

States and Northern Territory Grants (Rural Adjustment) Agreement Ratification Act 1985 No 113

[1985-113]



New South Wales

Status Information

Currency of version

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Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

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

Notes—

- **Repeal**

The Act was repealed by Sch 6 to the [Statute Law \(Miscellaneous Provisions\) Act 2015 No 15](#) with effect from 8.7.2015.

Authorisation

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

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Contents

| | |
|-------------------------------------|---|
| Long title | 3 |
| 1 Name of Act | 3 |
| 2 Interpretation | 3 |
| 3 Ratification | 3 |
| 4 Implementation | 3 |
| 5 Validation | 4 |
| 6 Acquisition of certain land | 4 |
| Schedule 1 | 4 |

States and Northern Territory Grants (Rural Adjustment) Agreement Ratification Act 1985 No 113



New South Wales

An Act to approve, ratify and confirm an Agreement between the Commonwealth and the State of New South Wales in relation to rural adjustment; to validate certain matters; and for other purposes.

1 Name of Act

This Act may be cited as the *States and Northern Territory Grants (Rural Adjustment) Agreement Ratification Act 1985*.

2 Interpretation

- (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires, **the Agreement** means the Agreement, a copy of which is set out in Schedule 1.
- (2) For the purposes of this Act and the Agreement, the Authority is the State of New South Wales or an instrumentality designated by the Minister to be the Authority for those purposes.

3 Ratification

The Agreement is hereby approved, ratified and confirmed.

4 Implementation

- (1) The Agreement may be carried into effect notwithstanding the provisions of any other Act.
- (2) All acts, matters and things for or with respect to which provision is made in the Agreement, or which by the Agreement are agreed, directed, authorised or permitted to be made, done or executed by or on behalf of the Minister, the Treasurer, the Auditor-General or the Authority are hereby sanctioned, authorised and confirmed.

5 Validation

Any act, matter or thing:

- (a) which by the Agreement is agreed, directed, authorised or permitted to be made, done or executed,
- (b) which was made, done or executed before the commencement of this Act, and
- (c) which would have been lawful if this Act had been in force at the time the act, matter or thing was made, done or executed,

is hereby validated.

6 Acquisition of certain land

- (1) Any land to be acquired for the purposes of the Agreement by the Authority may be so acquired, notwithstanding:
 - (a) that any consent or permission required under the *Crown Lands Consolidation Act 1913*, the Closer Settlement Acts or the *Returned Soldiers Settlement Act 1916* has not been obtained or granted, or
 - (b) that the Authority may not be qualified under the *Crown Lands Consolidation Act 1913*, the Closer Settlement Acts or the *Returned Soldiers Settlement Act 1916* to hold land of the tenure to be so acquired by the Authority.
- (2) For the purposes only of this section:
 - (a) the provisions of the *Crown Lands Consolidation Act 1913*, the Closer Settlement Acts and the *Returned Soldiers Settlement Act 1916* and any regulations under any of those Acts, and
 - (b) any condition attaching to any land in pursuance of any of those provisions,shall be deemed to be amended or varied so as to give full force and effect to any of the provisions of this section.

Schedule 1

(Section 2 (1))

AN AGREEMENT made the 15th day of August, one thousand nine hundred and eighty five between—

THE COMMONWEALTH OF AUSTRALIA (in this agreement called “the Commonwealth”) of the first part,

THE STATE OF NEW SOUTH WALES of the second part,

THE STATE OF VICTORIA of the third part,

THE STATE OF QUEENSLAND of the fourth part,
THE STATE OF WESTERN AUSTRALIA of the fifth part,
THE STATE OF SOUTH AUSTRALIA of the sixth part,
THE STATE OF TASMANIA of the seventh part, and
THE NORTHERN TERRITORY OF AUSTRALIA of the eighth part.

WHEREAS—

- (A) the Commonwealth, the States and the Northern Territory of Australia recognize that there is need for assistance to be provided to persons engaged in rural industries throughout Australia in the interest of those industries and of Australia generally;
- (B) Ministers of the Commonwealth, of the States and of the Northern Territory of Australia have agreed upon the Outline of Scheme for Rural Adjustment set out in the Schedule to this agreement as constituting a Scheme under which assistance of various kinds could be provided;
- (C) the carrying out of the said Scheme involves financial assistance in different forms being granted by the Commonwealth to the States and the Northern Territory of Australia for that purpose; and
- (D) the Parliament of the Commonwealth has authorized the execution of this agreement by and on behalf of the Commonwealth and the provision of financial assistance to the States and the Northern Territory of Australia as provided in this agreement,

NOW IT IS HEREBY AGREED as follows:

I INTRODUCTION

1. Operation of Agreement

(1)

In this agreement, each State and the Northern Territory of Australia in respect of which the agreement has come into force is referred to as a “State”, and the expression “the States” means, except where the context otherwise requires, all of the States and the Northern Territory of Australia in respect of which for the time being the agreement is in force.

(2)

This agreement shall, as between the Commonwealth and a State, come into force when it has been entered into by the Commonwealth and that State.

(3)

Notwithstanding that in this agreement all the States of New South Wales, Victoria, Queensland, South Australia, Western Australia and Tasmania and the Northern Territory of Australia are named as parties, this agreement shall operate as an agreement between the Commonwealth and the party or parties in respect of which it comes into force as fully and effectually as if the party or parties in respect of which it comes into force were the only party or parties so named other than the Commonwealth.

(4)

In the event that a State ceases to be a party this agreement shall nevertheless continue in force with respect to the Commonwealth and the States which are parties when the cessation takes effect.

2. Performance of Agreement

The Commonwealth will provide for or secure the performance by it and its authorities of the obligations of the Commonwealth under this agreement and each of the States will provide for or secure the performance by the State and its authorities and instrumentalities of the obligations of the State under this agreement.

3. Interpretation

(1)

In this agreement, unless the contrary intention appears—

“aquaculture” means industries which conduct systematic farming of plants and animals in water involving the use of man-made infrastructure on or adjacent to land, but excludes harvesting-type industries where farming or cultivating is not an integral part of the operation;

“average outstanding loans” means half the total indebtedness of a State at the end of each successive period of six months of a financial year under its borrowings, whether from the Commonwealth or otherwise, for the purposes of the Scheme, and half the outstanding borrowings otherwise than by the State at the end of each such successive period for the purposes of the Scheme;

“financial year” means a period of twelve months ending on the thirtieth day of June;

“the Minister” means the Minister for Primary Industry;

“rural industries” mean all agricultural, horticultural, pastoral, apicultural and aquacultural industries;

“the Scheme” means the scheme of assistance to be established and operated by a State in accordance with clause 4.

(2)

A reference in this agreement to a Minister of the Commonwealth or of a State shall include a reference to a Minister for the time being acting for or on behalf of the Minister referred to or to a Minister who has taken over the responsibilities of the Minister under this agreement.

(3)

A reference in this agreement to a State shall include a reference to an authority or authorities of a State that has or have the administration of the Scheme on behalf of the State.

(4)

In this agreement, except where the context otherwise requires—

(a) a reference to a clause refers to the relevant clause of this agreement;

- (b) a reference to a sub-clause refers to the relevant sub-clause of the clause in which the reference appears; and
- (c) the Schedule to this agreement shall be deemed to be an integral part of this agreement.

II ADMINISTRATION OF SCHEME

4. State to operate Scheme

(1)

Each State will, by using, whether or not with funds borrowed by a State, the financial assistance provided by the Commonwealth in accordance with this agreement, establish and operate a scheme of assistance to persons engaged in rural industries in that State.

(2)

Borrowings referred to in sub-paragraphs 6 (a) (i) and (ii) and 6 (b) (i) and (ii) of the agreement shall be at a rate, or rates of interest which, together with any other borrowing charges, is or are no greater than that or those set by a lender or lenders nominated from time to time for the purpose by the Minister and agreed to by State Ministers.

(3)

The Scheme shall consist of the forms of assistance referred to in Clause 5 and shall be operated in conformity and in accordance with the general principles and the provisions set out in the Outline of Scheme for Rural Adjustment contained in the Schedule to this agreement, as amended at any time in pursuance of sub-clause 11 (1).

(4)

Unless the Commonwealth and a State at the time of entering into this agreement agree otherwise the Scheme shall be deemed to have commenced operation as between the Commonwealth and that State on the first day of July 1985.

5. Forms of Assistance

For the purposes of this agreement the various forms of assistance under the Scheme are referred to as follows:

PART A assistance

- (a) the assistance provided for in Part 2 of the Schedule—as debt reconstruction;
- (b) the assistance provided for in Part 3 of the Schedule—as farm build-up;
- (c) the assistance provided for in Part 4 of the Schedule—as farm improvement;

PART B assistance

- (d) the assistance provided for in Part 5 of the Schedule—as carry-on finance;

PART C assistance

- (e) the assistance provided for in Part 6 of the Schedule—as household support;

(f) the assistance provided for in Part 7 of the Schedule—as rehabilitation.

6. Financial Assistance to be Provided

Subject to this agreement, the financial assistance that is to be provided by the Commonwealth to a State under this agreement shall be as follows:

- (a) Part A assistance—an interest subsidy equal to 50% both of the interest payable on, and of associated costs of,
- (i) borrowings by the State for the purpose of Part A assistance; and
 - (ii) borrowings, otherwise than from the State under the Scheme, by a person eligible under the Scheme for Part A assistance,

limited to the first seven years of each borrowing or if there are successive borrowings the first seven years of the total number of years of those borrowings;

- (b) Part B assistance—in the absence of any other arrangements being in force or agreed at the time, an interest subsidy equal to 25% both of the interest payable on, and of associated costs of,
- (i) borrowings by the State for the purpose of Part B assistance; and
 - (ii) borrowings, otherwise than from the State under the Scheme, by a person eligible under the Scheme for Part B assistance,

limited to the first seven years of each borrowing or if there are successive borrowings the first seven years of the total number of years of those borrowings, provided that the State contribution to the interest subsidy is at least 25% of the said interest and costs over the same period; and

- (c) Part C assistance—payments by the Commonwealth of an amount equal to the expenditure by the State in the provision of those forms of assistance.

7. Allocation of Borrowings by a State and Amounts of Interest Subsidy Provided by the Commonwealth

(1)

Subject to the provisions expressly made by this agreement, both the funds borrowed by the State and the amounts of interest subsidy provided by the Commonwealth for the forms of assistance referred to in paragraphs (a), (b) and (c) for Part A assistance in Clause 5 shall be allocated between those forms of assistance in such proportions as the Commonwealth determines after consultation with the State.

(2)

A determination by the Commonwealth for the purposes of sub-clause (1) shall specify a target percentage for commitments on farm build-up and on farm improvement which the State shall endeavour to achieve and a maximum percentage for commitments on debt reconstruction which the State shall not exceed without the prior approval of the Commonwealth.

(3)

If during a financial year either the Commonwealth or a State informs the other that it considers the

allocation of the borrowings by the State or amounts of interest subsidy provided by the Commonwealth in respect of the year should be varied, further consultations will be held between the Commonwealth and the State with a view to varying the determination by the Commonwealth for the purposes of this clause should the Commonwealth see fit to do so.

8. Terms of Loans by a State

(1)

The rates of interest at which money is lent by the State under the Scheme in providing Part A, Part B and Part C assistance shall, subject to Part 5 of the Schedule, be as determined by the State.

(2)

The length of loans and the period during which an interest subsidy applies in respect of loans shall, subject to Part 5 of the Schedule, be as determined by the State.

(3)

The State shall have the right to review the terms of repayment, including interest rates of individual accounts, at any time and shall exercise this right at regular intervals with the objective of the borrower being encouraged to transfer to commercial credit as soon as circumstances permit.

(4)

The State shall have the right at any time to convert any loans made by it by way of Part C assistance into grants.

9. Payment by State of Interest Only

(1)

Subject to sub-clause (2), where an amount of interest subsidy is paid to the State by the Commonwealth in respect of a borrowing referred to in sub-paragraphs 6 (a) (ii) and 6 (b) (ii) that amount shall be paid by the State either to the lender in satisfaction of interest payable on that borrowing or to the borrower in reimbursement of interest paid by that borrower to that lender.

(2)

The amount paid by the State referred to in sub-clause (1) shall be, in relation to each individual borrowing, determined by the State having regard to the terms of the borrowing.

10. Administration Expenses

The Commonwealth will pay a State at the end of each successive period of six months of a financial year towards administration expenses of the State in providing assistance under the Scheme

- (a) under Parts A and B—an amount equal to 1 per cent of so much of the amount of average outstanding loans as relates to assistance under those Parts;
- (b) under Part C—an amount equal to 2 per cent of assistance provided under that Part for that period.

11. Amendment of Schedule

(1)

The provisions of the Schedule to this agreement may be amended from time to time by agreement between the Ministers of the Commonwealth and of the States for the time being responsible for the administration of the Scheme.

(2)

Where so agreed between the Commonwealth Minister and the Minister or Ministers of the relevant State or States, any amendments to the provisions of the Schedule to this agreement may be made and take effect as between the Commonwealth and one or more of the States without affecting the operation of this agreement as between the Commonwealth and a State the Minister of which has not so agreed.

III FINANCIAL ASSISTANCE

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12. Provision of Financial Assistance

Subject to, and to the performance by a State of, the provisions of this agreement, the Commonwealth will make financial assistance available to the States for the purposes of the Scheme.

13. Amount of Financial Assistance

(1)

The amount of financial assistance to be made available by the Commonwealth to each State for Parts A and C assistance during a financial year shall be determined by the Commonwealth after consultation with the States and on a basis of a total amount of borrowing which the Commonwealth considers feasible to subsidise. Before the commencement of the financial year Commonwealth and State Ministers will consult taking into account such matters as the state of rural industries, size and importance of rural industries, short and long-term industry trends and priorities for rural adjustment financial assistance and will give due consideration to submissions made by the States not later than the end of February last preceding the financial year and will have regard to such other criteria as the Commonwealth and States consider appropriate.

(2)

The amount to be made available to a State during a financial year determined under sub-clause (1) may, at any time the Commonwealth so considers fit, after consultation with the other States, be increased by the addition of a supplementary amount determined by the Commonwealth at that time.

(3)

The amount of financial assistance to be made available by the Commonwealth to a State for Part B assistance shall be determined at the time the Commonwealth and the State agree that the provisions of such assistance is warranted.

(4)

When an amount of financial assistance determined in respect of a State under the preceding sub-clauses will not be required by the State during the period for which the amount is determined, the amount, or such part of that amount as the Commonwealth determines, may, with the consent of that State, be allocated by the Commonwealth to another State and the respective amounts of financial assistance to which those States are entitled under this clause during the relevant period shall be adjusted accordingly.

(5)

Should a State certify that, taking into account any money earned referred to in sub-clause 15 (3) but not its administration expenses, it is incurring losses under the Scheme in meeting payments of interest on its borrowings in respect of Parts A and B assistance from circumstances beyond its control, the Commonwealth is to review the position with the State and make supplementary payments to the extent of such losses.

(6)

Should a State certify that, taking into account matters referred to in sub-clause (5), it is incurring any other losses under the Scheme from circumstances beyond its control, the Commonwealth may review the position with the State and give consideration to making supplementary payments in respect of such other losses.

(7)

Where repayments of, or payments of interest on, any borrowings in respect of Part A and Part B assistance cannot be recovered by a State from persons who have received assistance under those Parts of the Scheme the Commonwealth and the State shall contribute towards the amount not so recovered as follows:

- (a) up to a total amount equal to 10 per cent of borrowings and interest owing by the State at the end of the financial year in which the contribution is sought, in equal shares;
- (b) for amounts in excess of that total amount, the Commonwealth shall contribute that excess.

14. Advances

(1)

The Commonwealth may, at such time and in such amounts as the Minister thinks fit, make advances on account of the payment that may be made by the Commonwealth under clause 17.

(2)

An amount or part of an amount advanced by the Commonwealth under this clause may be deducted by the Commonwealth from an amount that subsequently becomes payable under clause 17 or, if no further amounts will become payable under that clause, shall be refunded by the State to the Commonwealth at the request of the Minister.

15. Use of Advances and Other Moneys

(1)

A State shall ensure that an amount or any part of an amount advanced to the State and not refunded under the last preceding clause is used or applied for the operation of the Scheme.

(2)

A State shall ensure that any financial assistance paid by the Commonwealth under the Scheme is either used or applied for the operation of the Scheme or is refunded to the Commonwealth.

(3)

A State shall ensure that any money earned by it under the Scheme on financial assistance provided

by the Commonwealth to the State under this agreement is either used or applied for the operation of the Scheme or is refunded to the Commonwealth.

(4)

A State, on being requested by the Minister to do so, shall pay to the Commonwealth any amount which is held by it under this agreement and which the Minister, after consultation with the State, determines in writing to be in excess of the amount the State needs in the operation of the Scheme.

(5)

For the purposes of this clause the reimbursement by a State of the part of its administration expenses to be borne by it shall be taken not to be done in the operation of the Scheme.

16. Pre-commitment of Assistance

(1)

Where the Minister has, upon the State establishing to the Minister's satisfaction that the circumstances so warrant, authorized the State during a financial year to commit to the Scheme financial assistance to be received under this agreement during the next succeeding financial year, the State may approve the provision of assistance under the Scheme to the extent of the amount or amounts that have been so authorized by the Minister.

(2)

Any amounts that are approved by the State under sub-clause (1) shall be included in the amount of financial assistance to be made available by the Commonwealth to the State for the purposes of the Scheme as determined under clause 13 in respect of the financial year for which the amounts have been approved.

17. Payments of Financial Assistance

(1)

The Commonwealth shall, from time to time, at the request of a State and subject to the provisions of this agreement make payments to the State of the financial assistance to be provided to the State under this agreement—

- (a) in respect of Parts A and B assistance—in amounts equal to the interest subsidy payable by the Commonwealth in respect of a borrowing referred to in sub-paragraphs 6 (a) (i) and (ii) and 6 (b) (i) and (ii) of this agreement; and
- (b) in respect of Part C assistance—in amounts equal to the expenditure by the State (other than administration expenses) in the provision of those forms of assistance.

(2)

The payments of interest subsidy by the Commonwealth, in respect of a borrowing referred to in—

- (a) sub-paragraphs 6 (a) (i) and 6 (b) (i) of this agreement shall be paid to the State at least seven days before the date on which the State is liable to pay interest on such borrowings; and
- (b) sub-paragraphs 6 (a) (ii) and 6 (b) (ii) of this agreement shall be paid to the State at such times as will facilitate the discharge of the liability of the person referred to in those sub-paragraphs

to pay the relevant amount of interest.

(3)

The payments of financial assistance by the Commonwealth in respect of Part C assistance to the State shall be made quarterly in advance on receipt of estimates from the State setting out the amount which the State expects to expend in the quarter and an appropriate adjustment shall be made in the succeeding or subsequent quarters when the actual amount expended by the State on those forms of assistance is ascertained.

18. Supporting Financial Evidence

(1)

A State shall furnish to the Minister such documents and other evidence to justify payment of any moneys to the State under the Scheme as the Minister may from time to time reasonably request, whether the request by the Minister is made before or after the Commonwealth has made the advance or a payment pursuant to the request by the State.

(2)

Information furnished by a State pursuant to clause 18 (1) shall include details of accounts of borrowers from the State or otherwise under the Scheme in a format agreed from time to time by Commonwealth and State Ministers.

19. Repayments of Part C Assistance

Each State shall, by way of repayment of the form of assistance referred to in Part C of clause 5, pay to the Commonwealth so much of that assistance and interest thereon as is recouped by the State in any year from the recipients of that assistance, such payments to be made on each 15th day of January and July next succeeding the receipt of those moneys by the State.

20. Audit

(1)

The accounts, books, vouchers, documents and other records of a State relating to the operation of the Scheme shall be subject to audit by the Auditor-General of the State.

(2)

A report on the audits in respect of each financial year shall be furnished by the Auditor-General of the State to the Minister in a form approved by the Minister as soon as possible after the completion of the financial year and no later than 31 December of the succeeding financial year.

21. Other Financial Arrangements

Financial arrangements in connection with the Scheme, other than those provided for in this agreement, shall be carried out as agreed from time to time between the relevant Commonwealth and State Ministers responsible for such financial arrangements.

IV GENERAL

22. Review

(1)

The operation of the Scheme in relation to all of the States will be reviewed from time to time as appropriate by the Commonwealth and the States in the light of experience in its administration.

(2)

Where on a review of the operation of the Scheme, the Ministers of the Commonwealth and of the States consider that an amendment to the agreement should be made, the Commonwealth Minister will seek to have the agreement so amended.

23. Exchange of Information

State and Commonwealth Officers associated with the Scheme will meet together as appropriate at least once in each year and exchange information on any matters pertinent to the Scheme, including trends in adjustment assistance being provided to persons in rural industries having regard to the outlook for the rural industries.

24. Provision of Information and Review

The State will supply to the Commonwealth from time to time such information regarding the operation of the Scheme by the State for purposes of monitoring and accountability as agreed by the Commonwealth and the States at review meetings.

25. Report to Parliament

The Minister shall on the basis of the information supplied by the States no later than 31 December of each financial year submit an annual report to the Parliament of the Commonwealth relating to the operation and effectiveness of the Scheme.

26. Loan Council

In the event that the Loan Council decides to include borrowings by the State for the purposes of Parts A and B assistance in borrowings subject to Loan Council control or oversight on terms which a State considered unacceptable, the Commonwealth and the States shall consult to determine whether any amendments should be made to this agreement.

27. Cessation of Agreement by a State

A State may, on giving at least a period of sixty days notice in writing to the Commonwealth, cease, subject to its performance thereafter of any outstanding obligation, to be a party to this agreement at the expiry of that period of notice.

THE SCHEDULE
RURAL ADJUSTMENT—OUTLINE OF SCHEME
Part 1 General Principles

—

- (a) All agricultural, horticultural, pastoral, apicultural and aquacultural industries are included in the Scheme. It is recognised that in particular circumstances some industries may need additional special consideration.
- (b) The general principle to be applied is to distribute the available resources as widely as practicable. Applicants must be primary producers relying primarily on income from primary production who are unable to obtain funds on reasonable terms and conditions from normal commercial sources.
- (c) The over-riding objective is to assist rural industry structural adjustment and to ease adjustment pressures through the provision of adjustment assistance to individual farmers who are considered

to have the capacity to achieve and maintain a commercially viable farm business enterprise.

- (d) The State will avail itself of the best available advice on the technology and market prospects of all the industries included in the Scheme.
- (e) Companies will not be eligible for assistance unless the State, having considered the shareholdings and being satisfied that the shareholders are primary producers relying primarily on the income of the company for their livelihood, considers it appropriate to provide assistance.
- (f) In cases of Parts A and B assistance it is an essential part of the Scheme that adequate supervision of property management and the financial affairs of the assisted farmer is maintained. If the State deems it necessary, it may require in respect of loans made by the State under the Scheme that moneys receivable on account of the property will be received by the State or its agent or a body nominated by the State, payments within the approved budgets being made through normal channels.
- (g) Repayment of advances made by the State and interest due thereon will be secured by the best and most appropriate security available, recognising that this may involve ranking after existing securities.
- (h) A transfer of the property or any interest therein before advances made by the State are repaid will be permitted only with the consent of the State which will upon transfer, or upon succession on the death of the borrower, have the right to review its arrangements in respect of the property.
- (i) The arrangements with the assisted farmer will be subject to regular review by the State. They may be terminated if the farmer ceases to work the property personally, fails to observe the obligations and undertakings under the arrangements or if the State decides that for any reason the farmer lacks reasonable prospects of successful economic operation. Otherwise the arrangements shall be terminable when the State decides that the farmer's prospects of successful economic operation are no longer dependent on the extension of concessional interest rates.
- (j) The eligibility of an applicant for one form of assistance under this Scheme will not necessarily be affected by the applicant having applied for or receiving another form of assistance under the Scheme.
- (k) The rate of interest payable on advances by the State and the amount of interest subsidy payable in respect of borrowings, otherwise than from the State, under the Scheme will be decided by the State in the circumstances of the particular case. The State will have the right to review
 - (i) in respect of advances by the State, the interest rates and terms of repayment on individual accounts
 - (ii) in respect of borrowings, otherwise than from the State, under the Scheme, the amount of interest subsidy payable,with the objective of the borrower being brought up to commercial interest rates as soon as circumstances permit.

Part 2 Debt Reconstruction

(1) Purpose

To assist an applicant who, although having sound prospects of long term commercial viability, has used all the applicant's cash and credit resources and cannot meet the applicant's financial commitments.

(2) Tests of Eligibility

- (a) The applicant is unable to obtain finance on reasonable terms to carry on from normal commercial sources and is thus in danger of losing property or other assets if not assisted under the Scheme.
- (b) There is a reasonable prospect of successful operation possible with assistance under the Scheme, the prime requirements being ability to service commitments and to reach the stage of commercial viability within reasonable time.
- (c) Assistance is merited and the applicant's difficulties are not substantially due to circumstances within the applicant's control.

(3) Nature of Assistance

The assistance to be provided may include where necessary—

- (a) A re-arrangement and/or a composition of debts to allow more time for payment.
- (b) The negotiation of a concessional rate of interest for existing rates.
- (c) Advances of additional funds for carry-on expenses, livestock and further property development.
- (d) Where the State legislation so provides, a protection order against any creditor who has threatened action for debt, to apply while the application is under consideration and subject to such extensions as the State may from time to time determine.

(4) Method of Operation

- (a) A re-arrangement and/or composition may take the form of the State advancing money or arranging for an offer of an advance of money to pay off in whole or part the creditors (whether or not the debts have been written down by the creditors under (b) below), excluding the Crown or providing interest subsidy in respect of borrowings otherwise than from the State under the Scheme. There may be an arrangement by the secured or unsecured creditors to postpone repayments of principal and to refrain from taking action against the debtor for a specified time. Composition arrangements require the agreement in writing of creditors.
- (b) The possibility of creditors, including the Crown, local authorities and public utilities being asked to defer or write off part of their debts should be considered. Creditors should not be pressed to the extent that the availability of credit to rural industries is damaged.
- (c) Additional funds advanced or the interest subsidy previously referred to to assist with carry-on expenses, livestock purchase and further property development will be strictly limited to the minimum which the State considers is required to enable the applicant to carry on and free the applicant from dependence on the assistance within the term of the advances or the interest subsidy.

- (d) In exceptional cases, advances or an interest subsidy to assist with carry-on expenses and livestock purchase may be made to an applicant who is not yet in immediate danger of losing property or other assets but who, in the opinion of the State, is likely to reach that position without such assistance, such cases being tested strictly against the remaining eligibility criteria.
- (e) Where protection orders apply it is desirable to establish a relationship with creditors such that the State is acting in combined interests of applicant and creditors, secured and unsecured.

(5) Limits

The State shall have discretion to determine:

- (a) The terms and conditions of any loan made by the State under the Scheme. An initial period of freedom from repayments of principal may be allowed depending on the circumstances of the case and the interest rate to be charged.
- (b) The proportion of debts paid off by advances in any one case.
- (c) The total advances which may be made by the State in any one case.
- (d) The level of interest subsidy in respect of borrowings otherwise than from the State under the Scheme.

Part 3 Farm Build-up

(1) Purpose

To supplement, without discouraging, the normal processes under which properties which do not have reasonable prospects of long term viability under existing and prospective circumstances are amalgamated with an adjoining holding or are subdivided and the subdivided proportions are added to adjoining holdings, or to assist a farmer with a property too small to be economic to purchase additional land to build up his property to at least economic size.

(2) Tests of Eligibility

- (a) The owner of the property to be purchased wishes to sell or accepts that the owner is obliged to sell.
- (b) The purchaser is unable to obtain the finance applied for on reasonable terms from normal commercial sources.
- (c) The State is satisfied that the built up property will be of sufficient size to offer sound prospects of long term commercial viability.
- (d) Where an application is made by an adjoining owner for assistance under the Scheme to purchase an uneconomic property, but there is a possibility of sale of the property to another adjoining owner who does not require assistance under the Scheme, assistance will be provided only if the applicant's property is not of sufficient size to offer sound prospects of long term commercial viability.
- (e) The term "adjoining holding" includes land which is within a reasonable working distance of the

farm under consideration where there is no impediment to the two or more farms being worked as a single unit.

(3) Nature of Assistance

The provision to the purchaser of finance or an interest subsidy in respect of borrowings otherwise than from the State under the Scheme

- (a) to assist the purchase of an adjoining holding or part of an adjoining holding;
- (b) to assist with carry-on expenses, plant, stock and property development in respect of the additional land where not available from normal commercial sources.

(4) Method of Operation

- (a) The provision of advances or the interest subsidy referred to above will only be made where arrangements have been made for an adjoining owner to take over the property or for the property to be subdivided and the subdivided parts added to adjoining properties. The State may purchase such properties in advance of arrangements having been made for the property to be added to an adjoining property or properties where the program of farm adjustment could not otherwise be achieved. The State may dispose of such a property on commercial terms where the purchaser does not require or is not eligible for assistance under this Part.
- (b) Where appropriate, the State could take the initiative to encourage an adjoining owner to purchase additional land where the State is aware that the owner of such land wished to leave the industry or accepts that the owner is obliged to leave the industry; this applies particularly where it is unlikely that the appropriate purchaser or purchasers will be able to purchase the additional land unless the State provides assistance for the purchase.
- (c) Since it is required that there must be reasonable prospects of successful operation of the built-up property, the State, in considering the transfer price of land, will have regard to its productivity value.
- (d) Where advances or an interest subsidy are made to assist with carry-on expenses, plant, stock and property development, the assistance will be strictly limited to the minimum which the State considers is required to enable the applicant to carry on and develop the built-up property.
- (e) While any advances by the State in respect of built-up property remain unpaid, the transfer of part of the built-up property will not be permitted if this would result in a property of a size too small to be commercially viable.

(5) Limits

The State shall have discretion to determine

- (a) The term and conditions of any loan made by the State under the Scheme. An initial period of freedom from repayments of principal may be allowed depending on the circumstances of the case and the interest rate to be charged.
- (b) The total of advances which may be made by the State in any one case.
- (c) The level of interest subsidy in respect of borrowings, otherwise than from the State, under the

Scheme.

Part 4 Farm Improvement

(1) Purpose

To assist the attainment of commercial viability of a farm by providing financial assistance to the applicant to improve the effective use of the existing farm without adding to its area.

(2) Tests of Eligibility

- (a) The existing farm is not now viable but is of sufficient area and the proposed improvements are of a kind as to offer sound prospects of long term commercial viability if assistance under the Scheme were provided.
- (b) The applicant is unable to obtain finance on reasonable terms from normal commercial sources.

(3) Nature of Assistance

Advances or an interest subsidy in respect of borrowings, otherwise than from the State, under the Scheme to assist with plant and livestock purchases, carry-on expenses and further property development intended to restore the economic viability of the farm either in the existing form of production or in another form of production which may be undertaken in combination with, or completely replace, the existing form of production.

(4) Method of Operation

- (a) Advances or the interest subsidy referred to above made for the purposes of this Part will be limited to the minimum which the State considers is required to enable the farmer to achieve the objective of the improvement program.
- (b) While any advances by the State in respect of improvement for which finance is provided under this Part remain unpaid or during the period that the interest subsidy is provided, the transfer of part of the improved property will not be permitted if this would result in a property of a size too small to be economic.

(5) Limits

The State shall have the discretion to determine

- (a) The term and conditions of any loan made by the State under the Scheme. An initial period of freedom from repayments of principal may be allowed where circumstances warrant this concession.
- (b) The total of advances which may be made by the State in any one case.
- (c) The level of interest subsidy in respect of borrowings otherwise than from the State under the Scheme.

Part 5 Carry-on Finance

(1) Purpose

To provide assistance for essential carry-on purposes in rural industries which it is agreed from time to time between the Commonwealth and a State or States are suffering a severe market downturn or similar situation (but excluding drought or other natural disasters).

(2) Tests of Eligibility

- (a) The applicant has sound prospects of long term commercial viability having regard to the applicant's asset structure, on the assumption of a market recovery to the long term trend.
- (b) The applicant is unable to obtain carry-on finance on reasonable terms from normal commercial sources.
- (c) Assistance is merited and the applicant's difficulties are not substantially due to circumstances within the applicant's control.

(3) Nature of Assistance

Advances for essential carry-on expenses or an interest subsidy in respect of borrowings, otherwise than from the State, under the Scheme for the same purpose.

(4) Method of Operation.

- (a) In relation to the rural industries referred to in clause (1) of this Part, the Commonwealth and the State will agree upon the terms and conditions upon which assistance is to be given to applicants within those rural industries and the Commonwealth will thereupon publish a notice to that effect in the Australian Government Gazette.
- (b) Applicants within those rural industries who fulfil the eligibility requirements set out above will then apply to the State in their own State for carry-on assistance.
- (c) Assistance will be made available at the discretion of the State and will be limited to the minimum which the State considers is required to enable the farmer to carry on.

Part 6 Household Support

(1) Purpose

To provide limited assistance to applicants facing conditions of financial hardship and who are considering whether to adjust out of farming.

(2) Conditions of Eligibility

- (a) The applicant must be ineligible for Parts A and or B assistance.
- (b) The applicant does not have sound prospects of long term commercial viability.
- (c) The applicant will suffer financial hardships which will be alleviated by assistance under these provisions.
- (d) The applicant must not at the time of application or whilst in receipt of household support be also in receipt of unemployment benefits.

(3) Nature of Assistance

- (a) An advance provided for one year sufficient to raise the applicant's estimated future income from all sources to the level of payment which would be applicable to the applicant if the applicant were eligible for unemployment benefits. An extension for a further two years may be allowed in those cases where the applicant has made a genuine effort to dispose of the applicant's productive assets at a market value acceptable to the State.
- (b) Where it would take some time to assess an applicant's entitlement, interim assistance may be granted by the State as a loan at a level of payment which would be applicable to the applicant if the applicant were eligible for unemployment benefits, provided there is a prima facie evidence of urgent need and unavailability of alternative sources of finance.
- (c) If the State subsequently determines that the applicant has a viable enterprise the interim assistance will be regarded as carry-on finance.
- (d) The carry-on finance would represent part or all of the finance to be provided under a Scheme operative at the time and would be repaid under the conditions pertaining to that Scheme.
- (e) If the State determines that an applicant does not have a viable enterprise, the applicant will be eligible for household support assistance and any interim assistance the applicant may have received will be regarded as part of household support assistance.
- (f) Advances of household support assistance are to be paid to the applicant at intervals not exceeding three monthly. Prospective income for each period will be assessed by the State on the basis of declarations made by the applicant. Each applicant's income situation is to be reviewed by the State, on the basis of declarations made by the applicant, when further advances are to be made to the applicant.
- (g) Where an applicant obtains employment or the applicant's income is higher than allowed for by the State when making an advance, the applicant shall notify the State and repay any excess household support assistance the applicant may have received.
- (h) In the event of the State becoming aware that an applicant has received more than the applicant was entitled to, it may exercise its discretion in seeking repayment of the excess.
- (i) At the end of the first period of twelve months for which an applicant receives household support assistance the advances made to the applicant may be automatically converted to a grant.
- (j) If the applicant adjusts out of farming within three years of the time the applicant first received household support, any advances made to the applicant and not already converted to a grant may be so converted by the State.
- (k) If an applicant does not adjust out of farming within three years after first receiving household support assistance any advances made to the applicant and not converted to a grant will be repayable to the State, together with interest accruing from the commencement of the advance, within a further period of seven years.
- (l) An applicant who is eligible for household support and who is prepared to adjust out of farming may receive in lieu of household support assistance a lump sum payment to bring total payments received under the household support to \$8,000.

(m) For the purpose of these provisions an applicant is regarded as having adjusted out of farming when, in the judgement of the State, the applicant has effectively disposed of the applicant's productive resources.

(4) Method of Operation.

The assistance will be provided at the discretion of the State.

Part 7 Rehabilitation

(1) Purpose

To provide limited assistance to applicants facing conditions of financial hardship who are obliged to adjust out of farming.

(2) Conditions of Eligibility

- (a) The applicant must be ineligible for Parts A and or B assistance.
- (b) The applicant does not have sound prospects of long term commercial viability.
- (c) Taking into account the financial position of the applicant after the applicant's property has been sold, the applicant will suffer financial hardship which will be alleviated by assistance under these provisions.

(3) Nature of Assistance

An advance of \$8,000 indexed to movements in the Consumer Price Index from 1 July 1985. The loan may be converted to a grant at any time by the State.

(4) Method of Operation

The assistance and conditions, if any, will be provided at the discretion of the State to applicants who comply with the conditions of eligibility.

IN WITNESS WHEREOF this Agreement had been executed by the parties as at the day and year first above written.

SIGNED on behalf of THE STATE OF NEW SOUTH WALES by the Honourable KENNETH GEORGE BOOTH, Treasurer, in the presence of—

B. P. FOSTER J.P.

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KEN BOOTH

SIGNED on behalf of THE COMMONWEALTH OF AUSTRALIA by the Honourable JOHN CHARLES KERIN, Minister for Primary Industry, in the presence of—

B. R. D. RIDGWAY

}

JOHN KERIN