settlement Act 1958;
and

- (d) to bring together and co-ordinate financial resources for investment in rural industries; and
- (e) to facilitate an increase in the availability of capital and export finance to persons carrying on or seeking to establish rural industries; and 5
- (f) to provide services and advice to government with regard to rural affairs and rural industries; and
- (g) where appropriate, to undertake promotional activities to further the purposes of this Act. 10

Powers of the Bank.

7. (1) In addition to the powers expressly conferred on it by this Act, the Bank has power to do all things necessary or convenient for achieving its objectives and performing its functions. 15

(2) Without limiting sub-section (1), in accordance with the guidelines set by the Treasurer, the Bank—

- (a) may—
 - (i) promote, form or establish, or participate in the promotion, formation or establishment of, a body corporate, trust or partnership; and 20
 - (ii) subscribe for or otherwise acquire, hold and dispose of or otherwise deal with any securities of a body corporate; and
 - (iii) become a member of a body corporate, trust, partnership or joint venture; and 25
 - (iv) enter into any arrangement for sharing of profits; and
- (b) may acquire, develop and dispose of land for use for rural industries.

Ministerial direction. 30

8. In the exercise of its powers and performance of its functions, the Bank is subject—

- (a) to the general direction and control of the Minister and to any guidelines issued by the Minister for the implementation of government policy; and 35
- (b) to the direction and control of the Treasurer in relation to the Bank's financial policies and practices and to any guidelines issued by the Treasurer for co-operation between the Bank and other financial institutions.

Delegation.

9. The Board may, in writing, delegate to a member of the Board or a Bank employee any power of the Bank or the Board under this Act, other than this power of delegation.

5 Board of Management.

10. (1) There shall be a Board of Management of the Bank to exercise the powers and perform the functions of the Bank.

(2) The Board shall consist of—

- 10 (a) not less than five and not more than seven members appointed by the Governor in Council; and
- (b) the Chief Executive Officer of the Bank appointed under section 15.

(3) One of the members appointed by the Governor in Council shall be appointed on the recommendation of the Treasurer.

15 (4) One of the members appointed by the Governor in Council shall be appointed Chairperson of the Board.

Conditions of membership of the Board.

20 11. (1) The Chairperson of the Board must be appointed on a part-time basis, but other members may be appointed on a full-time or part-time basis.

(2) Full-time members may engage in other employment, but only with the approval of the Governor in Council.

25 (3) A member, unless he or she is an officer or employee of the public service, is entitled to receive the salary and allowances (if any) determined by the Governor in Council.

(4) The term of office of a member is the term (not exceeding five years) specified in the instrument of appointment, and a member is eligible for re-appointment.

(5) The office of a member shall become vacant if the member—

- 30 (a) becomes bankrupt; or
- (b) without the approval of the Minister, fails to attend four consecutive meetings of the Board; or
- (c) is convicted of an indictable offence or of an offence that, if committed in Victoria, would be an indictable offence.

35 (6) A member may resign by writing delivered to the Governor in Council.

(7) The Governor in Council may remove a member from office if the member—

- (a) becomes incapable of performing his or her duties; or

- (b) is negligent in the performance of those duties; or
- (c) engages in improper conduct.

(8) This section does not apply to the Chief Executive Officer of the Bank.

Acting appointments.

5

12. (1) If the Chairperson is unable to perform his or her duties, the Governor in Council may appoint another member of the Board to act as Chairperson during the period of inability.

(2) If a member of the Board is unable to perform his or her duties, the Governor in Council may appoint another person to act in the place of that member during the period of inability.

10

(3) An acting appointment shall be for the term and on the conditions determined by the Governor in Council.

(4) The Governor in Council may at any time terminate an acting appointment.

15

(5) A person appointed under this section has all the powers, and may perform all the functions, of the person for whom he or she is acting.

Proceedings of the Board.

13. (1) A majority of the members for the time being of the Board constitutes a quorum.

20

(2) If the Chairperson is absent from a meeting, the members present must elect one of their number to preside at the meeting.

(3) A question arising at a meeting shall be determined by a majority of votes of members present and voting on that question, and, if voting is equal, the person presiding has a second or casting vote.

25

(4) The Board must—

(a) cause minutes of all proceedings of its meetings to be entered, within one month after the relevant meeting is held, in books kept for that purpose; and

30

(b) cause those minutes to be signed by the person who presided at the meeting at which the proceedings took place or by the person presiding at the next succeeding meeting; and

(c) cause a copy of the minutes of each meeting to be given to the Minister and the Treasurer within three days after the meeting at which they are so signed.

35

(5) Any minute that is so entered and purports to be so signed is evidence of the proceedings to which it relates.

(6) If minutes have been so entered and signed, then, unless the contrary is proved—

40

- (a) the meeting shall be deemed to have been duly held and convened; and
- 5 (b) all proceedings that are recorded in the minutes as having taken place at the meeting shall be deemed to have duly taken place; and
- (c) all appointments that are recorded in the minutes as having been made at the meeting shall be deemed to have been validly made.
- (7) An act or decision of the Board is not invalid by reason only—
- 10 (a) of a defect or irregularity in, or in connection with, the appointment of a member; or
- (b) of a vacancy in the membership of the Board, including a vacancy arising because of the failure to appoint an original member; or
- 15 (c) in the case of a person appointed to act as a member or in the case of a member appointed to act as Chairperson, that the occasion for his or her so acting had not arisen or had ceased.
- (8) Subject to this section and section 14, the Board may regulate
- 20 its own proceedings.

Disclosure of interests, etc.

14. (1) A member of the Board who in any way—
- (a) is, whether directly or indirectly, interested in a contract or proposed contract with the Bank; or
- 25 (b) possesses any property whereby, whether directly or indirectly, interests might be created in conflict with the member's duties or interests as a member; or
- (c) holds any office or position whereby, whether directly or indirectly, duties might be created in conflict with the
- 30 member's duties or interests as a member—
- must, as soon as practicable after the relevant facts have come to his or her knowledge, declare the fact and the nature, character and extent of the interest or conflict at a meeting of the Board.
- (2) Sub-section (1) does not apply if the interest or conflict arises
- 35 only from the fact that a member of the Board is—
- (a) a member of the governing body of a public statutory body (other than a Royal Commission, municipality or school council) that is interested in a contract or proposed contract with the Bank; or
- 40 (b) a member or creditor of a body that is interested in a contract or proposed contract with the Bank, if the interest of the member of the Board may properly be regarded as not being material; or

- (c) a member of a body one of whose clients is interested in a contract or proposed contract with the Bank, if the member of the Board does not act personally for that client in relation to that contract and the member's interest may properly be regarded as not being material; or 5
- (d) an office holder in a body corporate, trust or partnership in which the Bank is involved under section 7 (2) (a) and that is interested in a contract or proposed contract with the Bank, if the member of the Board was appointed to, or nominated for, that office by the Bank; or 10
- (e) an officer or employee of the public service or of a public statutory body at a time when the Crown or that authority is interested in a contract or proposed contract with the Bank; or
- (f) a customer of the Bank in common with its other customers. 15
- (3) For the purposes of sub-section (1), a general notice given by a member of the Board to other members to the effect that he or she is to be regarded as being interested in any contract that may, after the date of the notice, be made with a particular body or person is sufficient declaration of interest in relation to any contract so made or proposed to be made if— 20
- (a) the notice states the nature and extent of the member's interest in relation to that body or person; and
- (b) when the question of confirming or entering into the contract is first taken into consideration, the extent of that interest at that time is not greater than that stated in the notice; and 25
- (c) the notice is given at a meeting of the Board or the member takes reasonable steps to ensure that it is brought up and read at the next meeting of the Board after it is given.
- (4) A declaration required by sub-section (1) in relation to the possession of any property or the holding of any office or position must be made by a person— 30
- (a) if the person possesses the property or holds the office or position when he or she becomes a member—at the first meeting of the Board held after— 35
- (i) he or she becomes a member; or
- (ii) the relevant facts as to the possession of the property or the holding of the office or position come to his or her knowledge—
- whichever is the later; or 40
- (b) if the person comes into possession of the property or commences to hold the office or position after he or she becomes a member—at the first meeting of the Board held after the relevant facts as to the possession of the property

or the holding of the office or position come to his or her knowledge.

(5) The Chairperson must cause every declaration under this section to be recorded in the minutes of the meeting at which it was made.

5 (6) This section is in addition to, and not in derogation of, the operation of any Act or rule of law restricting a member of the Board from having an interest in contracts with the Bank or from possessing property or holding offices or positions involving interests or duties in conflict with the member's interests or duties as a member.

10 Chief Executive Officer.

15 15. (1) There shall be a Chief Executive Officer of the Bank appointed by the Board with the approval of the Treasurer.

(2) The term of office of the Chief Executive Officer is the term (not exceeding five years) specified in the instrument of appointment, and the Chief Executive Officer is eligible for re-appointment.

(3) Subject to this section, the terms and conditions of appointment of the Chief Executive Officer shall be set by the Board.

(4) The office of the Chief Executive Officer shall become vacant if the Chief Executive Officer—

20 (a) becomes bankrupt; or

(b) is convicted of an indictable offence or of an offence that, if committed in Victoria, would be an indictable offence.

(5) The Chief Executive Officer may resign by writing delivered to the Board.

25 (6) The Board may remove the Chief Executive Officer from office if he or she—

(a) becomes incapable of performing his or her duties; or

(b) is negligent in the performance of those duties; or

(c) engages in improper conduct.

30 Staff.

16. The Bank may employ such staff as is necessary for the purposes of this Act on such terms and conditions as it thinks fit.

Application of public service legislation.

35 17. (1) The members of the Board are not as such subject to the *Public Service Act 1974*.

(2) An employee of the Bank, who immediately before being so employed was an officer in the public service, is eligible on ceasing to be an employee of the Bank to be re-appointed to the public service at a level not less than the level of the last office held by him or her in the

public service as if service with the Bank were service in the public service.

(3) If the Chief Executive Officer of the Bank was immediately before appointment an officer in the public service, he or she is eligible on ceasing to be Chief Executive Officer to be re-appointed to the public service at a level not less than the level of the last office held by him or her in the public service as if service with the Bank were service in the public service. 5

(4) If, immediately before appointment to the Board or as Chief Executive Officer of the Bank or before employment by the Bank, a person was an officer within the meaning of the *Superannuation Act* 1958, the person shall, despite that appointment or employment, continue, subject to that Act, to be such an officer. 10

PART 3—OPERATIONS AND FINANCIAL PROVISIONS

Financial services. 15

18. (1) The Bank may on terms and conditions determined by it—

(a) lend or advance money, or provide financial accommodation, to persons carrying on or seeking to establish rural industries; and

(b) give guarantees or indemnities for the repayment of money expended, or to be expended, for the purposes of rural industries; and 20

(c) provide financial advice and similar services to persons carrying on or seeking to establish rural industries.

(2) Without limiting sub-section (1), the Bank may lend or advance money or provide financial accommodation on more favourable terms and conditions than would otherwise apply to any person who— 25

(a) is qualified and able to carry on a particular primary industry (including fishing); and

(b) lacks the necessary resources to carry on that industry and does not have access to loans, advances or financial accommodation on the terms and conditions generally imposed by financial institutions; and 30

(c) is not more than 35 years of age (unless the Bank determines in a particular case that this restriction should not apply). 35

Bank as agent for the Treasurer.

19. (1) The Treasurer may direct the Bank to administer, in accordance with his or her directions, money provided for a special purpose (whether related to rural industries or not).

(2) The Treasurer may direct the Bank to establish and operate schemes of assistance and other schemes for persons carrying on or seeking to establish rural industries or for other persons. 40

(3) For the purposes of such schemes, the Bank may use—

- (a) money borrowed by it; and
- (b) money provided by the Commonwealth.

5 (4) The Bank has power to do all things necessary for or in connection with performing its functions under this section.

Capital.

20. The capital of the Bank consists of—

- 10 (a) the net assets, as at the commencement of this section, of the funds and accounts established under the *Rural Finance Act 1958*, the *Rural Finance and Settlement Commission Act 1961*, the *Land Settlement Act 1959* and the *Soldier Settlement Act 1958*; and
- 15 (b) the amounts from time to time declared by the Bank, with the approval of the Treasurer, or by the Treasurer to form part of the capital of the Bank.

Deposits.

21. The Bank may receive money on deposit—

- (a) as security under section 18; or
- (b) as provided in section 32 (5) (b); or
- 20 (c) otherwise, if the amount of the deposit is \$100 000 or greater.

Financial accommodation.

25 22. (1) For the purposes of performing its functions, the Bank may, with the approval of the Treasurer, obtain financial accommodation within Australia in any one or more of the following ways:

- (a) By way of overdraft of account at any bank or other financial institution;
- (b) By a loan;
- 30 (c) By issuing, endorsing or otherwise dealing in promissory notes;
- (d) By drawing, accepting, endorsing or otherwise dealing in bills of exchange;
- (e) By issuing, purchasing or otherwise dealing in securities;
- 35 (f) By granting or taking a lease of any real or personal property for financing but not for operating purposes;
- (g) In any other manner approved by the Treasurer.

(2) In sub-section (1), "lease" means—

- (a) any lease, licence, charter or hiring arrangement of any real or personal property; or

- (b) any arrangement under which a right to use, operate, manage or provide services in respect of any real or personal property is granted by the owner to another person.

Government guarantees.

23. (1) The due satisfaction of amounts payable by the Bank as a result of or in connection with the liabilities of the Bank or the performance of its obligations, including, without limiting the generality of the foregoing, the payment of expenses of enforcing or obtaining, or endeavouring to enforce or obtain, such satisfaction, is guaranteed by the Government of Victoria. 5 10

(2) Sub-section (1) does not apply in relation to any liabilities or obligations arising out of the exercise of powers under section 7 (2) (a).

(3) Any sum required to fulfill any liability arising under a guarantee under this section must be paid out of the Consolidated Fund, which is appropriated to the necessary extent. 15

(4) The whole or any part of the benefit of a guarantee under this section may be assigned by the person for the time being entitled to its benefit, unless the terms and conditions of the guarantee otherwise provide.

(5) A guarantee under this section has effect, and may be enforced, as if it were a contract made on behalf of the Crown and section 23 (1) (a) of the *Crown Proceedings Act 1958* applied accordingly. 20

Trustees may invest with the Bank.

24. (1) Unless expressly forbidden by the instrument (if any) creating the trust, a trustee may invest trust funds in any securities issued by the Bank or on deposit with the Bank. 25

(2) The Bank is not affected by notice of any express or implied trust to which money deposited or invested with the Bank is subject, unless the Bank has expressly assumed the obligations of a trustee in relation to that money. 30

Advances from the Public Account.

25. (1) The Treasurer may advance amounts from the Public Account to the Bank for use under this Act.

(2) The Treasurer may—

(a) recall an advance; or

(b) declare the amount of an advance to form part of the capital of the Bank. 35

Payments from profits to Consolidated Fund.

26. (1) In respect of each financial year, the Bank must pay to the Treasurer for payment to the Consolidated Fund—

- 5 (a) an amount equal to the total amount of income tax that would have been payable by the Bank under Commonwealth legislation if the Bank were not a State-owned commercial enterprise; and
- 10 (b) such amount by way of dividend from profits or accumulated profits as is determined by the Treasurer after consultation with the Bank.

(2) A payment under this section must be made at the times and in the manner determined by the Treasurer, and during a financial year the Bank may make such payments on account of estimated liability for that year as are agreed to by the Treasurer.

15 Accounts and records.

27. (1) The Board must ensure that there are kept proper accounts and records of the transactions and affairs of the Bank and such other records as sufficiently explain the financial operations and financial position of the Bank.

20 (2) The Board must do all things necessary—

- (a) to ensure that all money payable to the Bank is properly collected; and
- (b) to ensure that all money expended by the Bank is properly expended and properly authorised; and
- 25 (c) to ensure that adequate control is maintained over assets owned by, or in the custody of, the Bank; and
- (d) to ensure that all liabilities incurred by the Bank are properly authorised; and
- 30 (e) to ensure efficiency and economy of operations and avoidance of waste and extravagance; and
- (f) to develop and maintain an adequate budgeting and accounting system; and
- (g) to develop and maintain an adequate internal audit system.

Annual report.

35 28. (1) The Bank must, in respect of each financial year, prepare an annual report containing—

- (a) a report of its operations during the financial year; and
- (b) financial statements for the financial year—

40 and submit the report to the Minister not later than 30 September next following the end of that financial year.

- (2) The report of operations must—
- (a) be prepared in a form and contain information determined by the Board to be appropriate; and
 - (b) contain any further information required by the Minister.
- (3) The financial statements must— 5
- (a) contain information determined by the Treasurer to be appropriate; and
 - (b) be prepared in a manner and form approved by the Treasurer; and
 - (c) present fairly the results of the financial transactions of the Bank during the financial year to which they relate and the financial position as at the end of that year; and 10
 - (d) be signed by the principal accounting officer (by whatever name called) of the Bank and by the Chairperson and another member of the Board who must— 15
 - (i) state whether, in their opinion, the financial statements present fairly the results of the financial transactions of the Bank during the financial year to which they relate and whether they sufficiently explain the financial position of the Bank as at the end of the financial year; and 20
 - (ii) state whether, at the date of signing the financial statements, they were aware of any circumstances that render any particulars included in the statements misleading or inaccurate and, if so, particulars of the circumstances; and 25
 - (e) be audited as required by section 29 (1).
- (4) The Minister must cause each annual report to be laid before each House of Parliament before the end of the seventh sitting day of that House after the report is received by the Minister. 30
- (5) If the Bank fails to submit an annual report to the Minister by 30 September or, if an extension has been granted, by the date to which the extension was granted, the Minister must advise each House of Parliament of the failure and the reasons for it, or must cause each House to be so advised. 35
- (6) The Bank may apply in writing to the Minister for an extension of the date by which an annual report is to be submitted to the Minister.
- (7) The Minister may in writing grant to the Bank an extension to such date as the Minister determines.
- (8) The Minister must advise each House of Parliament of each extension granted and the reasons for it, or must cause each House to be so advised. 40

(9) This section does not apply if, as a result of an order made under the *Annual Reporting Act* 1983, the Bank is required to submit an annual report under that Act.

Audit.

5 29. (1) The financial statements referred to in section 28 must be audited by the Auditor-General.

(2) The Auditor-General may appoint a registered company auditor to act as his or her agent under this section.

10 (3) The Auditor-General has, in respect of the audit of the financial statements, all the powers conferred on the Auditor-General by any law relating to the audit of the public accounts.

(4) Without limiting sub-section (3), the Auditor-General, an agent under this section and the officers of the Auditor-General—

15 (a) have right of access at all times to the books of the Bank; and

(b) may require from an employee of the Bank any information, assistance and explanations necessary for the performance of the duties of the Auditor-General in relation to the audit.

20 (4) The Bank must pay to the Consolidated Fund an amount to be determined by the Auditor-General to defray the costs and expenses of an audit by the Auditor-General.

PART 4—LAND SETTLEMENT AND SOLDIER SETTLEMENT

Saving of interests.

25 30. Despite the repeal of the *Land Settlement Act* 1959 and the *Soldier Settlement Act* 1958, a purchase lease, mortgage, contract of sale or other interest created under one of those Acts and continuing in effect immediately before that repeal continues to be effective subject to its terms and conditions and to this Part.

Additional rights and obligations.

30 31. The rights and obligations conferred and imposed by this Part are in addition to any rights and obligations a settler, mortgagor, purchaser under a contract of sale or other person having an interest or the Bank may have under contract.

Transfer of purchase leases.

35 32. (1) The Bank may, on the application of the settler, approve the transfer of a purchase lease to another person.

(2) The Bank must not approve a transfer unless—

(a) an amount determined by the Bank of not less than 10% of the outstanding capital liability of the settler under the

- purchase lease is paid to the Bank on or before the transfer; and
- (b) in the case of a purchase lease granted under the *Soldier Settlement Act 1958*, the transferee agrees to the variation of the lease to provide for payment during the balance of the lease of equal yearly, half-yearly or quarterly instalments of such amounts as will provide— 5
- (i) interest at such higher rate as the Bank determines, but not exceeding 4.25% per annum, on the capital liability from time to time outstanding; and 10
- (ii) capital repayments sufficient to liquidate the outstanding capital liability at or before the expiration of 55 years from the date the purchase lease took effect.
- (3) The Bank has power to vary a purchase lease for the purposes of sub-section (2) (b), and if a lease is so varied— 15
- (a) the Bank must cause the variation to be endorsed on the settler's duplicate original lease and forward that duplicate to the Registrar of Titles; and
- (b) the endorsement must be recorded on the duplicate original lease registered in the Titles Office and that record signed by the Registrar or an Assistant Registrar of Titles; and 20
- (c) the lease has effect as so varied and endorsed.
- (4) Sub-section (2) does not apply if the transferee is the surviving spouse or child of a deceased settler or, in the case of a purchase lease granted under the *Soldier Settlement Act 1958*, is a discharged soldier who, in the opinion of the Bank, is suitable for settlement and has not received some other adequate form of rehabilitation. 25
- (5) An amount paid under sub-section (2) (a) must be—
- (a) applied to the reduction of the outstanding capital liability under the purchase lease; or 30
- (b) deposited to the credit of the transferee.
- (6) Subject to this section, the transferee succeeds to all the rights, obligations and liabilities of the transferor in respect of the lease.
- Soldier settlement—right to obtain Crown grant early.**
33. (1) The settler under a purchase lease granted under the *Soldier Settlement Act 1958* is entitled to obtain, at any time before satisfaction in full of his or her obligations under the lease, a Crown grant of the land comprised in the lease conditionally on the settler at the same time executing a mortgage in favour of the Bank. 35
- (2) A mortgage under this section must— 40
- (a) secure payment of the balance of money payable under the purchase lease over a period equal to the balance of the term of the lease; and

(b) be in the prescribed form.

(3) Subject to sub-section (4), interest on the principal secured by a mortgage under this section is payable at the rate fixed from time to time by the Treasurer.

5 (4) While—

(a) land subject to a mortgage under this section remains in the ownership of the discharged soldier who was allocated the land or in the ownership of his widow or surviving child; and

10 (b) the Bank is satisfied that the mortgage is being complied with or that there is reasonable excuse for non-compliance—
the Bank must accept interest at the rate of 2% per annum as full settlement of the interest due on the principal secured by the mortgage.

15 (5) While paying interest at the rate specified in sub-section (4), a mortgagor may with the approval of the Bank—

(a) mortgage or lease, or enter into a share-farming agreement with respect to, the land; or

(b) reside off the land or not be personally engaged in its management.

20 (6) The Bank must not withhold approval under sub-section (5) unless there are special circumstances that in its opinion make granting of that approval unreasonable.

25 (7) Land subject to a mortgage under this section must not be transferred without the approval of the Bank, and, except in the case of a transfer to the widow or surviving child of a discharged soldier, that approval must be conditional on interest being paid at the rate specified in sub-section (3) as from the date of registration of the transfer.

Land settlement—if Crown grant obtained early.

30 34. The following provisions apply if a Crown grant is obtained in accordance with a purchase lease granted under the *Land Settlement Act 1959* before satisfaction in full of the settler's obligations under the lease:

35 (a) A mortgage executed by the settler to secure payment of the balance of money payable under the purchase lease shall be subject to such covenants and conditions as the Bank thinks fit;

(b) Interest on the principal secured by such a mortgage is payable at the rate fixed from time to time by the Treasurer.

Provisions applying to dealings with respect to purchase leases.

35. The following provisions apply to a dealing by way of transfer, assignment or mortgage of a purchase lease or by sub-letting or entering into a share-farming arrangement with respect to land comprised in a purchase lease:

- (a) The settler must give written notice to the Bank of a proposed dealing; 5
- (b) Except in the case of a transfer to the surviving spouse or child of the settler, the Bank must not approve a proposed dealing unless all instalments due and payable under the purchase lease have been paid; 10
- (c) Except if the transfer will be to the surviving spouse or child of the settler, when considering a proposed transfer of a purchase lease granted under the *Soldier Settlement Act 1958*, the Bank must take into account— 15
 - (i) the farming qualifications and experience and financial position of the proposed transferee; and
 - (ii) whether the transfer would tend towards an undesirable aggregation of estates;
- (d) The Bank's approval must be given under seal, and a dealing may not be registered in the Titles Office without approval being so given. 20

Advance payments under purchase leases.

36. (1) If all amounts due and payable under or in respect of a purchase lease have been paid, the settler may make additional payments for the reduction of the outstanding liability under the lease. 25

(2) The Treasurer may from time to time fix rates of interest to apply to payments in credit under this section.

Surrender of purchase lease and grant of new lease.

37. (1) If it considers it proper to do so, the Bank may, on behalf of the Crown, accept the surrender of a purchase lease, and the Governor in Council may grant a new purchase lease in lieu of the surrendered lease. 30

(2) If a new purchase lease is so granted—

- (a) the lease may be expressed to take effect (and, if so expressed, has effect) from an earlier date so as— 35
 - (i) to cover the whole or any part of the period of the surrendered lease; and
 - (ii) to treat the whole or any part of the rental purchase instalments paid by the settler under the surrendered lease as rental purchase instalments under the new lease; 40
or

(b) the settler may otherwise be given credit under the new lease for rental purchase instalments paid under the surrendered lease.

5 (3) A new purchase lease shall be treated as if it had been granted under the same Act as the surrendered lease.

Crown grant on satisfaction of purchase lease.

38. On satisfaction in full of his or her obligations under a purchase lease, the settler is entitled to obtain a Crown grant of the land comprised in the lease.

10 **Crown grants generally.**

39. (1) This section applies to Crown grants under sections 33, 34 and 38.

(2) A Crown grant is subject to the covenants, conditions, exceptions and reservations imposed by the Governor in Council.

15 (3) Any registered encumbrance that applied to the purchase lease or to the land comprised in the purchase lease applies to the Crown grant and to the land so granted, and the Registrar of Titles must make the appropriate endorsements and entries on the Crown grant and the original registered instrument.

20 **Settlers are owners and occupiers for certain purposes.**

40. For the purposes of any Act relating to local government, public health, sewerage, drainage, water supply or dividing fences, a settler is deemed to be the owner and occupier of the land comprised in the purchase lease.

25 **Rental purchase deemed to be rent.**

41. The instalments of rental purchase payable under a purchase lease are deemed to be rent payable under the lease and may be recovered by the Bank in the same way as rent is recoverable by law.

Forfeiture of purchase leases.

30 42. (1) If satisfied that a settler has breached his or her purchase lease, the Bank may, on behalf of the Crown, forfeit the lease.

(2) The Bank must serve written notice of a proposed forfeiture on the settler and must allow the settler reasonable opportunity to appear before the Board.

35 (3) If the Bank decides to forfeit a purchase lease—

(a) it must serve written notice of that decision on the settler; and

(b) the settler may, within one month after service of that notice, appeal against that decision to the County Court.

(4) An appeal will be a re-hearing, and the Court may substitute its own decision for that of the Bank.

(5) Forfeiture is effective— 5

(a) if an appeal is made to the County Court and the Court decides to forfeit the lease, at the time nominated by the Court; or

(b) if such an appeal is not made, at the expiry of one month after service on the settler of the notice of the Bank's decision. 10

(6) Notices under this section must be served personally on a settler, unless the County Court, on the application of the Bank, makes an order for service in another manner.

Payments on surrender or forfeiture. 15

43. On the surrender or forfeiture of a purchase lease, the Bank may pay to the out-going settler, or to the person who is, in the Bank's opinion, entitled to payment, the difference between—

(a) the value of the land comprised in the purchase lease and of the improvements to that land, as estimated by the Bank; and 20

(b) the whole of the settler's liability to the Bank or such part of that liability as the Bank considers is properly chargeable against that land and those improvements.

Mortgages under Part VII of the Soldier Settlement Act. 25

44. The following provisions apply to a mortgage under Part VII of the *Soldier Settlement Act* 1958:

(a) The mortgagor may not engage in employment unconnected with the land, except with the approval of the Bank;

(b) The mortgagor may not deal with the land, or any part of it, by sale, contract for sale, mortgage, transfer, conveyance, assignment, lease or share-farming agreement, except with the approval of the Bank; 30

(c) The mortgagor, or the mortgagor's legal personal representative, must give written notice to the Bank of a proposed dealing; 35

(d) Except in the case of the transfer of land to the surviving spouse or child of the mortgagor, the Bank, when considering a proposed dealing, must take into account—

(i) the farming qualifications and experience and financial position of the proposed purchaser, transferee, assignee or tenant; and 40

- (ii) whether the dealing would tend towards an undesirable aggregation of estates;
- 5 (e) Approval under paragraph (a) or (b) may be withheld only in special circumstances that in the Bank's opinion make granting of the approval unreasonable;
- (f) If by a proposed dealing ownership of land will pass from a discharged soldier, or from the surviving spouse or child of a discharged soldier, the Bank's approval must be conditional on the new owner entering into a fresh mortgage under which—
- 10 (i) interest will be paid at a rate to be fixed by the Treasurer; and
- (ii) the period of payment will not exceed the balance of the period of payment under the existing mortgage;
- 15 (g) The Bank's approval must be given under seal, and a dealing may not be registered in the Titles Office without approval being so given;
- (h) If all amounts due and payable under or in respect of the mortgage have been paid, the mortgagor may make additional payments for the reduction of the outstanding liability under the mortgage;
- 20 (i) The Treasurer may from time to time fix rates of interest to apply to payments in credit under paragraph (h).

Interest on overdue instalments.

- 25 45. (1) If an instalment payable under a purchase lease or a mortgage is not paid on the due date or within 30 days after that date—
- (a) interest is payable at the rate of 5% per annum from the due date until the instalment is paid; and
- 30 (b) that interest may be recovered in the same way as the instalment is recoverable.
- (2) If, because of drought, flood, fire or other adversity suffered by a settler or mortgagor, the Bank considers it inequitable to require payment of interest on overdue instalments, the Bank may waive payment, or part payment, for the period and on the terms and conditions it thinks appropriate.
- 35

Land under contract of sale.

46. The following provisions apply to land sold under section 5A of the *Land Settlement Act 1959*:
- 40 (a) On payment in full of the purchase price of the land, the purchaser, or the purchaser's nominee, is entitled to a Crown grant of the land;

- (b) Before such payment, the Governor in Council may, on the Bank's recommendation, give a Crown grant conditionally on the purchaser at the same time executing—
 - (i) a mortgage in favour of the Bank for payment of the balance of the purchase price; and 5
 - (ii) such additional security as the Bank requires;
- (c) The Bank may not make such a recommendation unless satisfied that adequate security is available for payment of the balance of the purchase price;
- (d) A Crown grant under this section is subject to such conditions, covenants, reservations and exceptions as the Governor in Council thinks fit; 10
- (e) A mortgage under this section is subject to such terms and conditions as the Bank thinks fit;
- (f) The Treasurer may at any time in writing require the whole or a part of any money received in respect of land to which this section applies to be paid into the Consolidated Fund. 15

Vesting of land in the Bank on forfeiture, etc.

- 47. (1) On—
 - (a) forfeiture of a purchase lease; or 20
 - (b) surrender of a purchase lease without issue of a new lease; or
 - (c) on the exercise of a right of rescission of a contract of sale under section 5A of the *Land Settlement Act 1959*— 25
 the land comprised in or subject to the purchase lease or contract vests in the Bank in fee simple.
- (2) The Bank must publish in the *Government Gazette* notice of the vesting of land in it under this section.

Unused land under the repealed Acts to vest in the Bank.

- 48. (1) On the commencement of this section, the land to which this section applies vests in the Bank in fee simple. 30
- (2) The Bank must publish in the *Government Gazette* notice of the vesting of land in it under this section.
- (3) This section applies to land that—
 - (a) was set apart or acquired under and for the purposes of the *Land Settlement Act 1959* or *Soldier Settlement Act 1958*; and 35
 - (b) as at the commencement of this section—
 - (i) is Crown land; and
 - (ii) is not subject to a purchase lease or contract of sale under either of those Acts. 40

Generally as to vesting.

5 49. (1) Land vests in the Bank under section 47 or 48 subject to the covenants, conditions, exceptions and reservations imposed by the Governor in Council at the time of vesting or at any time before the Bank is registered as proprietor of the land.

(2) On production of a copy of the issue of the *Government Gazette* in which there was published notice of the vesting of land in the Bank under section 47 or 48, the Registrar of Titles must register the Bank as proprietor of the land referred to in the notice.

10 (3) The Bank may deal with land that vests in it under section 47 or 48 in the same way as it has power to deal with land otherwise acquired by it.

PART 5—MISCELLANEOUS**Insurance.**

15 50. (1) The Bank may require a settler to insure, and keep insured, any property subject to the purchase lease against loss or damage by fire or other prescribed cause.

20 (2) The Bank may require a mortgagor to whom Part 4 applies to insure, and keep insured, any property subject to the mortgage and liable to loss or damage by fire or other prescribed cause.

(3) The Bank may require a purchaser under a contract of sale to which section 46 applies to insure, and keep insured, any property subject to the contract against loss or damage by fire or other prescribed cause.

25 (4) The Bank may require a person who has borrowed money or received an advance or financial accommodation from it to insure, and keep insured, any property that is security for the loan, advance or accommodation against loss or damage by fire or other prescribed cause.

30 (5) The following provisions apply to a requirement to insure:

(a) The requirement may be to insure with an insurance company approved by the Bank or with the Bank itself;

35 (b) In the case of insurance to be effected with an approved insurance company, the policy must be transferred to and held by the Bank;

(c) In the case of insurance to be effected with the Bank, the Bank—

(i) is empowered to undertake that insurance business; and

40 (ii) may determine the amount of insurance required, the amount of the premiums payable and other terms and conditions; and

- (iii) may repair or restore damaged property instead of paying insurance money; and
- (iv) may deduct from any insurance money any amount owing to the Bank in respect of the insured property;
- (d) The entering into of a contract of insurance in accordance with this section is deemed to be sufficient compliance with any term relating to insurance in the purchase lease, mortgage, contract of sale or other contract or instrument; 5
- (e) The Bank may re-insure any risk insured under this section on such terms and conditions as it thinks fit with any insurance company approved by the Treasurer. 10

Payment of municipal rates, etc., by the Bank.

51. (1) The Bank must pay to each municipality in whose municipal district there is land vested in the Bank amounts agreed between them, or, in default of agreement, determined by the Minister, to be equivalent to the rates that would have been payable if the land were rateable land. 15

(2) The Bank may pay to any other public authority amounts agreed between them to be equivalent to the rates that would have been payable to the authority in respect of land vested in the Bank if the land were rateable land. 20

Appointment of attorneys.

52. The Bank may, by instrument under its seal, appoint a person to be its attorney, and the person may, subject to that instrument, do any act or exercise any power or function that is authorised by the instrument. 25

Offence to misapply money received from the Bank.

53. A person who borrows money or receives an advance or financial accommodation from the Bank and who, directly or indirectly, uses the money, or causes or permits the money to be used, for a purpose other than the purpose for which the loan, advance or accommodation was made is guilty of an offence. 30

Penalty: 5 penalty units.

Immunity.

54. An action does not lie against a member of the Board, an employee of the Bank or a person acting on the Bank's behalf for anything done, or not done, in good faith in the course of carrying out, or purporting to carry out, his or her duties in that capacity. 35

Confidentiality.

55. A former or present member of the Board or employee of the Bank or a person who has acted or is acting on the Bank's behalf must not disclose information acquired in that capacity except—

- 5 (a) in the normal course of the Bank's business; or
 (b) with the consent of the person to whom the information relates; or
 (c) when authorised or required by law to do so.

Penalty: 20 penalty units.

10 **Regulations.**

56. (1) The Governor in Council may make regulations for or with respect to—

- (a) prescribing forms; and
 15 (b) securities issued by the Bank, including the form of, issue of, rights attached to, keeping of registers of and sale and transfer of such securities; and
 (c) making and issuing Crown grants; and
 (d) prescribing fees; and
 20 (e) generally prescribing any other matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act.

(2) The regulations—

- (a) may be of general or limited application; and
 25 (b) may leave matters to be determined or approved by the Board; and
 (c) may differ according to differences in time, place or circumstances.

PART 6—TRANSITIONAL PROVISIONS, REPEALS AND AMENDMENTS

30 **Transitional provisions relating to the Bank.**

57. (1) The Bank is the successor of the Rural Finance Commission, the Rural Finance and Settlement Commission, the Rural Finance Corporation and the Soldier Settlement Commission.

35 (2) Without affecting the generality of sub-section (1), the assets and liabilities of the Rural Finance Commission as at the commencement of this section are the assets and liabilities of the Bank.

 (3) On and after that commencement, unless the context otherwise requires, a reference in any Act or subordinate instrument or in any document whatever to the Rural Finance Commission, the Rural

Finance and Settlement Commission, the Rural Finance Corporation or the Soldier Settlement Commission is a reference to the Bank.

(4) Any person who, immediately before that commencement, was employed under the *Rural Finance and Settlement Commission Act 1961* becomes, on that commencement, an employee of the Bank with the same rights and entitlements as he or she had before that commencement. 5

Repeals and transitional provisions.

No. 6846. 58. (1) The *Rural Finance and Settlement Commission Act 1961* is repealed. 10

No. 6360. (2) The *Rural Finance Act 1958* is repealed.

No. 6534. (3) The *Land Settlement Act 1959* is repealed.

No. 6373. (4) The *Soldier Settlement Act 1958* is repealed.

(5) Despite the repeal of the *Land Settlement Act 1959* and the *Soldier Settlement Act 1958*, those Acts continue to apply, until the commencement of section 48 of this Act, to land that— 15

(a) was set apart or acquired under and for the purposes of either of those Acts; and

(b) as at the commencement of this section—

(i) is Crown land; and 20

(ii) is not subject to a purchase lease or contract of sale under either of those Acts.

(6) Section 7 (2) of the *State Bank Act 1958* does not apply to a person who—

(a) immediately before the commencement of this section was a member of the Rural Finance Commission and a Commissioner of the State Bank of Victoria; and 25

(b) is appointed a member of the Board of Management of the Rural Development Bank.

Consequential amendments. 30

No. 9428. 59. (1) In section 5 (1) (b) of the *Estate Agents Act 1980*, for “the Rural Finance Commission” substitute “the Rural Development Bank of Victoria”.

No. 6284. (2) In section 153 of the *Land Act 1958*, sub-section (3) is repealed.

No. 6372. (3) In the *Soil Conservation and Land Utilization Act 1958*— 35

(a) in section 3 (1A), for paragraph (p) substitute—

“(p) the Rural Development Bank of Victoria;” and

(b) in section 14 (2A) (d) for “the Rural Finance and Settlement Commission with a view to its granting a loan under the *Rural Finance Act 1958*” substitute “the Rural Development 40

Bank of Victoria with a view to its providing a loan or advance or financial accommodation under the *Rural Development Bank Act 1988*".

- 5 (4) In section 3 (1) of the *Superannuation Act 1958*, in paragraph (1) of the definition of "Officer", for "the Rural Finance and Settlement Commission whom the Chairman of that Commission" substitute "the Rural Development Bank of Victoria whom the Chief Executive Officer of the Bank". No. 6386.
- 10 (5) In section 23 of the *Survey Co-ordination Act 1958*, in paragraph (b) of the definition of "Public Authority", for "the Rural Finance Commission" substitute "the Rural Development Bank of Victoria". No. 6388.
- (6) In section 6 (1) (c) of the *Vermin and Noxious Weeds Act 1958*, for "the Rural Finance Commission" substitute "the Rural Development Bank of Victoria". No. 6409.



