

RURAL ASSISTANCE ACT 1989 No. 97

NEW SOUTH WALES



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RURAL ASSISTANCE ACT 1989 No. 97

NEW SOUTH WALES



Act No. 97, 1989

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. [Assented to 13 June 1989]

See also Miscellaneous Acts (Rural Assistance) Repeal and Amendment Act 1989.

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The Legislature of New South Wales enacts:

PART 1—PRELIMINARY**Short title**

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

Commencement

2. (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.

Definitions

3. (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 Lands Acts within the meaning of section 5 (1) of the Crown Lands Consolidation Act 1913, the Western Lands Act 1901, the Wentworth Irrigation Act 1890, the Hay Irrigation Act 1902, the Closer Settlement Act 1904, the Irrigation Act 1912 and the Returned Soldiers Settlement Act 1916; 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;

“protection order” means a protection order granted under Division 4 of Part 3.

- (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.

PART 2—NEW SOUTH WALES RURAL ASSISTANCE AUTHORITY**Division 1—Constitution of the Authority****Constitution of the Authority**

4. (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**Provision of rural assistance**

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

Review of rural assistance schemes etc.

6. 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 scheme for the provision of assistance to farmers or other persons; or
- (b) report on any proposed scheme 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.

Arrangements with banks etc.

7. (1) The Authority may authorise a bank 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;

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(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.

Other functions

8. (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.

Division 3—Management of the Authority**Constitution of the Board**

9. (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) 4 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, farm management or an associated area 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.

Board to determine policies of the Authority

10. (1) The Board has the function of determining the policies of the Authority.

(2) In exercising that function, the Board shall, as far as practicable, ensure that the activities of the Authority are carried out properly and efficiently.

Chief Executive of the Authority

11. (1) The Governor may appoint a Chief Executive of the Authority.

(2) Schedule 2 has effect with respect to the Chief Executive.

Chief Executive to manage the Authority

12. (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.

Division 4—Staff of the Authority**Employment of staff**

13. (1) Such staff as may be necessary to enable the Authority to exercise its functions shall be employed under the Public Sector Management Act 1988.

(2) The Authority may arrange for the use of the services of any staff (by secondment or otherwise) or facilities of a Government department, an administrative office or a public or local authority.

Consultants

14. The Authority may engage such consultants as the Authority requires to exercise its functions.

PART 3—PROVISION OF ASSISTANCE**Division 1—Applications****Applications for assistance**

15. (1) A farmer or another person engaged in a rural industry, or any other person eligible to apply to the Authority for assistance (including a protection order) under this or any other Act or under any scheme 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.

Determination of applications

16. (1) The Authority shall determine an application for assistance—

- (a) by granting assistance to the applicant; or

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(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.

Matters to be considered

17. (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 schemes for assistance**General scheme**

18. The Authority may grant assistance to a farmer or other person engaged in a rural industry for the purpose of effecting—

- (a) permanent improvements to a farm (including fencing, fodder or grain storage facilities, stockyards and water supplies of a minor nature); or
- (b) production improvements to a farm (including pasture improvement, fodder conservation and stock improvement).

Special schemes

19. The Authority may grant assistance to farmers or other persons engaged in rural industries for such special purposes as the Minister may from time to time determine.

Relief schemes

20. (1) The Authority may grant assistance to a farmer or another person engaged in a rural industry who is, in the opinion of the Authority, in urgent and genuine need of assistance due to losses suffered through natural disaster and who is unable to obtain finance for essential requirements through normal channels.

(2) Without limiting the generality of subsection (1), assistance may be provided for the purpose of—

- (a) replacing lost or damaged farm improvements and stock; or
- (b) enabling farming operations to continue; or
- (c) providing fodder; or

- (d) such other purposes (including any purposes for which assistance may be granted under section 18 or 19) as the Minister may from time to time determine.

Assistance which may be granted

21. (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.

Conditions of assistance

22. 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.

Loans etc.

23. 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).

Charges on land

24. (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.

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Division 3—Administration of Commonwealth and other schemes**Administration of Commonwealth and other schemes**

25. (1) The Minister may, by order, appoint the Authority as the authority to administer (either wholly or partly) a scheme 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 scheme 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 scheme 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 scheme 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 scheme 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 scheme; and
- (c) grant any kind of assistance required or permitted to be granted under the scheme.

(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 scheme which the Authority administers by virtue of this section.

Financial arrangements

26. (1) Any money held or received by the State for the purposes of a scheme 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 scheme in a separate account in the Rural Assistance Authority Fund.

Acquisition of land etc.

27. (1) If, for the purposes of administering a scheme 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 scheme 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 scheme,

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—Protection orders**Protection orders**

28. (1) A person who applies to the Authority for assistance under this Act and who is a person prescribed for the purposes of this section may apply to the Authority for a protection order.

(2) An application for a protection order may be made at the time of making the application for assistance or at any time before that application is determined.

(3) On receiving an application for a protection order, the Authority may, at its discretion, grant a protection order against any person or body specified in the application subject to such conditions (if any) as the Authority thinks fit to impose.

(4) A protection order shall be in the prescribed form and shall be published in the Gazette.

Effect of protection orders

29. (1) While a protection order is in force—

- (a) no action, execution or proceedings (whether judicial or extra-judicial) on default—

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- (i) arising out of a breach of a covenant of a mortgage or other security; or
 - (ii) under an agreement for sale or purchase of land, or any other process or proceeding relating to land or any other property shall be commenced or proceeded with against the protected person by a person or body against whom the order is granted; and
- (b) no goods in the possession of the protected person that are subject to an agreement to purchase shall be reclaimed by a person or body against whom the order is granted, except with the consent of the Authority.
- (2) A protection order does not affect—
- (a) the right of any person who holds a mortgage, charge or lien over any property of a protected person to any money due or payable to the protected person or to the proceeds of the sale of the property; or
 - (b) a mortgagee or secured creditor who has been in possession of the property subject to the mortgage or security for not less than 2 months before the date on which the order is granted.

Term of protection orders

30. (1) A protection order shall continue in operation for a period of 3 months from the date on which it is made or until the relevant application for assistance is determined or until it is removed by the Authority, whichever occurs first.

(2) The Authority may extend by its order the operation of a protection order for not more than 3 months, but only so that the total period of the order does not exceed 12 months.

(3) A protected person or any person or body against whom a protection order is granted may, at any time, apply to the Authority to remove the order.

(4) The Authority may, at any time, remove a protection order and shall give written notice of that removal to the person protected by the order and to any person or body against whom it is granted.

(5) Particulars of the extension or removal of a protection order shall be published in the Gazette.

Registration of protection orders

31. (1) The Authority shall, as soon as practicable after making or extending or removing a protection order, register the order or its extension or removal in the register of causes, writs and orders affecting land kept in the office of the Registrar-General.

(2) A protection order is void as against any person taking title from, through or under any person or body against whom it operates, unless it is registered in the register of causes, writs and orders affecting land.

(3) A person shall not be taken to have notice of a protection order merely because of a failure to make any inquiry or any search (other than a search in that register).

Effect of removal of protection orders

32. When a protection order is removed—

- (a) any action, execution or proceedings pending or in the course of being put into operation against a protected person when the order is made may be continued and proceeded with and, in computing the time for taking any further step in connection with the action, execution or proceedings, no account shall be taken of the period which has elapsed during the operation of the order; and
- (b) the period during which the order was in operation shall not for the purposes of any statute of limitation be taken into account in connection with any debt or claim affected by the order.

Register of protection orders

33. The Authority shall keep a record of protection orders, which shall be open to public inspection at such times and on payment of such fees as may be prescribed by the regulations.

Advertisement of protection orders

34. The regulations may make provision for the advertisement of the making of protection orders and the extension or removal of protection orders.

PART 4—PROVISIONS RELATING TO DEBTORS AND CROWN LANDS

Authority's powers with respect to debtors etc.

35. (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

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- (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) with the concurrence of the Auditor-General, 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.

Effect of Crown Lands Acts

36. (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.

Consent not required to the registration of certain transfers

37. (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 way 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.

Conditions attached to land sold on default of mortgagor

38. (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.

Forfeited Crown lands securities

39. (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

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(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.

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(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.

Powers etc. of Authority in respect of land vested in it

40. (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**Rural Assistance Authority Fund**

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

Payments into the Fund

42. 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.

Payments from the Fund

43. 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.

*Rural Assistance 1989***PART 6—MISCELLANEOUS****Misleading applications**

44. (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.

Repeated applications

45. (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.

Authority may call up loans etc. obtained by false statement

46. (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.

Seal of the Authority

47. 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.

Personal liability of certain persons

48. 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.

Recovery of charges etc. by the Authority

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

Delegation by the Authority

50. (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.

Service of documents

51. (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.

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(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.

Proof of certain matters not required

52. 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.

Proceedings for offences

53. Proceedings for an offence against this Act or the regulations shall be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

Applications to court for directions

54. (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.

Act binds Crown

55. (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.

Disclosure of information

56. 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.

Regulations

57. (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.

Savings, transitional and other provisions

58. Schedule 3 has effect.

**SCHEDULE 1—CONSTITUTION AND PROCEDURE OF
NEW SOUTH WALES RURAL ASSISTANCE AUTHORITY BOARD**

(Sec. 9 (4))

Definitions

1. 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.

Chairperson of Board

2. (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.

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**SCHEDULE 1—CONSTITUTION AND PROCEDURE OF NEW SOUTH WALES
RURAL ASSISTANCE AUTHORITY BOARD—*continued***

(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.

Deputies

3. (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.

Terms of office of appointed members

4. 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.

Remuneration

5. 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.

Vacancy in office of appointed member

6. (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 by the Governor under Part 8 of the Public Sector Management Act 1988; 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

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 SCHEDULE 1—CONSTITUTION AND PROCEDURE OF NEW SOUTH WALES
 RURAL ASSISTANCE AUTHORITY BOARD—*continued*

- (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 temporary patient or a continued treatment patient within the meaning of the Mental Health Act 1958, a forensic patient within the meaning of the Mental Health Act 1983 or a protected person within the meaning of the Protected Estates Act 1983; or
 - (h) is convicted in New South Wales of an offence which is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence which, 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.

Disclosure of pecuniary interests

7. (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.

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**SCHEDULE 1—CONSTITUTION AND PROCEDURE OF NEW SOUTH WALES
RURAL ASSISTANCE AUTHORITY BOARD—*continued***

(6) A contravention of this clause does not invalidate any decision of the Board.

Filling of vacancy in office of appointed member

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

Effect of certain other Acts

9. (1) The Public Sector Management Act 1988 does not apply to the appointment of an appointed member and an appointed member is not, as a member, subject to that Act (except Part 8).

(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.

General procedure

10. 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.

Quorum

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

Presiding member

12. (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.

Voting

13. 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.

Transaction of business outside meetings or by telephone etc.

14. (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.

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SCHEDULE 1—CONSTITUTION AND PROCEDURE OF NEW SOUTH WALES
RURAL ASSISTANCE AUTHORITY BOARD—*continued*

(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.

First meeting

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

SCHEDULE 2—PROVISIONS RELATING TO CHIEF EXECUTIVE

(Sec. 11 (2))

Definition

1. In this Schedule, "Chief Executive" means the Chief Executive of the Authority.

Age of Chief Executive

2. A person of or above the age of 65 years is not eligible to be appointed as Chief Executive or to act in the office of Chief Executive.

Acting Chief Executive

3. (1) The Minister may, from time to time, appoint a person to act in the office of Chief Executive during the illness or absence of the Chief Executive, and the person, while so acting, has all the functions of the Chief Executive and shall be taken to be the Chief Executive.

(2) The Minister may, at any time, remove any person from an office to which the person was appointed under this clause.

(3) A person while acting in the office of Chief Executive 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) For the purposes of this clause, a vacancy in the office of Chief Executive shall be regarded as an absence from office of the Chief Executive.

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SCHEDULE 2—PROVISIONS RELATING TO CHIEF EXECUTIVE—*continued***Term of office**

4. Subject to this Schedule, the Chief Executive shall hold office for such period, not exceeding 5 years, as may be specified in the instrument of appointment of the Chief Executive, but is eligible (if otherwise qualified) for re-appointment.

Chief Executive to be full-time

5. The Chief Executive shall devote the whole of his or her time to the duties of his or her office, except to the extent permitted by this Act or by the Minister.

Remuneration

6. The Chief Executive is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Governor may from time to time determine in respect of the Chief Executive.

Casual vacancies

7. (1) The office of Chief Executive becomes vacant if the Chief Executive—

- (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 retired or removed from office by the Governor under this clause or under Part 8 of the Public Sector Management Act 1988; or
- (e) 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
- (f) becomes a temporary patient or a continued treatment patient within the meaning of the Mental Health Act 1958, a forensic patient within the meaning of the Mental Health Act 1983 or a protected person within the meaning of the Protected Estates Act 1983; or
- (g) is convicted in New South Wales of an offence which is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable; or
- (h) engages in any paid employment outside the duties of his or her office, except with the consent of the Minister; or
- (i) reaches the age of 65 years.

(2) The Chief Executive may, after reaching the age of 60 years and before reaching the age of 65 years, be retired from office by the Governor.

(3) The Governor may remove the Chief Executive from office for incapacity, incompetence or misbehaviour.

Filling of vacancy in office of Chief Executive

8. If the office of the Chief Executive becomes vacant, a person shall, subject to this Act, be appointed to fill the vacancy.

*Rural Assistance 1989*SCHEDULE 2—PROVISIONS RELATING TO CHIEF EXECUTIVE—*continued***Public Sector Management Act 1988 not to apply**

9. The Public Sector Management Act 1988 does not apply to or in respect of the appointment of the Chief Executive and the Chief Executive is not, as Chief Executive, subject to that Act (except Part 8).

Preservation of rights of Chief Executive previously public servant etc.

10. (1) This clause applies to a Chief Executive who, immediately before being appointed as Chief Executive, was—

- (a) an officer of the Public Service; or
- (b) a contributor to a superannuation scheme; or
- (c) an officer employed by a proclaimed statutory body; or
- (d) a person in respect of whom provision was made by any Act for the retention of any rights accrued or accruing to the person as an officer or employee.

(2) Subject to the terms of the Chief Executive's appointment, the Chief Executive—

- (a) shall retain any rights accrued or accruing to him or her as such an officer, contributor or person; and
- (b) may continue to contribute to any superannuation scheme to which he or she was a contributor immediately before being appointed as Chief Executive; and
- (c) is entitled to receive any deferred or extended leave and any payment, pension or gratuity.

as if the Chief Executive had continued to be such an officer, contributor or person during his or her service as Chief Executive.

(3) Service as Chief Executive 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 Chief Executive 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 Chief Executive 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 Chief Executive or at any later time while holding office as Chief Executive) 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 Chief Executive (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.

(7) The Chief Executive is not, in respect of the same period of service, entitled to dual benefits of the same kind through the operation of this clause.

*Rural Assistance 1989*SCHEDULE 2—PROVISIONS RELATING TO CHIEF EXECUTIVE—*continued*

(8) In this clause—

“proclaimed statutory body” means any body constituted by or under an Act that is declared by the Governor, by proclamation, to be a statutory body for the purposes of this clause;

“superannuation scheme” means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under an Act.

Chief Executive entitled to re-appointment to former employment in certain cases

11. (1) A person who—

(a) ceases to be Chief Executive by reason of the expiration of the period for which the person was appointed or by reason of resignation; and

(b) was, immediately before being appointed as Chief Executive—

(i) an officer of the Authority; or

(ii) an officer of the Public Service; or

(iii) an officer or employee of a proclaimed statutory body; and

(c) has not reached the age of 60 years,

is entitled to be appointed to some position in that Authority, the Public Service or the service of that statutory body, as the case may be, not lower in salary than the current salary for the position which the person held immediately before being appointed as Chief Executive (or a similar position).

(2) If subclause (1) does not apply to a person who—

(a) was, immediately before being appointed to a full-time office constituted by an Act, an officer or employee referred to in subclause (1) (b); and

(b) is after that appointment appointed as Chief Executive of the Authority,

the person has such rights (if any) to appointment as such an officer or employee, in the event of ceasing to be Chief Executive, as are specified in the instrument of appointment as Chief Executive or as are agreed on by the person and by or on behalf of the Government.

(3) In this clause, “proclaimed statutory body” means any body constituted by or under an Act that is declared by the Governor, by proclamation, to be a statutory body for the purposes of this clause.

SCHEDULE 3—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS

(Sec. 58)

Part 1—Preliminary**Definition**

1. 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.

*Rural Assistance 1989*SCHEDULE 3—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—
*continued***Savings and transitional regulations**

2. (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.

(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**Appointments etc. before commencement**

3. 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**Superseded references**

4. 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.

Continuity of old board

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

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 SCHEDULE 3—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—
continued
Members of old board

6. (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.

Director etc. of old board

7. (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.

Existing agreements and arrangements

8. (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;

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 SCHEDULE 3—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—
continued

- (f) States Grants (Drought Relief) Act 1940 of the Commonwealth;
- (g) Cereal Growers Drought Relief Act 1944.

Schemes of arrangement etc.

9. 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.

Waiver etc. by old board

10. 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.

Protection orders

11. 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.

Administration of other schemes

12. 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**Provisions relating to State Bank**

13. (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;

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SCHEDULE 3—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—
continued

- (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.

Applications for advances

14. (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.

Funds held by the State Bank

15. 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.

Functions under Soil Conservation Act 1938 and Farm Water Supplies Act 1946

16. (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.

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 SCHEDULE 3—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—
continued
Forfeited Crown lands securities

17. 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.

Preservation of rights of certain State Bank employees

18. (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.

(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; 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.

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SCHEDULE 3—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—
continued

(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.

[*Minister's second reading speech made in—
Legislative Assembly on 10 May 1989
Legislative Council on 24 May 1989*]