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Farm Water Development Act 1985

Version current from 1 July 2019 to date (accessed 28 April 2023 at 15:36)



Farm Water Development Act 1985

An Act to provide for the making of loans to assist in the development of water resources for use on farms and to make provision for incidental matters

[Royal Assent 23 May 1985]

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

1. Short title

This Act may be cited as the Farm Water Development Act 1985 .

2. Commencement

This Act shall commence on the day on which it receives the Royal assent.

3. Interpretation

In this Act, unless the contrary intention appears –

eligible person means a person who is engaged in farming operations and whose sole or principal source of income is derived from those operations;

loan means a loan under this Act;

TDR means Tasmania Development and Resources.

4. Power of TDR to make loans

Subject to this Act, TDR may, out of the money available to it under section 12 , make loans to eligible persons for the purposes specified in section 5 .

5. Loans for development of farm water

A loan may be made to an eligible person for the purposes of –

- (a) undertaking, in accordance with a permit under the Water Management Act 1999 , dam works that are to be used in connection with the storage of water for irrigation on a farm owned or occupied by that eligible person; or
- (b) the drilling or construction of a well or bore in order to take water for use on a farm owned or occupied by that eligible person; or
- (c) the provision of an irrigation system on a farm owned or occupied by that eligible person.

6. Terms and conditions of loans

A loan made under this Act shall be made subject to terms and conditions determined by TDR.

7. Applications for loans

- (1) An eligible person who seeks a loan may make application for the loan to TDR.
- (2) An application for a loan –
 - (a) shall be in writing in a form provided for that purpose by TDR; and
 - (b) shall contain such particulars and information as may be specified in the form.
- (3) TDR may require an applicant under this section to provide it with such information as TDR considers necessary in order to show to its satisfaction whether or not the applicant is an eligible person.
- (4) On receipt of an application made in accordance with this section, TDR may grant the application or refuse to grant the application.

8. Power of TDR to obtain information

Where a person has applied for a loan, TDR may require that person –

- (a) to give TDR an authorization to obtain from any person information available to him with respect to the applicant; and
- (b) to produce to TDR such documents as TDR may require.

9. Security

TDR shall take and require such security for the repayment of loans as in each case it considers to be adequate in the circumstances.

10. Exemption from fees and stamp duty

An instrument made by TDR for the purposes of this Act may be filed, recorded, or registered without payment of any fee.

11. Repayment of loans

TDR shall pay all money received by it under this Act in repayment of loans and payment of interest on loans into such accounts created in the Treasury as the Treasurer may require in such manner as the Treasurer may direct.

12. Appropriation from the Public Account, &c.

The money required for the purposes of this Act shall be paid from –

- (a) money appropriated by Parliament from the Public Account for the purpose; or
- (b) the other funds of TDR available for the purpose.

13. False or misleading statements

(1) A person shall not, in connection with, or in support of, an application for a loan, make, whether orally or in writing, a statement that, to his knowledge, is false or misleading in a material particular.

Penalty: Fine not exceeding 20 penalty units.

(2) A person shall not obtain payment of a loan by means of a statement, whether orally or in writing, that, to his knowledge, is false or misleading in a material particular or by means of impersonation or a fraudulent device.

Penalty: Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 12 months.

(3) Where a person is convicted of an offence against this section, the court may, in addition to imposing a penalty in respect of the offence, order him to pay to TDR an amount equal to the amount of the outstanding balance of the loan paid under this Act in consequence of the act, failure, or omission in respect of which he was convicted, together with interest calculated up to a date determined by the court.

(4) It is a defence to a charge under this section if it is proved that, at the time the application or statement was made, the defendant believed on reasonable grounds that it was neither false nor misleading.

(5) Where an offence against this Act is committed by a body corporate –

- (a) every director, or member of the governing body, of the body corporate; and
- (b) every manager or secretary of the body corporate –

shall be deemed also to have committed the offence, and may be convicted of the offence, unless he proves that the act or omission constituting the offence took place without his knowledge or consent.

(6) A person referred to in subsection (5) may be convicted of an offence under that subsection whether or not the body corporate is charged with, or convicted of, the offence.

14. Regulations

(1) The Governor may make regulations for the purposes of this Act.

(2) Regulations under subsection (1) may be made subject to such conditions, or be made so as to apply differently according to such factors, as may be specified in the regulations or according to such limitations or restrictions, whether as to time or circumstance or otherwise, as may be so specified.

(3) Regulations under subsection (1) may provide that it is an offence, punishable on summary conviction, for a person to contravene or fail to comply with, any of the regulations and may provide in respect of any such offence for the imposition of a fine not exceeding 10 penalty units and, in the case of a continuing offence, a further fine not exceeding 0.5 penalty unit for each day during which the offence continues.

(4) A regulation under subsection (1) may authorize any matter or thing to be from time to time determined, applied, or regulated by TDR or any person or body specified in the regulation.

15. Certain interest rates may be reviewed

(1) Notwithstanding the terms and conditions subject to which any loan granted under this Act before the commencement of the Farm Water Development Amendment Act 1990 was granted, the rate of interest payable under any such loan may be varied by Tasmania Development and Resources giving to the borrower written notice of its intention to vary that rate of interest.

(2) A notice given by Tasmania Development and Resources under subsection (1) is to specify –

(a) the new rate of interest; and

(b) the date from which that new rate of interest will apply –

and must be given at least 6 weeks before the date from which the new interest rate will apply.