

Authorised Version No. 004
Rural Assistance Schemes Act 2016
No. 39 of 2016

Authorised Version incorporating amendments as at
5 April 2023

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The Parliament of Victoria enacts:

Part 1—Preliminary

1 Purpose

The main purpose of this Act is to improve the administration of rural assistance schemes by—

- (a) establishing the Rural Assistance Commissioner; and
- (b) transferring the remaining assets, liabilities and functions of the Rural Finance Corporation of Victoria to the Rural Assistance Commissioner; and
- (c) winding up the Rural Finance Corporation of Victoria; and
- (d) repealing the **Rural Finance Act 1988** and the **Young Farmers' Finance Council Act 1979**.

2 Commencement

This Act comes into operation on 30 June 2016.

3 Definitions

In this Act—

Corporation means the Rural Finance Corporation of Victoria established under section 4 of the **Rural Finance Act 1988**;

Department has the same meaning as in the
Public Administration Act 2004;

Department Head has the same meaning as in the
Public Administration Act 2004;

former Corporation property means property,
rights or liabilities of the Corporation that,
under Part 3, have vested in, or become
liabilities of, the Rural Assistance
Commissioner;

liabilities means all liabilities, duties and
obligations, whether actual, contingent or
prospective;

Member means the person appointed under
section 12;

property means any legal or equitable estate or
interest (whether present or future and
whether vested or contingent) in any real or
personal property of any description;

rights means all rights, powers, privileges and
immunities, whether actual, contingent or
prospective;

rural assistance scheme means a Commonwealth
or State scheme to assist, promote or develop
rural and regional industries and
communities;

Secretary means the Secretary, Department of
Jobs, Precincts and Regions.

S. 3 def. of
Secretary
amended by
No. 22/2022
s. 165.

Part 2—Rural Assistance Commissioner

4 Rural Assistance Commissioner

- (1) The Rural Assistance Commissioner is established.
- (2) The Rural Assistance Commissioner consists of the Member.
- (3) The Rural Assistance Commissioner—
 - (a) is a body corporate with perpetual succession; and
 - (b) has an official seal; and
 - (c) may sue and be sued; and
 - (d) may acquire, hold and dispose of real and personal property; and
 - (e) may do and suffer all things that a body corporate may by law do and suffer.

5 Official seal

- (1) The official seal of the Rural Assistance Commissioner must—
 - (a) be kept in such custody as the Rural Assistance Commissioner directs; and
 - (b) not be used except as authorised by the Rural Assistance Commissioner.
- (2) All courts must take judicial notice of the official seal of the Rural Assistance Commissioner affixed to any document.

6 Rural Assistance Commissioner represents the Crown

In performing its functions and exercising its powers, the Rural Assistance Commissioner represents the Crown.

7 Object of the Rural Assistance Commissioner

The object of the Rural Assistance Commissioner is to administer, facilitate and provide services and advice in relation to rural assistance schemes.

8 Functions of the Rural Assistance Commissioner

The Rural Assistance Commissioner has the following functions under this Act—

- (a) to administer and facilitate rural assistance schemes;
- (b) to bring together and coordinate financial resources for investment in rural and regional industries;
- (c) to provide services and advice to government with regard to rural and regional industries and affairs.

9 Powers of the Rural Assistance Commissioner

- (1) In addition to the powers expressly conferred by this Act, the Rural Assistance Commissioner has the power to do all things necessary and convenient for the performance of its functions under this Act.
- (2) Without limiting subsection (1), the Rural Assistance Commissioner may—
 - (a) acquire, hold or dispose of real or personal property; and
 - (b) enter into any agreement or contract; and
 - (c) enter into any lease or licence; and
 - (d) subscribe for or otherwise acquire, and hold and dispose of, shares in, or debentures or other securities of, a corporation; and
 - (e) give indemnities, guarantees, releases and charges, and anything else of a similar nature; and

- (f) acquire (whether by creation, lease, licence, receiving the assignment or grant of, or otherwise), hold, accept as a security, or otherwise deal with, any intellectual property right (for example, a trade mark, patent, design, copyright (including an associated moral right), plant breeder's right, circuit layout right, trade secret, or right arising from confidential information); and
- (g) assign, grant, lease, license, sell, mortgage, use as a security, or otherwise encumber or dispose of, any intellectual property right; and
- (h) seek any remedy in relation to, or do anything necessary to enforce, protect, maintain, register or exploit, any intellectual property right; and
- (i) seek any remedy in relation to, or do anything necessary to enforce, protect, maintain or exploit any Crown copyright; and
- (j) engage consultants, contractors or agents; and
- (k) act as trustee; and
- (l) act as an agent of another person.

10 Directions

- (1) In the exercise of its powers and the performance of its functions the Rural Assistance Commissioner is subject to the direction and control of the Minister.
- (2) If the Member is not the Secretary, the Rural Assistance Commissioner—
 - (a) is subject to the specific direction of the Minister; and

- (b) must perform its functions and exercise its powers under the general direction and control of the Secretary.

11 Delegation by the Rural Assistance Commissioner

S. 11(1)
amended by
No. 22/2022
s. 166(1).

- (1) The Rural Assistance Commissioner by instrument may delegate to any person employed in the Department of Jobs, Precincts and Regions any power, duty or function of the Rural Assistance Commissioner under this Act.

S. 11(2)
amended by
No. 22/2022
s. 166(2).

- (2) The Rural Assistance Commissioner by instrument may delegate to the Department Head of a Department other than the Department of Jobs, Precincts and Regions any power, duty or function of the Rural Assistance Commissioner under this Act if the delegation is first approved by—

S. 11(2)(b)
substituted by
No. 22/2022
s. 166(3).

- (a) the Minister; and
- (b) the Minister administering the other Department or, if more than one Minister is responsible for that Department or for different parts of that Department, the Minister responsible for the relevant part of the other Department having regard to the power, duty or function that is proposed to be delegated; and
- (c) the Department Head of the other Department; and
- (d) if the Member is not the Secretary, the Secretary.
- (3) A Department Head to whom a power, duty or function is delegated under subsection (2) may delegate that power, duty or function to any person employed in the Department of that Department Head.

- (4) A delegation under this section may be made—
 - (a) in relation to a person or class of persons specified in the instrument of delegation; or
 - (b) in relation to the holder, or holder from time to time, of an office specified, or of each office in a class of offices specified, in the instrument of delegation.

12 Appointment of Member

- (1) The Governor in Council may, on the recommendation of the Minister, by Order in Council published in the Government Gazette appoint a person to be the Member for a period not exceeding 5 years as specified in the Order in Council.
- (2) The Member holds office, subject to this Act, on such terms and conditions as are specified by the Order in Council.
- (3) If the Member is unable, whether because of illness, suspension, absence or otherwise, to perform the duties of the Rural Assistance Commissioner, the Governor in Council may, on the recommendation of the Minister, by Order in Council published in the Government Gazette appoint a person to act in the place of the Member during the period of the inability.
- (4) A person appointed under this section to act in the place of the Member, while so acting—
 - (a) has all the rights and powers, and must perform all the duties, of the Member; and
 - (b) is to be paid any remuneration and allowances fixed by the Order in Council, having regard to the rate of remuneration and allowances for the time being payable to the Member in the Member's capacity as Member.

13 Conditions of office, resignation, removal from office if Member not public service employee

- (1) This section applies if a person who is not employed under Part 3 of the **Public Administration Act 2004** is appointed as the Member.
- (2) The Member is—
 - (a) appointed on such terms, conditions, rate of remuneration and allowances as are specified in the Order in Council; and
 - (b) is eligible for reappointment.
- (3) The Governor in Council, on the recommendation of the Minister, at any time may remove or suspend the Member on any of the following grounds—
 - (a) misconduct;
 - (b) neglect of duty;
 - (c) inability to perform the duties of the Member;
 - (d) any other ground on which the Governor in Council is satisfied that the Member should not be the Member.
- (4) The Member may resign as Member by delivering a signed letter of resignation to the Minister.

S. 13(2)(a)
amended by
No. 22/2022
s. 167(1).

S. 13(2)(b)
amended by
No. 22/2022
s. 167(2).

14 Validity of acts or decisions

An act or a decision of the Rural Assistance Commissioner is not invalid only—

- (a) because of a vacancy in the membership of the Rural Assistance Commissioner, including a vacancy arising from a failure to appoint the Member; or

- (b) because of a defect or irregularity in, or in connection with, the appointment of the Member or an acting Member; or
- (c) in the case of an acting Member, on the grounds that the occasion for the person to act had not arisen or had ceased.

Part 3—Transfer from Corporation to Rural Assistance Commissioner

15 Provisions to prevail

This Part applies despite anything to the contrary in the **State Owned Enterprises Act 1992** or any other Act making any provision in respect of the Corporation.

16 Dissolution of the Rural Finance Corporation of Victoria

On the commencement of this Act—

- (a) the Corporation is wound up; and
- (b) the Corporation's Board of Management is dissolved; and
- (c) the members of the Corporation's Board of Management go out of office; and
- (d) the following Orders made under the **State Owned Enterprises Act 1992** are revoked—
 - (i) Declaration of Rural Finance Corporation as a Reorganising Body made on 6 May 2014 and published in the Government Gazette on 8 May 2014 (at page 898);
 - (ii) Changes to the Constitution of the Board of Rural Finance Corporation of Victoria made on 14 April 2015 and published in the Government Gazette on 16 April 2015 (at page 812).

17 Rural Assistance Commissioner is successor in law of the Rural Finance Corporation of Victoria

On the commencement of this Act—

- (a) all property and rights of the Corporation vest in the Rural Assistance Commissioner; and
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- (b) all liabilities of the Corporation become liabilities of the Rural Assistance Commissioner; and
- (c) the Rural Assistance Commissioner is the successor in law of the Corporation.

18 Vesting of property and rights subject to encumbrances

Where, under this Part, property and rights vest in, or liabilities become liabilities of, the Rural Assistance Commissioner—

- (a) the property and rights so vested are subject to the encumbrances (if any) to which they were subject immediately before so vesting; and
- (b) the rights to which the Corporation was entitled in respect of those liabilities immediately before they ceased to be liabilities of the Corporation vest in the Rural Assistance Commissioner.

19 Substitution of Rural Assistance Commissioner for Corporation in agreements

Where, under this Part, the rights or liabilities of the Corporation under an agreement vest in, or become liabilities of, the Rural Assistance Commissioner—

- (a) the Rural Assistance Commissioner is, on the commencement of this Act, a party to the agreement in place of the Corporation; and
- (b) on and from the commencement of this Act, the agreement has effect as if the Rural Assistance Commissioner had always been a party to the agreement.

20 Proceedings

If, immediately before the commencement of this Act, proceedings relating to former Corporation property (including arbitration proceedings) to which the Corporation was a party were pending or existing in any court or tribunal, then on and after that commencement, the Rural Assistance Commissioner is substituted for the Corporation as a party to the proceedings and has the same rights in the proceedings as the Corporation had.

21 Interests in land

Without limiting this Part and despite anything to the contrary in any other Act if, immediately before the commencement of this Act, the Corporation is, in relation to former Corporation property, the registered proprietor of an interest in land under the **Transfer of Land Act 1958**, then on and after that date—

- (a) the Rural Assistance Commissioner is taken to be the registered proprietor of that interest in land; and
- (b) the Rural Assistance Commissioner has the same rights and remedies in respect of that interest as the Corporation had.

22 Easements

If the Rural Assistance Commissioner acquires any right in the nature of an easement (whether as a result of the operation of this Part or otherwise), that right must be taken to be an easement even though there is no land vested in the Rural Assistance Commissioner which is benefited or capable of being benefited by that right.

23 Amendment of Register

The Registrar of Titles, on being requested to do so and on delivery of the relevant certificate of title or instrument, must make any amendments in the Register that are necessary because of the operation of this Part.

24 Taxes

No stamp duty or other tax is chargeable under any Act in respect of anything effected by or done under this Part or in respect of any act or transaction connected with or necessary to be done by reason of this Part, including a transaction entered into or an instrument made, executed, lodged or given, for the purpose of, or connected with, the transfer of property, rights or liabilities of the Corporation.

25 Evidence

- (1) Documentary or other evidence that would have been admissible for or against the interests of the Corporation in relation to former Corporation property if this Part had not been enacted is admissible for or against the interest of the Rural Assistance Commissioner.
- (2) The **Evidence Act 2008** applies with respect to the books of account of the Corporation and the entries made in those books of account before the commencement of this Act, whether or not they relate to the former Corporation property, as if those books of account and entries were business records.

26 Substitution of Minister for Treasurer in Agreements

- (1) On and from the commencement of this Act—
- (a) a reference in the Non-Commercial Activities Services Agreement to the Treasurer is taken to be a reference to the Minister; and
 - (b) a reference in the Business Sale Agreement to the Treasurer is taken to be a reference to the Minister; and
 - (c) each agreement referred to in paragraphs (a) and (b) has effect as if the Minister had always been a party to the agreement.
- (2) In this section—

Business Sale Agreement means the agreement dated 15 May 2014 between the following parties—

- (a) the Treasurer on behalf of the State of Victoria;
- (b) the Rural Finance Corporation of Victoria;
- (c) Bendigo and Adelaide Bank Limited
ACN 068 049 178;

Non-Commercial Activities Services Agreement means the agreement dated 1 July 2014 between the following parties—

- (a) the Treasurer on behalf of the State of Victoria;
- (b) the Rural Finance Corporation of Victoria;
- (c) Bendigo and Adelaide Bank Limited
ACN 068 049 178.

27 Validity of things done under this Part

- (1) Nothing effected or to be effected by this Part or done or suffered under this Part—
 - (a) is to be regarded as placing any person in breach of contract or confidence or as otherwise making any person guilty of a civil wrong; or
 - (b) is to be regarded as placing any person in breach of, or as constituting a default under, any Act or other law or obligation or any provision in any agreement, arrangement or understanding including, but not limited to, any provision or obligation prohibiting, restricting or regulating the assignment, transfer, sale or disposal of any property or the disclosure of any information; or
 - (c) is to be regarded as fulfilling any condition that allows a person to exercise a power, right or remedy in respect of or to terminate any agreement or obligation; or
 - (d) is to be regarded as giving rise to any remedy for a party to a contract or an instrument or as causing or permitting the termination of any contract or instrument because of a change in the beneficial or legal ownership of any asset, right or liability; or
 - (e) is to be regarded as causing any contract or instrument to be void or otherwise unenforceable; or
 - (f) is to be regarded as frustrating any contract; or
 - (g) releases any surety or other obligor wholly or in part from any obligation.
 - (2) In this section, *Act* does not include the Charter of Human Rights and Responsibilities.
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Part 4—General

28 Regulations

- (1) The Governor in Council may make regulations for or with respect to generally prescribing any matter or thing required or necessary to be prescribed to give effect to this Act.
- (2) The regulations—
 - (a) may be of general or limited application; and
 - (b) may leave matters to be determined or approved by the Rural Assistance Commissioner; and
 - (c) may differ according to differences in time, place or circumstances.

S. 29 expired
by force of
No. 39/2016
s. 29(4).

* * * * *

Pt 5
(Headings
and ss 30–34)
repealed by
No. 39/2016
s. 34.

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Endnotes

1 General information

See www.legislation.vic.gov.au for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.

Minister's second reading speech—

Legislative Assembly: 25 May 2016

Legislative Council: 9 June 2016

The long title for the Bill for this Act was "A Bill for an Act to improve the administration of rural assistance schemes by establishing the Rural Assistance Commissioner as successor to the Rural Finance Corporation of Victoria and repealing the **Rural Finance Act 1988** and the **Young Farmers' Finance Council Act 1979** and for other purposes."

The **Rural Assistance Schemes Act 2016** was assented to on 28 June 2016 and came into operation on 30 June 2016: section 2.

INTERPRETATION OF LEGISLATION ACT 1984 (ILA)

Style changes

Section 54A of the ILA authorises the making of the style changes set out in Schedule 1 to that Act.

References to ILA s. 39B

Sidenotes which cite ILA s. 39B refer to section 39B of the ILA which provides that where an undivided section or clause of a Schedule is amended by the insertion of one or more subsections or subclauses, the original section or clause becomes subsection or subclause (1) and is amended by the insertion of the expression "(1)" at the beginning of the original section or clause.

Interpretation

As from 1 January 2001, amendments to section 36 of the ILA have the following effects:

- **Headings**

All headings included in an Act which is passed on or after 1 January 2001 form part of that Act. Any heading inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. This includes headings to Parts, Divisions or Subdivisions in a Schedule; sections; clauses; items; tables; columns; examples; diagrams; notes or forms. See section 36(1A)(2A).

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- **Examples, diagrams or notes**

All examples, diagrams or notes included in an Act which is passed on or after 1 January 2001 form part of that Act. Any examples, diagrams or notes inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, form part of that Act. See section 36(3A).

- **Punctuation**

All punctuation included in an Act which is passed on or after 1 January 2001 forms part of that Act. Any punctuation inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. See section 36(3B).

- **Provision numbers**

All provision numbers included in an Act form part of that Act, whether inserted in the Act before, on or after 1 January 2001. Provision numbers include section numbers, subsection numbers, paragraphs and subparagraphs. See section 36(3C).

- **Location of "legislative items"**

A "legislative item" is a penalty, an example or a note. As from 13 October 2004, a legislative item relating to a provision of an Act is taken to be at the foot of that provision even if it is preceded or followed by another legislative item that relates to that provision. For example, if a penalty at the foot of a provision is followed by a note, both of these legislative items will be regarded as being at the foot of that provision. See section 36B.

- **Other material**

Any explanatory memorandum, table of provisions, endnotes, index and other material printed after the Endnotes does not form part of an Act. See section 36(3)(3D)(3E).

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2 Table of Amendments

This publication incorporates amendments made to the **Rural Assistance Schemes Act 2016** by Acts and subordinate instruments.

Rural Assistance Schemes Act 2016, No. 39/2016

<i>Assent Date:</i>	28.6.16
<i>Commencement Date:</i>	Ss 29(4), 34 on 30.6.16: s. 2
<i>Note:</i>	S. 34 repealed Pt 5 (ss 30–34) on 30.6.17; s. 29(4) provided that s. 29 expired on 30.6.18
<i>Current State:</i>	This information relates only to the provision/s amending the Rural Assistance Schemes Act 2016

Agriculture Legislation Amendment Act 2022, No. 22/2022

<i>Assent Date:</i>	15.6.22
<i>Commencement Date:</i>	Ss 165–167 on 5.4.23: s. 2(2)
<i>Current State:</i>	This information relates only to the provision/s amending the Rural Assistance Schemes Act 2016

3 Explanatory details

No entries at date of publication.