

ACT

Amended by

Act No. 10 of 1990

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CHAPTER 9

AGRICULTURAL LOANS ACT

An Act relating to loans for agricultural purposes.

[Amended by Act No. 10 of 1990.]

[30th October, 1937.]

1. Short title

This Act may be cited as the Agricultural Loans Act.

2. Interpretation

In this Act—

“lender” means any person making a loan under this Act, including the Government;

“owner” includes a person in the actual possession or receipt of the rents and profits of land and also a trustee, guardian, or receiver or an attorney of an owner having authority under a power registered in the Deeds and Land Registry to carry on the cultivation and management of land, but does not include a tenant for years holding under a lease or an agreement for a lease for a term of years whereof less than five years are unexpired, or a tenant for any less term;

“Registrar” means the Registrar of the Supreme Court.

3. Power to make loans under the Act

Subject as hereinafter mentioned a loan for the cultivation and management of land may be made under this Act on the filing of a certificate of loan hereinafter mentioned.

4. Authority of Minister to make loan

It shall be lawful for the Minister by warrant under his or her hand to authorise the Permanent Secretary (Finance) to pay out of any monies forming part of the loan under the Loan (Small Agriculturists) Act, Chapter No. 175 of 1958, or any fund constituted thereunder such sum or sums of money as shall be required for loans by the Government under this Act.

5. Extent of loan

(1) No person who is owner of lands of a gross agricultural value exceeding two thousand five hundred dollars shall be eligible for a loan by the Government under this Act:

Provided that the Minister may from time to time increase the limit herein prescribed to any amount not exceeding five thousand dollars.

(2) Notwithstanding anything to the contrary in this section contained, the Minister may, in the case of the establishment of any cultivation other than cocoa, nutmegs, sugar-cane or coconuts, make such a loan as is herein authorised to any person, although the value of the land exceeds the value herein mentioned.

6. Purposes of loan

(1) A loan under this Act shall not be applied by the owner except for any of the purposes in this section mentioned, namely—

(a)

the cultivation and management of the land in respect of which such loan is made (including the curing or manufacture of the crops and the delivery of the same for shipment or sale);

(b)

the purchase of livestock for the production of manure for such lands;

(c)

the purchase of fertilizers for such lands;

(d)

the purchase of usual and necessary plantation supplies for such lands;

(e)

the provision of living expenses for the owner as manager where he or she is manager of such lands (the amount of such living expenses to be fixed by agreement between the lender and the owner).

(2) Every applicant for a loan shall set out the purpose or purposes authorised by this section for which the loan is required.

7. Loan a charge on land and produce

(1) A loan under this Act with interest thereon, and all charges incidental thereto and to the repayment thereof shall be a charge—

(a)

upon the crops or produce grown on the land in respect of which the loan is made before, and after, being severed therefrom, and on any product or article cured, made or manufactured from such crops or produce subject to any registered bill of sale or other registered charge on such crops or produce or on any such product or article cured, made or manufactured as aforesaid; and such crops and produce after severance from the land, and the product or article cured, made or manufactured therefrom, shall not be deemed to be personal chattels within the meaning of the Bills of Sale Act, Chapter 33;

(b)

upon any livestock (and any progeny thereof born after the date of the loan), any unused fertilizers, and any plantation supplies respectively purchased with the loan or any part thereof subject to any registered bill of sale or other registered charge on any such livestock or articles as aforesaid;

(c)

upon the land in respect of which the loan is made to the extent of the beneficial interest of the owner therein, and subject to prior registered charges and encumbrances on such interest of the owner in such lands:

Provided that such charge shall operate in respect of crops and produce after severance from the land, the products and articles cured made or manufactured therefrom and livestock and progeny thereof, only so long as they are the property of the person to whom the land belongs.

(2) The charge shall be a fixed charge on the land in respect of which the loan is made, and on such part of the items enumerated in subsection (1)(a) and (b) of as may be specified in the certificate of loan as being subject to a fixed charge, and a floating charge on such part of the items mentioned in those paragraphs as are not so specified.

8. Effect of fixed charge

(1) A fixed charge shall, so long as the charge continues in force, confer on the lender the following rights and impose upon the lender the following obligations, that is to say—

(a)

a right, upon the happening of any event specified in the charge as being an event authorising the seizure of property subject to the charge, to take possession of any property so subject;

(b)

where possession of any property has been so taken, a right, after an interval of five clear days or such less time as may be allowed by the charge, to sell the property either by auction or, if the charge so provides, by private treaty and either for a lump sum payment or payment by instalments;

(c)

an obligation, in the event of such power of sale being exercised, to apply the proceeds of sale in or towards the discharge of the monies and liabilities secured by the charge, and the cost of seizure and sale, and to pay the surplus (if any) of the proceeds to the owner.

(2) A fixed charge shall, so long as the charge continues in force, impose on the owner an obligation whenever he or she sells or receives any money under a policy of insurance in respect of any of the property, forthwith to pay to the lender the amount of the proceeds of the sale except to such extent as the charge otherwise provides or the lender otherwise allows; the sums so paid to be applied, except so far as otherwise agreed, by the lender in or towards the discharge of monies and liabilities secured by the charge.

(3) Subject to compliance with the obligations so imposed, a fixed charge shall not prevent the owner selling any of the property subject to the charge, and neither the purchaser, nor, in the case of a sale by auction, the auctioneer shall be concerned to see that such obligations are complied with notwithstanding that he or she may be aware of the existence of the charge.

(4) Where any proceeds of sale which in pursuance of such obligation as aforesaid ought to be paid to the lender are paid to some other person, nothing in this Act shall confer on the lender a right to recover such proceeds from that other person, unless the lender proves that such other person knew that the proceeds were paid to him or her in breach of such obligation, as aforesaid, but such other person shall not be deemed to have such knowledge by reason only that he or she has notice of the charge.

9. Effect of floating charge

The floating charge shall have the like effect as if the charge had been created by a duly registered debenture issued by a company:

Provided that—

(a)

the charge shall become a fixed charge upon the property comprised in the charge as existing at the date of its becoming a fixed charge—

(i)

upon a receiving order being made against the owner,

(ii)

upon the death of the owner,

(iii)

upon the dissolution of partnership in the case where the property charged is partnership property,

(iv)

upon notice in writing to that effect being given by the lender on the happening of any event which by virtue of the charge confers on the lender the right to give such a notice;

(b)

the owner, whilst the charge remains a floating charge, shall be subject to the like obligation as in the case of a fixed charge to pay over to the lender the amount received by him or her by way of proceeds of sale, or under a policy of insurance, and the last foregoing section shall apply accordingly:

Provided that it shall not be necessary for an owner to comply with such obligation if and so far as the amount so received is expended by him or her in the purchase of farming stock which on purchase becomes subject to the charge.

10. Duration of charge

A charge created under section 7 shall continue in force until the loan is repaid, and such repayment shall be due—

(a)

in the case of a loan made in accordance with the provisions of section 5(2), within three years of the date specified in the certificate of loan as the date of the commencement of the loan;

(b)

in the case of a loan made for the purpose set forth in section 6(1)(c), within two years of the date specified in the certificate of loan, as the date of the commencement of the loan; and

(c)

in the case of any other loan, within one year of the date specified in the certificate of loan, which date shall not be later than one year from the date of the filing of such certificate.

11. Power to make loan by instalments

The amount of any loan mentioned in a certificate of loan may be paid by the lender to the owner by instalments from time to time during the period of one year from the date of the filing of the certificate of loan.

12. Misapplication of loan

(1) An owner who—

(a)

applies any loan under this Act for any purpose—

(i)

other than a purpose authorised by this Act, or

(ii)

other than any purpose mentioned in such owner's application for a loan and without the previous consent of the lender; or

(b)

with intent to defraud—

(i)

fails to comply with the obligations imposed by this Act as to the payment over to the lender of any sums received by him or her by way of proceeds of sale, or under a policy of insurance, or

(ii)

removes or suffers to be removed from the land any property subject to the charge,

shall be guilty of an offence and liable, on summary conviction, to a fine of five thousand dollars and to imprisonment for twelve months.

(2) The onus of proving the manner in which the loan has been applied shall be upon the owner.

13. Certificate of loan

(1) The owner shall execute and deliver to the lender a certificate of loan in the Form A in the First Schedule.

(2) No stamp duty shall be payable in respect of such certificate.

14. Loan Book

(1) The Registrar shall keep a book called the Loan Book for the purposes of this Act, and shall, upon the filing of any certificate of loan, enter therein in the Form B in the First Schedule, the particulars of the certificate of loan, and shall number all such certificates filed in each year consecutively, according to the respective dates of their filing.

(2) The Registrar shall also keep an index of the names of the owners with a reference to the entries in the Loan Book of the certificate given by each such owner.

(3) Any person shall be entitled to search the Loan Book and every certificate filed and to make extracts upon payment of the prescribed fee.

15. Entry of satisfaction of loan

Where a loan under this Act has been repaid together with all interest payable thereon, the Registrar shall, upon the filing of an acknowledgment of such payment, make an entry in the Loan Book of such repayment.

16. Account of loan

Every owner who shall obtain a loan under this Act shall keep a particular account in writing of the amount of money so borrowed and the application thereof, showing the balance in hand unapplied from time to time.

17. Inspection of accounts

(1) The owner shall, if requested by the lender, produce within fourteen days after the end of each quarter to the lender for his or her inspection such account made up to the end of the quarter, and such vouchers for the expenditure mentioned therein as the lender may require.

(2) Any owner who makes default in complying with any requirement of this section shall be guilty of an offence and liable, on summary conviction, to a fine of two hundred and fifty dollars for every day during which the default continues.

18. Power of entry to inspect land

(1) The lender or his or her agent may at all reasonable times by day enter upon the land in respect of which the loan was made and inspect the same.

(2) An owner or other person obstructing the lender or his or her agent in making such inspection shall be guilty of an offence and liable, on summary conviction, to a fine of three thousand dollars.

19. Procedure for recovery of loan and interest

Any money due and payable in respect of any loan made under the provisions of this Act or any interest thereon may, if unpaid, be recovered by suit in the High Court in the manner provided in the Civil Procedure Act, Chapter 55.

20. Fees

There shall be paid to the Registrar the fees set forth in the Second Schedule.

21. Board of Control

(1) There shall be constituted a Board of Control for the purpose of considering applications for loans by the Government under this Act.

(2) All decisions of the Board of Control shall be subject to review by the Minister whose decision shall be final.

(3) The Board shall consist of such persons as the Minister shall from time to time appoint.

22. Regulations

The Minister may make regulations—

(a)

altering the forms and the fees set forth in the Schedules;

(b)

regulating the composition of the Board of Control, its officers, functions and procedure;

(c)

generally for the better carrying out of the purposes of this Act.

First Schedule

AGRICULTURAL LOANS ACT

Forms

FORM A

[Section 13(1).]

Form of Certificate of Loan

I,

, of
the owner of the
undermentioned (*state property to be charged*) hereby certify that I have obtained
from
of

a loan of \$
which loan is to bear interest at the rate of

per cent
per annum, and shall create a charge on the said land and on
until the same shall be repaid.

The description of the property is as follows:
(*The description must include the area and situation of the land*)

Dated, etc.

(*Signed*)

FORM B

[Section 14(1).]

Form of Loan Book

<i>No.</i>	<i>Name of owner</i>	<i>Residence</i>	<i>Name of lender</i>	<i>Residence</i>	<i>Amount of loan</i>	<i>Rate of interest</i>	<i>Date of filing</i>	<i>Date of repayment</i>
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Second Schedule

AGRICULTURAL LOANS ACT

Fees Payable to Registrar

[Section 20.]

On filing a receipt on repayment of loan

25 cents

On making a search

25 cents

On making an extract

50 cents

