

# Rural Assistance Act 1989 No 97

[1989-97]



New South Wales

## Status Information

### Currency of version

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Responsible Minister

- Minister for Agriculture

For full details of Ministerial responsibilities, see the [Administrative Arrangements \(Minns Ministry—Administration of Acts\) Order 2023](#).

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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# Rural Assistance Act 1989 No 97



New South Wales

An Act to enable the provision of rural assistance; to constitute the New South Wales Rural Assistance Authority and to specify its functions; and for other purposes.

## Part 1 Preliminary

### 1 Name of Act

This Act may be cited as the *Rural Assistance Act 1989*.

### 2 Commencement

- (1) Except as provided by subsection (2), this Act commences on a day or days to be appointed by proclamation.
- (2) Clause 3 of Schedule 3, and section 58 in its application to that clause, commence on the date of assent.

### 2A Object of Act

The object of this Act is to promote the efficient delivery of programs of assistance to farmers and other persons engaged in rural industries, and to other persons as provided by this Act.

### 3 Definitions

- (1) In this Act—

**Authority** means the New South Wales Rural Assistance Authority constituted by this Act.

**Board** means the New South Wales Rural Assistance Authority Board constituted by this Act.

**Crown Lands Acts** means—

- (a) the Crown Land Acts within the meaning of the *Crown Land Management Act 2016*, or
- (b) such Acts as may be prescribed by the regulations.

**farm** means the land on which a farmer engages in a farming operation.

**farmer** means a person who is engaged in a farming operation and includes a person who owns land cultivated under a share-farming agreement and the personal representatives of a deceased farmer.

**farming operation** means—

- (a) a farming (including dairy farming, poultry farming and bee farming), pastoral, horticultural or grazing operation, or
- (b) any other operation prescribed for the purposes of this definition.

**officer** includes an employee.

(2) In this Act—

- (a) a reference to a function includes a reference to a power, authority and duty, and
- (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

(3) Notes included in this Act do not form part of this Act.

## **Part 2 New South Wales Rural Assistance Authority**

### **Division 1 Constitution of the Authority**

#### **4 Constitution of the Authority**

- (1) There is constituted by this Act a corporation with the corporate name of the New South Wales Rural Assistance Authority.
- (2) The Authority—
  - (a) has the functions conferred or imposed on it by or under this or any other Act, and
  - (b) is, for the purposes of any Act, a statutory body representing the Crown, and
  - (c) is, in the exercise of its functions, subject to the control and direction of the Minister.

### **Division 2 General functions of the Authority**

#### **5 Provision of rural assistance**

The Authority shall, in accordance with this or any other Act, provide assistance, and administer programs for the provision of assistance, to farmers or other persons engaged in rural industries or any other persons eligible to obtain such assistance.

## **6 Review of programs of assistance etc**

The Authority may from time to time and shall at any time at the request of the Minister—

- (a) review and report on the operation of any program for the provision of assistance to farmers or other persons, or
- (b) report on any proposed program for the provision of assistance to farmers or other persons, or
- (c) publish information concerning the provision of assistance to farmers or other persons, or
- (d) advise the Minister on any matter relating to the provision of assistance to farmers or other persons or any other function of the Authority.

## **7 Arrangements with financial organisations**

- (1) The Authority may authorise a bank, building society or credit union to carry out any of the following functions—
  - (a) the lodging of applications for assistance,
  - (b) the payment of money by, or to, the Authority,
  - (c) the execution of documents on behalf of the Authority,
  - (d) the transaction of any business or the doing of any act (other than the determination of applications for assistance) that the Authority is authorised or required to transact or do in the exercise of its functions.
- (2) The Authority may appoint agents, and act as agent for other persons.

## **8 Other functions**

- (1) The Governor may, by order, appoint the Authority to undertake (as an agent or otherwise) the exercise of the functions specified in the order on behalf of the Government or any body constituted by or under an Act.
- (2) An order may make provision for the payment to the Authority of money owing to or held by the Government or the body with respect to the functions specified in the order and has effect according to its tenor.
- (3) Persons may be employed in the Public Service under the [Government Sector Employment Act 2013](#) to enable the Authority to exercise its functions.

### **Note—**

Section 59 of the [Government Sector Employment Act 2013](#) provides that the persons so employed (or whose services the Authority makes use of) may be referred to as officers or employees, or members of staff, of the Authority. Section 47A of the [Constitution Act 1902](#) precludes the Authority from employing

staff.

## **Division 3 Management of the Authority**

### **9 Constitution of the Board**

- (1) There shall be a New South Wales Rural Assistance Authority Board.
- (2) The Board shall consist of—
  - (a) the Chief Executive of the Authority, and
  - (b) 6 part-time members appointed by the Minister.
- (3) Of the part-time members—
  - (a) 2 shall be appointed to represent farmers, and
  - (b) 2 shall have such qualifications in banking or finance, farm management or an associated area as the Minister considers necessary to enable the Board to carry out its functions, and
  - (c) 2 are to have such backgrounds in social welfare, rural counselling, conservation or other areas as the Minister considers necessary to enable the Board to carry out its functions.
- (4) Schedule 1 has effect with respect to the constitution and procedure of the Board.

### **10 Functions of Board**

- (1) The Board has the following functions—
  - (a) to advise the Minister on the provision of assistance under this Act,
  - (b) to report to the Minister at least annually on—
    - (i) the effectiveness of programs of assistance implemented under this Act in meeting the Government's objectives for those programs, and
    - (ii) the performance of the Authority in the delivery of assistance under programs implemented or administered under this Act,
  - (c) to determine the general policies of the Authority including by means of the setting of guidelines for the implementation of particular programs of assistance under this Act.
- (2) In exercising those functions, the Board shall, as far as practicable, ensure that the activities of the Authority are carried out properly and efficiently.

### **11 Chief Executive of the Authority**

The Chief Executive of the Authority is the person employed in the Public Service as the Chief Executive of the Authority.

### **12 Chief Executive to manage the Authority**

- (1) The affairs of the Authority shall be managed and controlled by the Chief Executive in accordance with the policies of the Board.
- (2) Any act, matter or thing done in the name of, or on behalf of, the Authority by the Chief Executive shall be taken to have been done by the Authority.

### **12A Authority to provide Board with information**

The Authority must provide to the Board such information as the Board may from time to time request with respect to the following—

- (a) the implementation by the Authority of guidelines advised by the Board in respect of particular programs of assistance under this Act,
- (b) the delivery of assistance by the Authority under programs implemented or administered under this Act,
- (c) the operation and management of the Authority.

### **12B Review of composition of Board**

At least once within each 5 year period occurring from the commencement of this section the Minister is to review the requirements of this Act as to the composition of the Board for the purpose of ensuring that decisions of the Board continue to reflect community views on rural assistance and disaster relief issues.

## **Division 4**

### **13, 14 (Repealed)**

## **Part 3 Provision of assistance**

### **Division 1 Applications**

#### **15 Applications for assistance**

- (1) A farmer or another person engaged in a rural industry, or any other person eligible to apply to the Authority for assistance under this or any other Act or under any program administered by the Authority, may apply to the Authority for assistance.
- (2) An application shall—
  - (a) be in the form approved by the Authority, and

- (b) identify the assistance sought, and
- (c) include the particulars prescribed by the regulations, and
- (d) be accompanied by such information and documents as the Authority may require, and
- (e) be lodged at the office of the Authority.

(3) The Authority may, with the consent of the applicant, amend an application.

## **16 Determination of applications**

- (1) The Authority shall determine an application for assistance—
  - (a) by granting assistance to the applicant, or
  - (b) by refusing to grant assistance to the applicant.
- (2) If the Authority refuses to grant assistance, the Authority shall, as soon as practicable after so refusing, cause notice of the refusal to be served on the applicant.
- (3) The Authority may grant assistance of a kind that is different from the assistance applied for.

## **17 Matters to be considered**

- (1) In determining an application for assistance, the Authority shall consider any matter that it is required, by or under this or any other Act, to consider in relation to any such application.
- (2) The regulations may prescribe matters to be considered either generally or in relation to a particular class of assistance.

## **Division 2 State programs of assistance**

### **18 Programs of assistance**

- (1) The Authority may establish programs for the grant of assistance to farmers and other persons engaged in rural industries, for the following purposes—
  - (a) increasing the level of investment in sustainable land and water management practices,
  - (b) increasing the level of investment in self-preparedness measures that assist them in responding to adjustment pressures and industry downturns,
  - (c) ensuring the availability of short-term assistance in times of natural disaster,
  - (d) such other purposes in connection with the carrying on of farming operations or

rural industries as the Minister may from time to time determine to be appropriate to be the subject of a program of assistance under this Act.

- (2) Under such a program the Authority may grant assistance for any one or more of the following purposes—
  - (a) effecting permanent improvements to a farm (including fencing, fodder or grain storage facilities, stockyards and water supplies of a minor nature),
  - (b) effecting production improvements to a farm (including pasture improvement, fodder conservation and stock improvement),
  - (c) providing relief to a person who is, in the opinion of the Authority, in urgent and genuine need of assistance due to losses suffered through natural disaster,
  - (d) such other purposes as the Minister may from time to time determine.
- (3) Without limiting the generality of subsection (2) (c), assistance may be provided under that paragraph for the following purposes—
  - (a) replacing lost or damaged farm improvements and stock,
  - (b) enabling farming operations to continue,
  - (c) providing fodder,
  - (d) such other purposes (including any purposes for which assistance may be granted under subsection (2) (a), (b) or (d)) as the Minister may from time to time determine.
- (4) Before determining that a grant of assistance to a farmer or person engaged in a rural industry be made, the Authority must consider the principles of ecologically sustainable development described in section 6 (2) of the [Protection of the Environment Administration Act 1991](#).

## **19, 20 (Repealed)**

## **21 Assistance which may be granted**

- (1) The Minister may from time to time determine the kind of assistance which may be granted either generally or in a particular class of cases.
- (2) The Authority may grant assistance under this Division by way of—
  - (a) an interest subsidy of interest payable on, or the associated costs of, a loan, or both, or
  - (b) a loan, or
  - (c) such other means as the Minister may from time to time determine.

## **22 Conditions of assistance**

The Authority may, in granting assistance under this Act, impose such terms and conditions on the grant of assistance as it thinks fit and may, for that purpose, enter into a contract or agreement with any person to whom it grants assistance.

## **23 Loans etc**

Loans may be made by the Authority on such securities and subject to such terms and conditions as may be determined by the Minister either generally or in a particular class of cases (including provision for payment of interest at a rate fixed by the Treasurer).

## **24 Charges on land**

- (1) Any money lent under this Act together with all interest on that money and any costs of recovery of that money is a charge in favour of the Authority over any estate or interest in land of the person to whom the money is lent.
- (2) The charge has no effect unless—
  - (a) in the case of an estate or interest in land under the *Real Property Act 1900*—the Authority lodges with the Registrar-General a caveat against any dealings not consistent with the charge, or
  - (b) in the case of an estate or interest in any other land—the Authority registers the charge in the register of causes, writs and orders affecting land kept in the office of the Registrar-General.

## **Division 3 Administration of Commonwealth and other programs**

### **25 Administration of Commonwealth and other programs**

- (1) The Minister may, by order, appoint the Authority as the authority to administer (either wholly or partly) a program to provide assistance to—
  - (a) farmers or other persons engaged in rural industries, or
  - (b) persons who have disposed of or are disposing of their farms, or
  - (c) other persons,being a program that would not otherwise be administered by the Authority.
- (2) Without limiting the generality of subsection (1), the Minister may appoint the Authority as the authority to administer a program that—
  - (a) is established by or under a Commonwealth Act or pursuant to an agreement between the State and the Commonwealth, or
  - (b) is not established by or under any Act.

- (3) An order appointing the Authority as the authority to administer (either wholly or partly) any such program may confer specified functions on the Authority.
- (4) If an appointment is made under this section, the Authority may—
  - (a) to the extent specified in the order, administer the program concerned, and
  - (b) exercise any functions conferred by the order as well as (subject to this Act) do all such things as are necessary for, or incidental to, the administration of the program, and
  - (c) grant any kind of assistance required or permitted to be granted under the program.
- (5) The regulations may make provision with respect to the exercise of functions conferred by an order under this section or the administration of any program which the Authority administers by virtue of this section.

## **26 Financial arrangements**

- (1) Any money held or received by the State for the purposes of a program that the Authority is appointed to administer under section 25 shall be paid into the Rural Assistance Authority Fund.
- (2) Except where the Treasurer otherwise determines, the Authority shall keep money held for the purposes of a particular program in a separate account in the Rural Assistance Authority Fund.

## **27 Acquisition of land etc**

- (1) If, for the purposes of administering a program referred to in section 25, the Authority is required or permitted to acquire or dispose of land, the Authority may acquire or dispose of that land even though—
  - (a) a consent or permission required by or under a prescribed Act has not been obtained or granted, or
  - (b) the Authority is not qualified by or under a prescribed Act to hold that land.
- (2) The Authority shall not, for the purposes of administering a program referred to in section 25, dispose of land to, or lend money for the acquisition of land by, a person if the price of the land exceeds—
  - (a) the fair market value of the land, or
  - (b) the maximum price, as determined by the Authority, at which a competent person could succeed if the land were acquired by such a person under the program,whichever is the lesser.

- (3) In this section, **fair market value**, in relation to land, means the fair market value of the land as determined by the Authority, having regard to the productive capacity of the land under fair average seasons, prices and conditions and to such other matters as the Authority considers relevant.

## Division 4

### 28-34 (Repealed)

## Part 4 Provisions relating to debtors and Crown lands

### 35 Authority's powers with respect to debtors etc

- (1) The Authority may, despite the provisions of any other Act or regulations made under any such Act—
- (a) waive the payment by a person of any money to which this section applies, or
  - (b) waive the payment by a person of any interest payable on money to which this section applies, or
  - (c) fix the terms of payment of and the rate of interest to be paid on money to which this section applies or, if payment has been waived in part, on the residue of that money, or
  - (d) amend the terms of repayment of money to which this section applies, whether or not by suspending or allowing further time for payment, or
  - (e) write off either wholly or partly money to which this section applies which, in the opinion of the Authority, is not recoverable, or
  - (f) take any action to enable the recovery of money to which this section applies, to secure its repayment or to preserve or protect a security for its repayment, such as the selling or foreclosing of mortgaged property and taking a new or additional security or postponing a security.
- (2) This section applies to money owed by a person to—
- (a) the Rural Assistance Board as constituted under the *Rural Assistance Act 1932* in respect of assistance granted or administered by that Board, or
  - (b) the State Bank in respect of an advance made by the Bank under Division 2, 3 or 5 of Part 4 of the *State Bank Act 1981* or under the *Farm Water Supplies Act 1946* or by virtue of an order made under section 37 of the *State Bank Act 1981* appointing the Bank to carry out functions under the *Soil Conservation Act 1938*, or
  - (c) the State Bank in respect of an advance made by the Bank under any other

prescribed provision of an Act, or

- (d) the Authority in respect of assistance granted before or after the commencement of this section, or
- (e) any other person or body prescribed for the purposes of this section by the regulations.

### **36 Effect of Crown Lands Acts**

- (1) The powers and remedies conferred on the Authority under this Act are not in any way limited by the provisions of the Crown Lands Acts.
- (2) Nothing in the Crown Lands Acts invalidates or affects a mortgage or transfer given or made to the Authority to secure any loan or interest on a loan or any remedy for the recovery of the loan or interest.
- (3) Any such mortgage or transfer may be given or made, and any sale or foreclosure may be effected, even though the land the subject of the mortgage or transfer could not under the terms of the Crown Lands Acts be so transferred, assigned or otherwise dealt with.

### **37 Consent not required to the registration of certain transfers**

- (1) Despite anything to the contrary in the Crown Lands Acts or in the regulations under those Acts, the consent of the Minister administering any of those Acts or of any other person is not required in connection with the registration of transfers to the Authority to secure loans made under this Act or in connection with the registration of transfers by ways of release of mortgage to the original borrower.
- (2) If the Authority exercises its power of sale, under or by virtue of any mortgage or other security, of any land held under the Crown Lands Acts, the transfer by way of sale under those Acts made in the exercise of the Authority's power of sale shall, subject to compliance by the purchaser with subsection (3), be registered despite the non-payment, at the time of registration, of any amounts due to the Crown.
- (3) The purchaser acquiring land in pursuance of any transfer referred to in subsection (2) shall undertake to pay the amount due to the Crown, as so referred to, at the times and in the manner to be agreed on by the Minister administering the Act under which the money is owed and the Authority.

### **38 Conditions attached to land sold on default of mortgagor**

- (1) If land is sold by the Authority for non-payment of principal or interest payable in respect of a loan or for breach of any covenant in the mortgage securing a loan—
  - (a) the land is freed from any charge in respect of the loan, and

(b) where the land was at the time of the sale subject to conditions prescribed by the Crown Lands Acts, the purchaser shall hold it subject to those conditions but freed from any liability for any breach before the sale of any such condition.

(2) The purchaser shall have 6 months from the time of sale to comply with any unfulfilled improvement conditions in relation to the land.

### **39 Forfeited Crown lands securities**

(1) In this section, **appropriate person**, in relation to any land, means—

(a) except as provided by paragraph (b), the Minister administering the Act under which the land is held, or

(b) the person prescribed in relation to that land by the regulations for the purposes of this subsection.

(2) If land which is subject to a mortgage, lien or charge in favour of the Authority is forfeited under the Crown Lands Acts—

(a) the land vests in the Authority for a period of 2 years commencing with the date on which the forfeiture takes effect, or for such longer period after that date as the appropriate person determines, and

(b) within one month after the date the forfeiture takes effect, or such longer period as may be agreed to by the Authority, the appropriate person shall notify the Authority in writing whether or not the appropriate person intends to discharge the Authority's claim, and

(c) if the appropriate person notifies the Authority of an intention to discharge the Authority's claim, the land, on receipt by the Authority of that notification—

(i) is divested from the Authority, and

(ii) becomes subject to the provisions of the Crown Lands Acts, as if a loan had not been made by the Authority,

and the amount of the claim shall be paid to the Authority in pursuance of that notification by the appropriate person before the end of the then current financial year, and

(d) if the appropriate person notifies the Authority that it does not intend to discharge the Authority's claim or requests the Authority to sell the land, the Authority may sell the land to any person.

(3) The purchaser of land sold under this section shall hold it subject to any conditions prescribed by the Crown Lands Acts which, at the date of the forfeiture, were binding on the former holder but freed from any liability for any breach before the sale of any

such conditions.

- (4) The purchaser has 6 months from the time of the sale to comply with any unfulfilled improvement conditions in relation to the land.
- (5) The proceeds of any sale under this section shall be applied—
  - (a) firstly, in payment of any outstanding money due under the Crown Lands Acts at the date of the forfeiture, not exceeding one year's rent or instalment, as the case may be, and
  - (b) secondly, in satisfaction of the claim of the Authority, and
  - (c) thirdly, in payment of any further amount due to the Crown at the date of the forfeiture.
- (6) Any balance remaining after the application of the proceeds of a sale in accordance with this section shall be paid into the Consolidated Fund.
- (7) If the proceeds of any sale made under subsection (2) (d) are, after being applied in accordance with this section, insufficient for payment in full of any further amount due to the Crown referred to in subsection (5) (c), the balance due to the Crown is appropriated by this section for payment out of the Consolidated Fund.
- (8) If the Authority at any time within the period referred to in subsection (2) (a) gives notice in writing to the appropriate person that it is unable to sell the land, the land may, subject to subsection (9), be disposed of as Crown land under the Crown Lands Acts, and any money received by the appropriate person in respect of the improvements on the land shall, to the extent of the Authority's claim, be paid to the Authority.
- (9) At any time before the appropriate person notifies that the land is available for any class of holding the Authority may revoke in writing any notice given by it under subsection (8) and that subsection ceases to have any effect in respect of the land.
- (10) A sale made under subsection (2) (d) may be made on such terms and conditions as the Authority thinks fit.
- (11) On any sale under subsection (2) (d), the purchaser is not bound to see or inquire as to whether a case has arisen to authorise the sale.
- (12) The Authority may, while any land is vested in it under this section, lease or otherwise manage the land and any amount received by the Authority in respect of the land, as rent or otherwise, shall be applied in reduction of the amount due to the Authority in respect of the land.

#### **40 Powers etc of Authority in respect of land vested in it**

- (1) If any land is vested in the Authority by the operation of section 39, the Authority may, while the land remains so vested, make any application or exercise any right, power or privilege which under the Crown Lands Acts might be made or exercised by a holder or owner, subject to mortgage, of land of the same tenure which is not liable for forfeiture.
- (2) If, in consequence of any application made or right, power or privilege exercised by the Authority under subsection (1), the tenure of the land so vested in the Authority is altered, the Authority may exercise the powers conferred on it by section 39 as if the land vested in it had been land of the altered tenure.

### **Part 5 Financial provisions**

#### **41 Rural Assistance Authority Fund**

There shall be established in the Special Deposits Account in the Treasury a Rural Assistance Authority Fund.

#### **42 Payments into the Fund**

There shall be paid into the Rural Assistance Authority Fund—

- (a) all money received by or on account of the Authority, and
- (b) all money advanced to the Authority by the Treasurer or appropriated by Parliament for the purposes of the Authority, and
- (c) all other money required by or under this or any other Act to be paid into the Fund.

#### **43 Payments from the Fund**

There shall be paid from the Rural Assistance Authority Fund—

- (a) all payments made on account of the Authority or otherwise required to meet expenditure incurred in relation to the functions of the Authority, and
- (b) all other payments required by or under this or any other Act to be paid from the Fund.

### **Part 6 Miscellaneous**

#### **44 Misleading applications**

- (1) If, in or in relation to an application made to the Authority, a person makes any statement knowing it to be false or otherwise wilfully misleads the Authority, the Authority may recover from the person the whole or any part of any expense incurred or loss suffered by it as a result of being misled by the person.

- (2) Any amount recoverable by the Authority under this section may be recovered as a debt in a court of competent jurisdiction.

#### **45 Repeated applications**

- (1) If—

- (a) a person makes an application to the Authority which is refused, and
- (b) the person makes a subsequent application to the Authority which is not substantially different from and has no greater merit than the application referred to in paragraph (a),

the Authority may, if the Minister consents in writing to the Authority so doing, serve on the person a notice stating that the Authority will not deal with any further application made by the person unless the person pays to the Authority such expenses with respect to that further application as may be required to be paid by the Authority.

- (2) If the Authority has served on a person a notice under this section, the Authority is not obliged to consider any further application made to it by the person unless the amount required to be paid to the Authority under this section in respect of the further application has been paid.
- (3) If any such further application is refused or granted and the Authority is of the opinion that the further application is substantially different from or has greater merit than the application made by that person and referred to in subsection (1) (a), the Authority shall refund to that person the expenses paid.

#### **46 Authority may call up loans etc obtained by false statement**

- (1) If the Authority is satisfied that a person to whom it has granted assistance has made a statement to the Authority knowing it to be false or has otherwise wilfully misled the Authority (whether before or after the Authority granted the assistance) in or in relation to the application for the assistance, the Authority may, by notice served on the person—
  - (a) call up any loan or other money provided as assistance, and
  - (b) exercise its rights under any security relating to the loan or other money.
- (2) If the Authority calls up a loan or other money under this section, the money is due and payable as from the date specified in the notice calling up the money.

#### **47 Seal of the Authority**

The seal of the Authority shall be kept by the Chief Executive of the Authority and shall be affixed to a document only—

- (a) in the presence of the Chief Executive or a member of the staff of the Authority authorised in that behalf by the Chief Executive, and
- (b) with an attestation by the signature of the Chief Executive or that member of staff of the fact of the affixing of the seal.

#### **48 Personal liability of certain persons**

No matter or thing done by the Authority, a member of the Board or a person acting under the direction of the Authority or of a member of the Board shall, if the matter or thing was done in good faith for the purposes of executing this or any other Act, subject a member of the Board or a person so acting personally to any action, liability, claim or demand.

#### **49 Recovery of charges etc by the Authority**

Any charge, fee or money due to the Authority may be recovered by the Authority as a debt in any court of competent jurisdiction.

#### **50 Delegation by the Authority**

- (1) The Authority may delegate to an authorised person any of the functions of the Authority, other than this power of delegation.
- (2) A delegate may sub-delegate to an authorised person any function delegated by the Authority if the delegate is authorised in writing to do so by the Authority.
- (3) In this section, **authorised person** means—
  - (a) an officer of the Authority, or
  - (b) a person of a class prescribed by the regulations or of a class approved by the Board.

#### **51 Service of documents**

- (1) A document may be served on the Authority by leaving it at, or by sending it by post to—
  - (a) the office of the Authority, or
  - (b) if it has more than one office—any one of its offices.
- (2) A notice or other document required to be served on a person under this Act may be served by sending it by post to the last known place of residence or business of the person.
- (2A) A document, including a notice, may also be served on the Authority or another person by electronic transmission to an address or location specified by the Authority or person for the service of documents of that kind.

- (3) Nothing in this section affects the operation of any provision of a law or of the rules of a court authorising a document to be served on the Authority or a person in any other manner.

## **52 Proof of certain matters not required**

In any legal proceedings, proof is not required (until evidence is given to the contrary) of—

- (a) the constitution of the Authority or the Board, or
- (b) any resolution of the Board, or
- (c) the appointment of, or the holding of office by, any member of the Board, or
- (d) the presence of a quorum at any meeting of the Board.

## **53 Proceedings for offences**

Proceedings for an offence against this Act or the regulations shall be dealt with summarily before the Local Court.

## **54 Applications to court for directions**

- (1) If, in the administration of this Act, a question arises as to—

- (a) the rights of any creditor or alleged creditor, or
- (b) the validity of any act done or proceeding taken under this Act, or
- (c) the extent of the powers of the Authority,

the creditor or alleged creditor or the Authority may refer the question to the Supreme Court or the District Court for decision.

- (2) The decision of the Court on the question is final and conclusive.
- (3) The costs of the proceeding shall be in the discretion of the Court.
- (4) Rules of court may be made with respect to procedure and practice in any such proceedings.

## **55 Act binds Crown**

- (1) This Act binds the Crown in right of New South Wales and, in so far as the legislative power of Parliament permits, the Crown in all its other capacities.
- (2) Nothing in this Act renders the Crown liable to be prosecuted for an offence.

## **56 Disclosure of information**

A person shall not disclose any information obtained in connection with the administration

or execution of this Act (or any other Act conferring or imposing functions on the Authority) unless the disclosure is made—

- (a) with the consent of the person from whom the information was obtained, or
- (b) in connection with the administration or execution of this Act (or any such other Act), or
- (c) for the purposes of any legal proceedings arising out of this Act (or any such other Act) or of any report of any such proceedings, or
- (d) in accordance with a requirement imposed under the *Ombudsman Act 1974*, or
- (e) with other lawful excuse.

Maximum penalty—20 penalty units or imprisonment for 6 months, or both.

## 57 Regulations

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) A regulation may create an offence punishable by a penalty not exceeding 5 penalty units.

## 58 Savings, transitional and other provisions

Schedule 3 has effect.

# Schedule 1 Constitution and procedure of New South Wales Rural Assistance Authority Board

(Section 9 (4))

## 1 Definitions

In this Schedule—

**appointed member**, in relation to the Board, means a member of the Board other than the Chief Executive.

**Chief Executive** means the Chief Executive of the Authority.

## 2 Chairperson of Board

- (1) Of the appointed members of the Board, one shall (in and by the member's instrument of appointment as a member or in and by another instrument executed by the Minister) be appointed as Chairperson of the Board.

- (2) The Minister may remove a member from the office of Chairperson at any time.
- (3) A person who is a member and Chairperson vacates office as Chairperson if the person—
  - (a) is removed from that office by the Minister, or
  - (b) resigns that office by instrument in writing addressed to the Minister, or
  - (c) ceases to be a member.

### **3 Deputies**

- (1) The Chief Executive may, from time to time, appoint a person to be his or her deputy, and the Chief Executive or the Minister may revoke any such appointment.
- (2) The Minister may, from time to time, appoint a person to be the deputy of an appointed member, and the Minister may revoke any such appointment.
- (3) In the absence of a member, the member's deputy—
  - (a) shall, if available, act in the place of the member, and
  - (b) while so acting, has all the functions of the member and shall be taken to be a member.
- (4) The deputy of a member who is Chairperson of the Board does not have the member's functions as Chairperson.
- (5) A person while acting in the place of a member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

### **4 Terms of office of appointed members**

Subject to this Schedule, an appointed member shall hold office for such period (not exceeding 3 years) as may be specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

### **5 Remuneration**

An appointed member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

### **6 Vacancy in office of appointed member**

- (1) The office of an appointed member becomes vacant if the member—
  - (a) dies, or

- (b) completes a term of office and is not re-appointed, or
- (c) resigns the office by instrument in writing addressed to the Minister, or
- (d) is removed from office by the Minister under this clause, or
- (e) is absent from 4 consecutive meetings of the Board of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Board or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Board for having been absent from those meetings, or
- (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
- (g) becomes a mentally incapacitated person, or
- (h) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.

(2) The Minister may remove an appointed member from office at any time.

## **7 Disclosure of pecuniary interests**

(1) If—

- (a) a member of the Board has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Board, and
- (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,

the member shall, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Board.

(2) A disclosure by a member of the Board at a meeting of the Board that the member—

- (a) is a member, or is in the employment, of a specified company or other body, or
- (b) is a partner, or is in the employment, of a specified person, or
- (c) has some other specified interest relating to a specified company or other body or to a specified person,

is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subclause (1).

- (3) Particulars of any disclosure made under this clause shall be recorded by the Board in a book kept for the purpose and that book shall be open at all reasonable hours to inspection by any person on payment of the fee determined by the Board.
- (4) After a member of the Board has disclosed the nature of an interest in any matter, the member shall not, unless the Minister or the Board otherwise determines—
  - (a) be present during any deliberation of the Board with respect to the matter, or
  - (b) take part in any decision of the Board with respect to the matter.
- (5) For the purposes of the making of a determination by the Board under subclause (4), a member who has a direct or indirect pecuniary interest in a matter to which the disclosure relates shall not—
  - (a) be present during any deliberation of the Board for the purpose of making the determination, or
  - (b) take part in the making by the Board of the determination.
- (6) A contravention of this clause does not invalidate any decision of the Board.

#### **8 Filling of vacancy in office of appointed member**

If the office of any appointed member becomes vacant, a person shall, subject to this Act, be appointed to fill the vacancy.

#### **9 Effect of certain other Acts**

- (1) The provisions of the [Government Sector Employment Act 2013](#) relating to the employment of Public Service employees do not apply to an appointed member.
- (2) If by or under any Act provision is made—
  - (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or
  - (b) prohibiting the person from engaging in employment outside the duties of that office,

the provision does not operate to disqualify the person from holding that office and also the office of an appointed member or from accepting and retaining any remuneration payable to the person under this Act as such a member.
- (3) The office of an appointed member is not, for the purposes of any Act, an office or place of profit under the Crown.

#### **10 General procedure**

The procedure for the calling of meetings of the Board and for the conduct of business at

those meetings shall, subject to this Act and the regulations, be as determined by the Board.

### **11 Quorum**

The quorum for a meeting of the Board is a majority of the members for the time being.

### **12 Presiding member**

- (1) The Chairperson of the Board or, in the absence of the Chairperson, another member elected to chair the meeting by the members present shall preside at a meeting of the Board.
- (2) The person presiding at any meeting of the Board has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

### **13 Voting**

A decision supported by a majority of the votes cast at a meeting of the Board at which a quorum is present is the decision of the Board.

### **14 Transaction of business outside meetings or by telephone etc**

- (1) The Board may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the Board for the time being, and a resolution in writing approved in writing by a majority of those members shall be taken to be a decision of the Board.
- (2) The Board may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.
- (3) For the purposes of—
  - (a) the approval of a resolution under subclause (1), or
  - (b) a meeting held in accordance with subclause (2),the Chairperson and each member of the Board have the same voting rights they have at an ordinary meeting of the Board.
- (4) A resolution approved under subclause (1) shall, subject to the regulations, be recorded in the minutes of the Board.
- (5) Papers may be circulated among members of the Board for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.

## 15 First meeting

The Minister shall call the first meeting of the Board in such manner as the Minister thinks fit.

## Schedule 2 (Repealed)

## Schedule 3 Savings, transitional and other provisions

(Section 58)

### Part 1 Preliminary

#### 1 Definition

In this Schedule, **old board** means the Rural Assistance Board as constituted in accordance with the *Rural Assistance Act 1932* immediately before the commencement of Part 2 of this Act.

#### 2 Savings and transitional regulations

(1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts—

    this Act

    the *Miscellaneous Acts (Rural Assistance Authority) Repeal and Amendment Act 1989*

    the [Rural Assistance Amendment \(Board Membership\) Act 1996](#)

(2) Any such provision may, if the regulations so provide, take effect on the date of assent to the Act concerned or a later date.

(3) To the extent to which any such provision takes effect on a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—

    (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or

    (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

### Part 2 Appointments to Board

#### 3 Appointments etc before commencement

For the purpose only of enabling the Rural Assistance Authority Board to be constituted in

accordance with this Act on or after (but not before) the commencement of Part 2 of this Act, appointments may be made under this Act and any other act, matter or thing may be done before that day as if the whole of this Act commenced on the date of assent, but so that no appointment as a member of the Board as so constituted takes effect before that day.

### **Part 3 Provisions relating to the old board**

#### **4 Superseded references**

In any other Act, or in any instrument made under any Act or in any other document of any kind, a reference to (or required immediately before the commencement of this clause to be read as a reference to)—

- (a) the Rural Assistance Board shall be read as a reference to the Authority, or
- (b) the Rural Industries Agency, the Advances to Settlers Agency or the Rural Assistance Agency of the State Bank shall be read as a reference to the Authority, or
- (c) the Director, Deputy Director or Assistant Director of the old board shall be read as a reference to the Chief Executive.

#### **5 Continuity of old board**

The New South Wales Rural Assistance Authority constituted under this Act is a continuation of, and the same legal entity as, the old board.

#### **6 Members of old board**

- (1) A person who, immediately before the repeal of the *Rural Assistance Act 1932*, held office as a member of the old board—
  - (a) ceases to hold that office, and
  - (b) is eligible (if otherwise qualified) to be appointed as a member of the Board.
- (2) A person who so ceases to hold office as a member of the old board is not entitled to any remuneration or compensation because of the loss of that office.

#### **7 Director etc of old board**

- (1) A person who, immediately before the repeal of the *Rural Assistance Act 1932*, was the Director, the Deputy Director or an Assistant Director of the old board and who ceases to hold that office because of the operation of this Act is, if the person is not appointed as Chief Executive with effect on and from that repeal, entitled to an engagement in the public sector, or compensation, in accordance with Part 8 of the [Public Sector Management Act 1988](#) as if removed from office under that Part.
- (2) For the purposes of this clause and Part 8 of the [Public Sector Management Act 1988](#),

the State Bank is a public authority established by or under an Act.

## **8 Existing agreements and arrangements**

- (1) Any contract or arrangement or security entered into or taken by the old board under the *Rural Assistance Act 1932* or any other Act, or entered into or taken under any scheme (whether or not established by an Act) administered by the old board, and in force immediately before the repeal of the *Rural Assistance Act 1932* shall continue in force and have full effect as if that Act had not been repealed.
- (2) Any rights, property or interest of any farmer or other person arising out of assistance that was granted or administered by the old board before the repeal of the *Rural Assistance Act 1932* is not affected by that repeal or the enactment of this Act.
- (3) An application for assistance made under the *Rural Assistance Act 1932*, and not determined before the repeal of that Act, shall be taken to have been made to the Authority under this Act.
- (4) A grant of assistance approved by the old board under the *Rural Assistance Act 1932* but not granted before the repeal of that Act shall be granted by the Authority and the provisions of this Act shall apply to that grant.
- (5) Without limiting the generality of subclause (2), the rights, property and interest of any farmer or other person arising out of payments under the following Acts or any other prescribed Act are not affected by the repeal of the *Rural Assistance Act 1932* or the enactment of this Act—
  - (a) *Wheat Growers Relief Act 1933* of the Commonwealth,
  - (b) *Wheat Growers Relief Act 1934 (No 2)*, and *Wheat Bounty Act 1934*, of the Commonwealth,
  - (c) *Fruitgrowers Relief Act 1933*, and *Financial Relief Act 1934*, of the Commonwealth,
  - (d) *Mandarin Growers Relief Act 1934* of the Commonwealth,
  - (e) *Wheat Growers Relief Act 1936* of the Commonwealth,
  - (f) *States Grants (Drought Relief) Act 1940* of the Commonwealth,
  - (g) *Cereal Growers Drought Relief Act 1944*.

## **9 Schemes of arrangement etc**

A composition or scheme of arrangement entered into, or a direction given by the old board, under section 34EA of the *Rural Assistance Act 1932* and in force immediately before the repeal of that Act shall continue in force as if that section had not been repealed and that section shall continue to apply to any such composition or scheme of arrangement or direction as if it had not been repealed.

## **10 Waiver etc by old board**

A waiver, a direction or any other action taken by the old board under section 34G of the *Rural Assistance Act 1932* or by the State Bank under section 34GG of that Act and in force immediately before the repeal of that Act shall be taken to have been made, given or done under this Act.

## **11 Protection orders**

A protection order made under section 34N of the *Rural Assistance Act 1932* and in force immediately before the repeal of that Act shall be taken to have been made under this Act and shall continue in force until such time as it expires or is removed under this Act.

## **12 Administration of other schemes**

An instrument made under section 34AM of the *Rural Assistance Act 1932* and in force immediately before the repeal of that Act shall be taken to be an order made under section 25 of this Act and shall continue in force until such time as it is revoked or otherwise ceases to have effect.

## **Part 4 Provisions relating to the State Bank**

### **13 Provisions relating to State Bank**

- (1) On and from the commencement of this clause, the following provisions have effect—
- (a) any money payable to the State Bank arising from an advance made, or from any agreement or other arrangement entered into, by the Bank—
    - (i) under the *Rural Assistance Act 1932* or under Division 2, 3 or 5 of Part 4 of the *State Bank Act 1981*, or
    - (ii) in exercising any other prescribed function,is payable to the Authority and any security or charge given to or entered into with the Bank in respect of such an advance or any such agreement or arrangement, shall be taken to have been given to or entered into with the Authority,
  - (b) any liquidated claim that, immediately before that commencement, was enforceable by or against the State Bank in respect of the exercise of the Bank's functions under the *Rural Assistance Act 1932* or Division 2, 3 or 5 of Part 4 of the *State Bank Act 1981* or the exercise of any other prescribed function is enforceable by and against the Authority,
  - (c) any proceeding pending immediately before that commencement at the suit of or against the State Bank in respect of the Bank's functions under the *Rural Assistance Act 1932* or Division 2, 3 or 5 of Part 4 of the *State Bank Act 1981* or any other prescribed function is a proceeding pending at the suit of or against the

Authority,

(d) any act, matter or thing done or omitted to be done before that commencement by, to or in respect of the State Bank in respect of the exercise of the Bank's functions under the *Rural Assistance Act 1932* or Division 2, 3 or 5 of Part 4 of the *State Bank Act 1981* or the exercise of any other prescribed function shall (to the extent that that act, matter or thing has any force or effect) be taken to have been done or omitted by, to or in respect of the Authority.

(2) Any rights, property or interest of any farmer or other person arising out of assistance given by the State Bank under the *Rural Assistance Act 1932* or Division 2, 3, 4 or 5 of Part 4 of the *State Bank Act 1981* or in the exercise of any other prescribed function of the Bank is not affected by the repeal of those provisions or the enactment of this Act.

#### **14 Applications for advances**

(1) An application for assistance under Division 2, 3 or 5 of Part 4 of the *State Bank Act 1981* that is not determined before the repeal of those Divisions shall be taken to have been made to the Authority under this Act.

(2) An advance under Division 2, 3 or 5 of Part 4 of the *State Bank Act 1981* that was approved but not paid before the repeal of those Divisions shall be paid by the Authority and the provisions of this Act shall apply to that advance.

#### **15 Funds held by the State Bank**

On the commencement of Part 4 of this Act, the State Bank shall transfer to the Rural Assistance Authority Fund all money held by the Bank in respect of the Rural Industries Agency, the Advances to Settlers Agency or the Rural Assistance Agency of the Bank.

#### **16 Functions under *Soil Conservation Act 1938* and *Farm Water Supplies Act 1946***

(1) Any advance made or taken to have been made before the commencement of this clause by the State Bank under Part 4A of the *Soil Conservation Act 1938* or under the *Farm Water Supplies Act 1946* shall be taken to have been made by the Authority and any money payable to or by the Bank in respect of any such advance is payable to or by the Authority in accordance with this Act.

(2) A deed of charge made before the commencement of this clause under Part 4A of the *Soil Conservation Act 1938* or section 12 of the *Farm Water Supplies Act 1946* shall be taken to have been made between the Authority and the owner of the land or the Authority, the Minister and the owner of the land, as the case requires, and is enforceable by the Authority.

(3) An application made to the Bank before the commencement of this clause for an advance under Part 4A of the *Soil Conservation Act 1938* or under the *Farm Water Supplies Act 1946* and not determined before that commencement shall be treated as

if it had been made to the Authority.

### **17 Forfeited Crown lands securities**

Land vested in the State Bank pursuant to section 66 of the *State Bank Act 1981* immediately before the commencement of this clause as a result of a mortgage, charge or lien arising out of the exercise of the Bank's functions under Division 2, 3 or 5 of Part 4 of that Act, shall be taken to be vested in the Authority and the Authority shall, in respect of any such land, have the powers of the Bank under that section and section 67 of that Act.

### **18 Preservation of rights of certain State Bank or State Bank of New South Wales Limited employees**

- (1) This clause applies to an officer of the Authority employed not later than 12 months after the commencement of this clause and who, immediately before being so employed, was an employee of the State Bank or State Bank of New South Wales Limited.
- (2) Subject to the terms of the officer's appointment, the officer—
  - (a) shall retain any rights accrued or accruing to him or her as an employee of the State Bank or State Bank of New South Wales Limited, and
  - (b) shall be subject to the same conditions of employment, and
  - (c) may continue to contribute to any superannuation scheme to which he or she was a contributor immediately before being appointed as an officer of the Authority, and
  - (d) is entitled to receive any deferred or extended leave and any payment, pension or gratuity,as if the person had continued to be such an employee during his or her service as an officer of the Authority.
- (3) Service as an officer of the Authority shall be regarded as service as an officer or employee for the purposes of any law under which any such rights accrued or were accruing, under which he or she continues to contribute to any such superannuation scheme or by which any such entitlement is conferred.
- (4) The officer shall be regarded as an officer or employee, and the Authority shall be regarded as the employer, for the purposes of the superannuation scheme to which he or she is entitled to contribute under this clause.
- (5) If the officer would, but for this subclause, be entitled under subclause (2) to contribute to a superannuation scheme or to receive any payment, pension or gratuity under the scheme—

- (a) he or she shall not be so entitled on becoming (whether on appointment as an officer of the Authority or at any later time while such an officer) a contributor to any other superannuation scheme, and
  - (b) the provisions of subclause (4) cease to apply to or in respect of him or her and the Authority in any case where he or she becomes a contributor to any such other superannuation scheme.
- (6) Subclause (5) does not prevent the payment to the officer (on his or her ceasing to be a contributor to a superannuation scheme) of such amount as would have been payable to him or her if he or she had ceased, by reason of resignation, to be an officer or employee for the purposes of the scheme.

## **Part 5 Provision consequent on the enactment of the [Rural Assistance Amendment \(Board Membership\) Act 1996](#)**

### **19 Existing Board**

The amendments made to section 9 by the [Rural Assistance Amendment \(Board Membership\) Act 1996](#) do not affect the continuity of office of the members of the Board holding office immediately before the commencement of those amendments.