

No. 3819.

An Act to enable Advances to be made on certain Terms to Cultivators of Land and for other purposes.

[31st October, 1929.]

**B**E it enacted by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say) :—

Short title and commencement.

1. This Act may be cited as the *Cultivation Advances Act* 1929 and shall be deemed and taken to have come into force on the first day of January One thousand nine hundred and twenty-nine.

Interpretation.

2. (1) In this Act unless inconsistent with the context or subject-matter—

“ Board.”

(a) “ Board ” means the Board of Land and Works ;

“ Crop.”

“ Crop ” means the following crops sown for any purpose whatsoever and growing or not harvested, namely—Wheat or oats or barley ;  
“ Cropping ”

- “ Cropping ” means the preparing of land for a crop and sowing the seed and using manure therefor during the period from March to July One thousand nine hundred and twenty-nine ; and “ to crop ” has a corresponding interpretation ; “ Cropping.”  
“ To crop.”
- “ Cultivation ” includes fallowing and cropping ; “ Cultivation.”
- “ Cultivator ” means any owner or occupier of a “ farm ” as defined in section one hundred and fifty-seven of the *Instruments Act* 1915 which is used wholly or in part for the purpose of growing any crop within the meaning of this Act ; “ Cultivator.”  
No. 2672 s. 157.
- “ Fallowing ” means the ploughing of land as a first preparation for sowing such land with wheat or oats or barley during the period from March to July One thousand nine hundred and thirty and the treatment of such land by harrowing cultivating or otherwise to the extent necessary to enable it to be thoroughly prepared for the growing of a wheat crop or oat crop or barley crop ; and “ fallow ” has a corresponding interpretation ; “ Fallowing.”  
Comp. No. 3551 s. 2.  
“ Fallow.”
- “ Fodder ” means food for horses employed in fallowing or in otherwise cultivating a farm ; “ Fodder.”
- “ Manure ” means manure for the treatment of land to enable it to be more successfully used for the growing of a wheat crop or oat crop or barley crop ; “ Manure.”
- “ Regulations ” means regulations made under this Act ; “ Regulations.”
- “ Seed ” means seed for the purpose of obtaining any crop as defined in this section ; and “ Seed.”

(b) save as otherwise provided in this section words and expressions used in this Act shall have the like meaning as in Part VII. of the *Instruments Act* 1915. No. 2672 Part VII.

(2) The supply of seed or fodder or manure on an order under this Act shall be deemed to be a sale within the meaning of the *Seeds Act* 1915 and the *Stock Foods Act* 1915 and the *Fertilizers Acts* respectively. Nos. 2722, 2732, 2852, 3597.

*Advances.*

Advances to  
cultivators.  
Comp. No. 3551  
s. 3.

3. (1) Where the Minister is satisfied that through the existence or consequences of drought or other adverse climatic conditions any cultivator would not be able without an advance or advances—

- (a) to fallow or crop his farm or a reasonably sufficient area thereof; or
- (b) to effect necessary improvements thereon; or
- (c) during the period before the harvesting of the next crop, to continue working or residing on the farm—

the Minister in order to enable the cultivator so to do may, during the period ending on the thirty-first day of December One thousand nine hundred and twenty-nine, grant an advance or advances to the cultivator by way of loan (bearing interest at the rate of Six pounds per centum per annum)—

Interest.

- (d) of such quantity as the Minister thinks fit of seed or fodder or manure or building or fencing materials or of some or all of them: or
- (e) of such amount of money as the Minister thinks fit—

- (i) for effecting necessary improvements such as the erection of buildings or fences or clearing the land or sinking tanks or dams thereon; or
- (ii) for the sustenance of the cultivator and his dependants while work on fallowing or on cropping or on the said improvements is being done by him; or
- (iii) for such other purposes (whether or not of a similar nature to the foregoing purposes) as the Minister considers necessary to enable the cultivator during the period before the completion of the harvesting of the next crop to continue working or residing on the farm.

Mode of making  
advances of  
seed &c.  
Ib.

(2) An advance pursuant to paragraph (d) of sub-section (1) of this section may be made by giving to the cultivator seed or fodder or manure or building or fencing materials or some or all of them in kind or by giving him an order or orders from the Minister authorizing some person or persons

persons to supply to the cultivator seed or fodder or manure or building or fencing materials or some or all of them to the value named in the order.

(3) For the purposes of this Act the value of the seed or fodder or manure or building or fencing materials or some or all of them advanced in kind to a cultivator or for which an order is given to a cultivator shall be deemed and taken to be the amount of the advance granted to the cultivator.

Amount of  
advance or  
order.

Comp. No. 3551  
s. 3.

(4) An advance pursuant to paragraph (c) of sub-section (1) of this section may be made in accordance with the regulations and the expenditure thereof shall be subject to the regulations and to the terms and conditions of any agreement entered into by the cultivator with respect to the advance.

Mode of  
making  
advances  
of money.

4. (1) In order to secure the repayment of an advance under this Act and the payment of interest thereon a cultivator (except as hereinafter provided) shall to the necessary extent give to the Board a mortgage over his farm or a licence lien or lien on the improvements thereon and also if the Board thinks it necessary a preferable lien under Part VII. of the *Instruments Act* 1915 on the crop of the harvest of such cultivator immediately preceding the first day of February One thousand nine hundred and thirty in respect of the whole advance or if the Minister so determines in respect of the first of the instalments hereinafter mentioned, and further (notwithstanding anything in the said Act) a preferable lien under the said Part on the succeeding crop or on each of the two succeeding crops (as the case requires) in respect of the said remaining instalment or instalments, and each such lien shall be a first charge upon the produce of the crop on which it is given whether sown at the time of giving such lien or not.

Security by way  
of mortgage or  
lien for advance.

Ib. s. 4.

No. 2672 ss. 157  
&c.

(2) The Minister may if he thinks fit require any cultivator to give two or more of such securities or classes of securities or to give any other security or securities deemed necessary to secure the repayment of any advance and the payment of interest thereon.

Two or more  
such or other  
securities if  
required.

(3) Where the repayment of any advance is secured by mortgage or licence lien or lien on improvements or any other security (other than a preferable lien aforesaid) or some or all of them such repayment shall be made by the cultivator

Repayment in  
one amount or  
by instalments.

cultivator in one amount or if the Minister so determines in two or three yearly instalments which amount or (as the case requires) the first of which instalments shall become due and payable on the first day of January One thousand nine hundred and thirty.

Power of certain  
lessees to  
mortgage.

(4) Notwithstanding anything in the Land Acts or in any perpetual lease conditional purchase lease or selection purchase lease a perpetual lessee conditional purchase lessee or selection purchase lessee shall for the purposes of this Act have full and complete authority to mortgage his lease.

Priority of  
Board's  
security.  
Comp. No. 3551  
s. 5.

5. Where the land or improvements of a cultivator is or are subject to any mortgage or encumbrance legal or equitable—

- (a) no advance shall save as otherwise expressly provided be made to any cultivator without the written consent of each mortgagee or encumbrancer of such land or improvements ;
- (b) such consent shall be in the form or to the effect prescribed by the regulations under this Act ;
- (c) when any advance has been granted and made to a cultivator under this Act the security taken by the Board shall without further or other authority than this Act have priority over any such mortgage and encumbrance as first aforesaid ; and
- (d) for the purposes of this Act all persons or corporations (whether trustees executors or administrators or not) being mortgagees or encumbrancers of any such land or improvements are hereby authorized to consent to any such advance being made.

Security by way  
of preferable  
lien on crop.  
Ib. s. 6.

6. Where a cultivator is unable to give to the Board security by way of a mortgage of his farm or a licence lien or a lien on the improvements thereon or any other security (other than a preferable lien), as the case may be, or where the mortgagee or encumbrancer refuses his consent to an advance being made or where such consent cannot in the opinion of the Minister be obtained conveniently or within a reasonable time the Minister if he thinks fit may grant the cultivator an advance upon the terms following :—

- (a) The sum advanced shall be repaid with interest thereon in one amount or if the Minister so determines in two or three instalments which amount

amount or (as the case requires) the first of which instalments shall become due and payable on the first day of January One thousand nine hundred and thirty.

- (b) Such sum shall be advanced upon the security of a preferable lien under Part VII. of the *Instruments Act* 1915 on the crop of the harvest immediately preceding the first day of February One thousand nine hundred and thirty on the farm of such cultivator in respect of the whole advance or (as the case requires) in respect of the first of such instalments and further (notwithstanding anything in the said Act) a preferable lien under the said Part on the succeeding or on each of the two succeeding crops (as the case requires) in respect of the said remaining instalment or instalments and each such lien shall be a first charge upon the produce of the crop on which it is given whether sown at the time of giving such lien or not.

7. (1) Any person who (whether before or after the commencement of this Act) has entered into an agreement with the owner or occupier of a farm to cultivate the same or any part thereof on shares or under a lease may (whether the said owner or occupier consents or not) obtain an advance up to an amount approved by the Minister but not exceeding the sum of Three hundred pounds under this Act (in one amount or in such instalments as the Minister determines) and as security for the repayment thereof and payment of interest thereon at the rate aforesaid give to the Board a preferable lien on the whole of the crop of the harvest immediately preceding the first day of February One thousand nine hundred and thirty of the said farm or part thereof.

Provision for advances to share or tenant farmers.

Comp. No. 3551  
S. 7.

(2) Every advance under this section shall (with interest thereon as aforesaid to the date of repayment) be repayable on the first day of January One thousand nine hundred and thirty.

Date of repayment.

(3) Subject to this section the provisions of this Act as to cultivators shall with such alterations modifications and substitutions as are necessary extend and apply to persons to whom advances are made under this section.

Application of provisions as to cultivators.

8. (1) Notwithstanding

Preferable liens  
on crops.  
Comp. No. 3551  
s. 8.

8. (1) Notwithstanding anything in Part VII. of the *Instruments Act 1915*—

- (a) a preferable lien on crops although given for the purposes of this Act before the existence of a growing crop shall be as valid and effectual and have the like force and effect as if it had been given on a growing crop ; and
- (b) in any case where pursuant to this Act a preferable lien is given on the crop of the harvest immediately preceding the first day of February One thousand nine hundred and thirty and on the next succeeding crop or two succeeding crops (as the case may be) the agreement relating thereto may be embodied in one document and may be registered under Part VII. of the said Act and the provisions of such Part shall with such alterations modifications and substitutions as are necessary extend and apply and be read and construed accordingly ; and such agreement when once registered shall as regards the crops intended to be affected thereby be as valid and effectual so far as registration is concerned as if in all respects all the requirements of Part VII. of the said Act as to registration had been fulfilled.

Construction  
of No. 2672  
s. 158 for  
purposes of  
such liens.

(2) For the purposes of any such preferable lien section one hundred and fifty-eight of the said Act shall be read and construed and have effect as if in the said section for the words "is registered within ten days after the date of such agreement" there were substituted the words "is registered within thirty-one days after the date of such agreement."

Adoption of  
Ninth Schedule  
to No. 2672.

(3) For the purposes of any such preferable lien the Ninth Schedule to the *Instruments Act 1915* shall be used with such modifications as the regulations prescribe.

Non-application  
of ss. 160 and  
161 of No. 2672.

(4) Sections one hundred and sixty and one hundred and sixty-one of the *Instruments Act 1915* shall not apply to any preferable lien given to the Board pursuant to this Act.

Power to  
include previous  
advance in  
mortgage or  
lien.

Comp. No. 3551  
s. 8 (5).

(5) The amount of a mortgage licence lien or lien on improvements or preferable lien or other security given to secure the repayment of an advance under this Act with interest may if the Minister so determines be increased beyond the amount of the advance to an extent sufficient  
in

in the opinion of the Minister to secure the repayment of such advance and interest and also the repayment of any previous advance or advances or part thereof (with interest) to such cultivator made pursuant to the provisions of any Act relating to advances by the Minister of seed or fodder or manure or building or fencing materials or some or all of them or (pursuant to paragraph (ii) of sub-section (1) of section three of the *Cultivation Advances Act 1927* and whether or not in addition to any or some or all of the preceding advances) of money, or otherwise made by the Minister or the Board for seed or fodder or manure or building or fencing materials or some or all of them or (as aforesaid) in money, out of moneys legally available for the purpose before the commencement of this Act.

See Nos. 1433,  
1816, 2568,  
3037, 3052,  
3510, 3551.

No. 3551  
s. 3 (1) (ii).

(6) Notwithstanding anything in any Act or any law to the contrary every preferable lien given to the Board pursuant to this Act on any crop (whether sown at the time of giving such lien or not) in respect of any advance under this Act or any previous advance referred to in the last preceding sub-section of this section shall be a first charge upon the produce of such crop and shall without further or other authority than this Act have priority over every other lien or encumbrance whatsoever on or over such crop whether registered or made before or after the giving of the preferable lien and whether before or after the commencement of this Act.

Priority of  
preferable  
liens.

Comp. No. 3551  
s. 8 (6).

9. In addition to the security to be given as in this Act provided—

Personal  
liability for  
advance.

Ib. s. 9.

- (a) the amount at any time due to the Board by any cultivator who receives an advance under this Act shall with interest thereon be a debt due to the Board by the cultivator; and
- (b) payment thereof or of any instalment which is due and owing may subject to this Act be enforced at any time after the harvesting of any crops on the farm of such cultivator:

Provided that the Board may at any time by notice in writing sent through the post by registered letter to the cultivator at his address appearing in the security demand the repayment of the amount advanced or of any portion thereof remaining unpaid together with interest thereon; and the said amount or portion thereof and interest shall become due and payable on the date of the demand.

10. (1) Notwithstanding



Crops not to be  
distrained or  
cultivator  
ejected whilst  
crops growing.  
Comp. No. 3551  
s. 10.

10. (1) Notwithstanding anything in this or any other Act or in any mortgage or lease or agreement no person shall unless he first pays to the Board the total amount due by the cultivator be entitled—

(a) to seize or distrain any crop (whether growing or harvested) of any cultivator during the period for which any preferable lien given under this Act is in force ; or

(b) during the said period to take any proceedings by way of ejection against the cultivator.

Right of  
mortgages &c.  
paying amount  
due to recover  
from cultivator.

(2) Every person who so pays to the Board the total amount due by the cultivator under this Act may recover the same from the cultivator as a debt together with all costs of proceedings attending the recovery thereof or retain or deduct the same out of any money in his hands belonging or payable to such cultivator ; and all payments made as aforesaid by a mortgagee shall until repaid or recovered be added to the principal moneys secured by his mortgage and bear interest accordingly.

Meaning of  
"crop."

(3) In this section the term "crop" has the same meaning as in this Act but is not restricted to crops growing and not harvested.

Authority to  
trustees &c. to  
pay to Board.

(4) For the purposes of this section all persons or corporations (whether trustees executors or administrators or not) are hereby authorized to make such payment to the Board as aforesaid.

Repayments to  
be paid into  
State Loans  
Repayment  
Fund.

Ib. s. 11.

See No. 3554  
s. 9.

Losses  
chargeable  
upon  
consolidated  
revenue.

11. (1) All sums received or recovered by the Board in repayment of any advance granted to a cultivator pursuant to this Act shall be paid by the Board into the State Loans Repayment Fund.

(2) Any expenditure or loss occasioned by the operation of this Act shall be a charge upon the consolidated revenue.

Penalties.

Comp. No. 3551  
s. 12.

12. Any person—

(a) who receives any order from the Minister under this Act and in any manner directly or indirectly uses the same or permits the same to be used for any purpose whatsoever other than obtaining seed or fodder or manure or some or all of them for the purpose of the cultivation of his farm or obtaining building or fencing materials for the purpose of effecting necessary improvements on his farm ; or

(b) who

- (b) who gives or pays or allows for any order any money or any valuable consideration other than that set forth in such order ; or
- (c) who receives an advance of seed or fodder or manure or building or fencing materials or some or all of them and sells barter or gives away any of such seed or fodder or manure or materials or allows any of the same to be sold bartered or given away or in any way or by any means whatever directly or indirectly disposes or attempts to dispose thereof or uses the same for any purpose other than the cultivation of or (as the case may be) effecting necessary improvements on his farm ; or
- (d) who receives an advance in money from the Minister under this Act and in any manner directly or indirectly uses the same or permits the same to be used for any purposes whatsoever other than the purposes provided in the agreement for the advance ; or
- (e) who wilfully makes any false statement in any application return statement or declaration under or for the purposes of this Act—

shall be guilty of a misdemeanour and be liable to a penalty of not more than One hundred pounds or to imprisonment for a term of not more than four years or to both such penalty and imprisonment.

#### *Financial.*

13. Notwithstanding anything to the contrary in the *Cultivation Advances Act 1927*, advances by way of loan may be made under and pursuant to this Act out of any moneys raised (whether before or after the coming into force of this Act) under the first-mentioned Act so far as such moneys are not required for the purposes mentioned in that Act.

Application for purposes of this Act of moneys raised under No. 8551.

#### *Regulations.*

14. (1) The Governor in Council may make regulations prescribing—

Power to make regulations.  
Comp. No. 8551  
s. 15.

- (a) the mode and form of making applications for advances (including advances of money) under this Act and whether such applications are to be verified by statutory declaration or otherwise ;

(b) the

- (b) the form of orders to persons to supply seed or fodder or manure or building or fencing materials or some or all of them to cultivators and the conditions on which such orders shall be honoured ;
- (c) the form of agreements for advances of money under this Act, the purposes for which such advances may be made, the conditions that may be inserted in such agreements, and generally with respect to such advances and the agreements therefor and the supervision of and accounting for the expenditure thereof ;
- (d) the form of renewal of any security and the entry of satisfaction ;
- (e) the form of consent of mortgagees and encumbrancers to any mortgage or encumbrance being given by any cultivator to the Board ;
- (f) any matters required or permitted to be prescribed by regulations under this Act ;
- (g) penalties not exceeding Five pounds for breach of any regulation ; and
- (h) any other matters not inconsistent with this Act necessary or convenient to give effect to this Act and to the purposes and objects thereof.

**Publication.**

(2) All such regulations shall be published in the *Government Gazette* and shall be laid before both Houses of Parliament within fourteen days after the making thereof if Parliament is then sitting and if Parliament is not then sitting then within fourteen days after the next meeting of Parliament.