

FARMERS ADVANCES ACT

CHAPTER 63:51

Act
28 of 1913
Amended by
46 of 1979
*24 of 1981

*See Note on Amendment on page 2

Current Authorised Pages

<i>Pages</i> <i>(inclusive)</i>	<i>Authorised</i> <i>by L.R.O.</i>
1-11 ..	1/2006

Note on Subsidiary Legislation

This Chapter contains no subsidiary legislation.

Note on Amendment

Section 7 of this Act has been amended by Act No. 24 of 1981. However, Act No. 24 of 1981 has not up to the date of the revision of this Act been brought into operation.

Note on Adaptation

1. Certain fees in this Chapter were increased by the Commission under paragraph 4 of the Second Schedule to the Law Revision Act (Ch. 3:03). Where this occurs, a marginal reference in the form normally indicating an amendment is made to LN 51/1980 (the Legal Notice by which the President's approval was signified).

2. Under paragraph 6 of the Second Schedule to the Law Revision Act (Ch. 3:03) the Commission amended certain references to public officers in this Chapter. The Minister's approval of the amendments was signified by LNs 52/1980 and 120/1980, but no marginal reference is made to these Notices where any such amendment is made in the text.

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FARMERS ADVANCES ACT

ARRANGEMENT OF SECTIONS

SECTION

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SCHEDULE.

CHAPTER 63:51

FARMERS ADVANCES ACT

An Act relating to Advances to Farmers.

1950 Ed.
Ch. 23. No. 10.
28 of 1913.

Commencement.

[27TH NOVEMBER 1913]

Short title.

1. This Act may be cited as the Farmers Advances Act.

Interpretation.

2. In this Act—

“advance” means a sum of money secured under this Act, the interest (if any) payable in respect of which shall not exceed ten per cent a year;

“advance note” or “note” means a note given and filed in pursuance of this Act;

“Clerk” means the Clerk of the Peace of such district or the chief clerk to such Magistrate;

“farmer” means the person cultivating in sugar cane or rice any parcel of land whether as owner, lessee or tenant thereof or as being a person to whom such parcel has been given out, leased or allotted for the purpose of cultivating the same in sugar cane or rice or partly in sugar cane and partly in rice;

“Magistrate” means the Magistrate for the district in which the land in respect of which an advance note is given is situated.

Advance note.

Schedule.

Ch. 63:56.

3. (1) Every advance under this Act shall be evidenced by an advance note in the form in the Schedule, and shall be signed in duplicate by the parties thereto in the presence of a Magistrate, Clerk, Justice, Inspector of the Department of Agriculture or Officer appointed under the Plant Protection Act or of any other person duly appointed for such purpose by the Minister.

(2) Every advance note shall contain the following particulars:

(a) the name of the person making the advance and of the farmer;

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- (b) the amount of the advance and the rate of interest thereon;
- (c) the extent and situation of the parcel of land, the crops and buildings on which are to be subject to the advance note;
- (d) the factory, if any, and the price agreed upon at which the canes or rice are to be delivered;
- (e) whether there is in existence any charge affecting the subject matter of the note;
- (f) the purpose to which the money advanced is to be applied.

(3) Every advance note shall truly set forth the consideration for which it was given, otherwise the advance note shall be absolutely void.

(4) Each separate advance shall be evidenced by an advance note.

4. One part of every advance note (hereinafter called a duplicate) shall, immediately on its execution, be deposited by the person making the advance with the Clerk, and the other part shall be retained by such person.

Duplicate of advance note to be deposited with Clerk.

5. Before attesting the execution of an advance note, the Magistrate, Clerk, Justice, Inspector, Officer or other person duly appointed for such purpose by the Minister, shall explain its terms and conditions to the parties thereto and shall satisfy himself that the same are understood.

Note to be explained to parties.

6. An advance note duly executed under this Act shall not be deemed to be a bill of sale within the meaning of the Bills of Sale Act or a contract within the meaning of the Agricultural Contracts Act.

Note not to be bill of sale or "contract". [46 of 1979]. Ch. 82:32. Ch. 63:50.

7. An advance note shall not be deemed to affect the title to land, and shall not be capable of registration in the office of the Registrar General or under the Real Property Act, but every

Note not to affect title.

Ch. 56:02.

purchaser of land, the canes, rice, or buildings upon which is or are affected by an advance note duly filed under the provisions hereof, shall be deemed to have notice of any such advance note.

File of
duplicates to be
kept by Clerk.
[51/1980].

8. The Clerk shall file in his office all duplicates delivered to him in order of their receipt, and any person shall be entitled to inspect the file on payment of a fee of one dollar to be received by the Clerk, and to a certified copy of any note filed therein on payment of a fee of one dollar to be received by the Clerk.

Abstract of
notes.

9. The Clerk shall, at the request of any person and on receipt of a fee of twenty-four cents, prepare an abstract of all advance notes duly deposited against any farmer.

Note to create
charge on crop
and buildings.

10. Every advance note shall, during the currency thereof but not otherwise, create a charge in favour of the person making the advance on all canes and rice which shall be grown and become ready to be reaped on the land described in the note and also upon the buildings, if any, erected or to be erected on such land and mentioned in such note; and, subject to any rent which may then be due or which may during the currency of such note accrue due, such charge shall be entitled to priority according to the date of the filing of the note and shall be a security for the amount due thereunder.

Penalty for false
statement in
notes.

11. Any farmer who signs a note containing a statement that there is no charge affecting any canes, rice or buildings, whereas in fact there is in existence such a charge, or containing a statement mentioning fewer charges than are in fact in existence, is liable on summary conviction to a fine of one thousand dollars or to imprisonment for three months.

Expiration
of note.

12. Every advance note shall remain in force as a valid security for two years from the date thereof, unless the same shall have been previously paid off. Nothing in this section or in section 10 shall affect the liability of a farmer under section 17 to continue delivery of his canes or rice as mentioned therein, or sections 14, 15 and 16 so long as such liability to continue delivery exists.

13. If any money remains due by the farmer on the advance note at the end of two years from the date thereof, it may be sued for as a debt or may be secured by a fresh advance note secured on the buildings, if any, which were subject to the previous note and also on the succeeding year's crop to be made in a similar manner; but the duplicate part deposited with the Clerk shall, at the expiration of the note, be returned to the farmer if the whole has been paid off and if no liability to continue delivery under section 17 exists, or to the person advancing the money if anything remains due thereon, and shall in no case be retained on the file after the expiration of two years from the date of the note.

Money remaining due on note at expiration.

14. The holder of any advance note shall be entitled to enter upon the lands, the crops or buildings on which are affected by the note, and inspect such crops or buildings.

Entry and inspection.

15. Every advance note may be transferred by the holder by endorsement and delivery, and the transferee, after notice of the transfer has been given to the farmer and the Clerk, shall be deemed entitled in all respects as if he had been the person in whose favour the note was given. The Clerk shall, on receipt of the notice, cause a memorandum of the transfer and the date of notice thereof to be entered on the duplicate filed in his office.

Transfer of note.

16. Any farmer may, with the consent in writing of the holder of any advance note affecting his interest in any land, transfer such interest to any person, and such person shall be held bound by the note and is liable in all respects as if he had been the person by whom the advance note had been made. Every such transfer shall be made in writing, and shall, on presentation thereof to the Clerk by the parties thereto, be endorsed on the duplicate filed in his office.

Transfer of interest in land by farmer.

17. (1) Notwithstanding anything contained in this Act, a farmer who has secured an advance shall, if the note securing the advance is paid off during the first year from the date thereof, be bound to deliver to the holder of the note all the canes or rice subject to the note, which become ready to be reaped during the

Refusal to deliver canes or rice.

whole of the first year, and if the whole or any portion of the advance remains unpaid at the end of the first year or if the farmer fails to deliver the whole or any portion of the canes or rice deliverable by him during the first year from the date of the note, the farmer shall also be bound to deliver to the holder of the note all the canes or rice subject to the note, which become ready to be reaped during the second year from the date of the note; and if any farmer refuses or neglects to deliver as provided above his canes or rice, or attempts or commences to deliver or dispose of such canes or rice otherwise than as provided above, the holder of the advance note may, by summons before a Magistrate, call upon the farmer to show cause why the holder should not be allowed to reap such canes or rice, and, on proof of the note and of the refusal or default, the Magistrate shall, unless good cause is shown to the contrary, order accordingly.

(2) On such order being made, the holder of the note may enter the lands and cut and gather the canes or rice thereon, and, after deducting the costs of cutting, carting and delivering such canes or rice to the factory and the amount due on the note, shall pay the surplus, if any, to the farmer.

(3) Any farmer who delivers or otherwise disposes of any canes or rice subject to an advance note, contrary to this section, or who fails or neglects to deliver any such canes or rice to the holder of any such note within a reasonable time after being called upon by notice in writing signed by the holder so to deliver, or who resists or obstructs the holder of any note acting under any such order as provided above, is liable on summary conviction to a fine of one thousand dollars.

Interim order.

18. On the application for, or pending the hearing of, any summons as provided for under section 17, the Magistrate may order the farmer to refrain from cutting, gathering or carting away such canes or rice, and any disobedience to the order shall be an offence under this Act, and the farmer is liable on summary conviction to a fine of one thousand dollars. Every such order as mentioned above shall be personally served, and if for any reason it appears to the Magistrate that personal service cannot be effected, he may authorise service to be effected by posting a copy of the order in a conspicuous place on the land.

19. When the factory to which the farmer is to sell his canes or rice is not the factory of the holder of the note, the farmer shall, one week before reaping his canes or rice, give notice to the holder of the note of his intention to reap such canes or rice, and in default of giving the notice, or if he deliver such canes or rice to any factory not mentioned in the note, he is liable on summary conviction to a fine of one thousand dollars.

Notice of intention to reap.

20. The Magistrate may out of such fine award compensation to be paid to any person or persons defrauded by the commission of such offence in the order of the priority of their notes.

Compensation.

21. Any farmer who, during the currency of a note and contrary to the provisions thereof, disposes of or deals with, or attempts to dispose of or deal with, any buildings which are subject to the advance note is liable on summary conviction to a fine of one thousand dollars.

Fraudulent dealing with buildings.

22. Any farmer neglecting or failing to keep the lands, the crops on which are subject to an advance note, in a proper and husbandlike condition, having regard to the purposes for which the advance is in the advance note stated to have been made, is liable on summary conviction to a fine of one thousand dollars.

Failure to keep lands in proper condition.

23. The holder of an advance note under this Act may give notice in writing in the form in the Schedule to the owner or manager of any factory (not being his own factory) to which the farmer has delivered canes or rice grown on such land as mentioned in the said note, and such owner or manager shall not, after receipt of the notice, pay to the farmer any sum in respect of the canes or rice delivered until the claim of the holder of the note has been satisfied, or unless the holder consents; and in the event of his so doing without such consent he is liable to pay to the holder the amount of such advance, which shall be recoverable by ordinary process of law. On receipt of the notice, the owner of the factory may, if the farmer does not consent to the payment being made to the holder of the note or if there is more than one claimant to the money in his hands, pay the amount claimed or any part thereof

Notice to factory. Schedule.

which is due from him to the farmer into the hands of the Clerk, who shall in such case give a receipt for the same which shall be a full discharge therefor, and issue summonses by way of interpleader to be adjudicated upon by the Magistrate to the several persons alleged to have claims upon the same, deducting in the first instance the prescribed costs of issuing the summonses out of the money so paid in.

Procedure.
[46 of 1979].

24. Except as provided in this Act, any claim and demand, the amount whereof does not exceed two thousand five hundred dollars, arising on any advance note between the holder or any person entitled to the benefit thereof and a farmer, shall be heard and determined in the Petty Civil Court of the district where the advance note is deposited, and the procedure in all such matters shall be that prescribed by the Petty Civil Courts Act.

Ch. 4:21.

Appeal.

25. There shall be no appeal from the decision of the Magistrate on any dispute adjudicated upon by him in pursuance hereof, except on a case to be stated by the Magistrate at his discretion.

