

TASMANIA.

THE HOMES ACT 1935.

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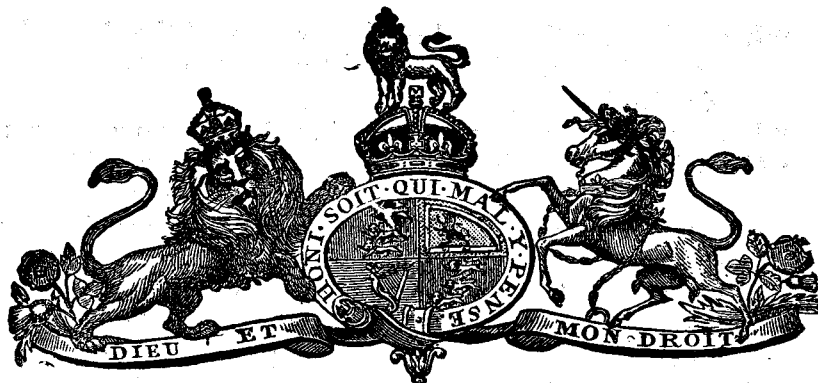
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TASMANIA



1935.

ANNO VICESIMO SEXTO

GEORGII V. REGIS.

No. 98.



AN ACT to consolidate certain Enactments relating to the Provision of Homes and Advances for Homes for Persons of limited means. [31 January, 1936.]

A.D. 1935.

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

PART I.

PRELIMINARY.

- 1 This Act may be cited as the *Homes Act 1935*.
- 2 The Acts set forth in the first schedule are hereby repealed.
- 3—(1) In this Act, unless the contrary intention appears—
 - “ Advance ” means an advance under this Act :
 - “ Applicant ” means an applicant for an advance :
 - “ Bank ” means the Agricultural Bank of Tasmania :

Short title.

Repeal

Interpretation.
10 Geo. V. No. 39, s. 3.
Cf. 19 Geo. V. No. 50, s. 7.

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26 Geo. V. No.
41.

“Board” means the Board of Management of the Agricultural Bank of Tasmania, constituted under the *State Advances Act 1935* :

“Borrower” means a person who has obtained an advance :

“Capital cost” includes the price agreed upon or paid for the land and dwelling-house, and such sum as the Board determines as sufficient to cover the cost of acquisition and subdivision, including construction of streets (if any), together with interest on expenditure for the purchase of the land and the purchase or erection of the dwelling-house up to the time of the sale of the dwelling-house :

“Contract of sale” means a contract for the sale by the Board of land or a dwelling-house and land :

“Dwelling-house” includes the house and its appurtenances, necessary outbuildings, fences, and permanent provision for lighting, water-supply, drainage, and sewerage, but does not include any land :

20 Geo. V. No. 4.

“Eligible person” means a person who satisfies the Board—

i. That he—

(a) Is married :

(b) Is about to marry : or

(c) Has dependants for whom it is necessary for him to provide a home : and

ii. That his income at the time of his application for an advance under this Act does not exceed—

(a) In case of a person who has three or more such dependants as aforesaid, five hundred : and

(b) In any other case, four hundred—

pounds a year, and that not more than twenty-five pounds of such yearly income is income from property within the meaning of the *Land and Income Taxation Act 1910*.

1 Geo. V. No. 47.

“Holding” means land of which an applicant or borrower is the beneficial owner in fee simple in possession :

“Manager” means the manager of the Bank :

“Purchaser” means a person who has purchased from the Board land or a dwelling-house and land.

(2) Where by this Act any remedy is given to the Board against or with respect to any land, the expression “land” shall include not only the land but also all improvements thereon.

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PART II.

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ADMINISTRATION: FUNDS.

- 4** This Act shall be administered by the Board, and such administration shall be deemed to be part of the duties and business of the Board.
- Administration.
10 Geo. V. No. 39, s. 4.
- 5** The Board shall hold all property and all estates and interests in property, and all moneys acquired by it under this Act for and on account of the Crown.
- Property held on behalf of Crown.
Ib., s. 5.
- 6**—(1) The manager, subject to the Board, shall be the chief executive officer of the Board for the purposes of this Act.
- Officers.
Ib., s. 7.
- (2) The inspectors, valuers, and other officers appointed under the *State Advances Act 1935*, may be employed for the purposes of this Act, and the Governor, in accordance with the provisions of the *Public Service Act 1923*, may appoint such additional inspectors, valuers, and other officers as he thinks fit for the purposes of this Act.
- 26 Geo. V. No. 41.
13 Geo. V. No. 25.
- 7** The moneys authorised to be raised under the Acts specified in the second schedule shall be deemed to have been authorised to be raised for the purposes of this Act.
- Borrowings authorised under previous Acts to be for the purpose of this Act.
- 8**—(1) There shall continue to be kept in the books of the Treasury the account called the "Homes Act Loan Account."
- Capital account.
10 Geo. V. No. 39, s. 9 (inserted by 20 Geo. V. No. 31, s. 2.)
- (2) There shall be credited to that account all moneys borrowed by the Treasurer for the purposes of this Act, or appropriated by Parliament for those purposes, or deemed to have been so borrowed or appropriated.
- (3) All interest payable in respect of such moneys shall be charged to, and paid by the Treasurer out of, the Consolidated Revenue.
- 9**—(1) There shall continue to be kept in the books of the Treasury the account called "The Homes Act Account," and all expenses of administration and all other payments made by the Board under the authority, or for the purposes, of this Act shall be charged and debited to that account.
- Working account.
10 Geo. No. 30, s. 10 (inserted by 20 Geo. V. No. 31, s. 2.)
- (2) All interest and all repayments in respect of advances and all other moneys received by the Board under this Act shall be paid and credited to the account kept pursuant to subsection (1) hereof.
- (3) The Board shall pay to the Treasurer, at such rate and at such times as the Governor may determine, interest on the daily balance standing to the debit of the account kept pursuant to subsection (1) hereof.
- (4) The interest received under subsection (3) shall be paid into the Consolidated Revenue.

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PART III.

ACQUISITION OF LAND AND ERECTION OF DWELLING-HOUSES.

Setting apart
Crown land for
purposes of this
Act.

10 Geo. V. No.
39, s. 11.

10—(1) The Governor, on the recommendation of the Minister, may, by notification in the Gazette, set apart any Crown land to be used for the purposes of this Act, whether or not such land is vacant or has dwelling-houses or other buildings already erected thereon; and thereupon such land shall become and be available for the purposes of this Act.

(2) The Governor, in the name and on behalf of His Majesty the King, for the purposes of this Act, may grant any Crown land so set apart to and vest the same in the Board in fee simple without payment of any grant fee.

(3) The value of the Crown land so set apart, or, where such land shall be subdivided by the Board into lots, the value of each lot, shall be determined by mutual agreement between the Commissioner of Crown Lands and the Board, and, in the case of a subdivision, regard shall be had to the size of the lot and to its position in the subdivision.

(4) Every such determination of value shall be recorded in the offices of the Commissioner of Crown Lands and the Board, and the record thereof shall be signed by the Commissioner and the Manager.

(5) In the event of the Board selling any such Crown land or lot, the Board shall be debited by the Commissioner of Crown Lands in the books of his Department with the amount of the value of such land or lot as determined in accordance with this section as the price thereof.

(6) When the Board has been paid the whole of the purchase-money payable to it under the contract of sale made by it in respect of such land or lot, the Board shall pay the price so debited against it out of the Homes Act Account into the Treasury to the credit of the Department of Lands and Surveys, and thereupon the Commissioner of Crown Lands shall credit the Board with such payment.

(7) The Board shall, as from the date of the contract of sale of any such land or lot, pay out of the Homes Act Account into the Treasury to the credit of the Department of Lands and Surveys, at such times as the Treasurer determines, interest at the rate of four pounds per centum per annum upon the price so debited against the Board in respect of such land or lot until the purchase-money under such contract has been paid to the Board, or, in case such contract is cancelled, until it is cancelled.

(8) Whenever any such Crown land or lot is disposed of by way of lease for any tenancy, the Board shall, from the commencement of the tenancy, during its continuance, pay out of the Homes Act Account into the Treasury to the credit of the Department of Lands and Surveys interest at the rate of four pounds per centum per annum upon the price so debited against the Board in respect of such land or lot.

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11—(1) The Board, with the approval of the Minister, may purchase and acquire for the Crown, by agreement, the fee simple in possession, free from encumbrances, of and in any land in this State for the purposes of this Act, whether or not such land is vacant or has dwelling-houses or other buildings already erected thereon; and thereupon such land shall become and be available for the purposes of this Act.

(2) The Board may execute all deeds and instruments and do and perform all acts necessary for the completion of any such purchase.

(3) All land purchased and acquired under this section shall be conveyed to and vested in the Board for an estate in fee simple in possession, freed and discharged from all trusts, obligations, estates, interests, contracts, licences, charges, rates, and easements.

12—(1) The Board may cause a plan of subdivision to be made of any Crown land set apart for the purposes of this Act or of any land acquired by agreement for the purposes of this Act, showing the proposed roads and reserves and the land set apart as sites for dwelling-houses.

(2) The Board may cause any work to be done on such land for the purpose of rendering it fit for the use to which it may be put under this Act.

(3) The Board, with the consent of the Minister, may dedicate reserves for public recreation or for other public purposes, and fence, plant, and improve such reserves.

13 Where land acquired by agreement by the Board is subdivided by the Board into lots for dwelling-houses and portion of the land is reserved for streets or other purposes, the Board may determine the cost of each lot, having regard to its size and to its position in the subdivision, but the aggregate cost of all the lots as so determined shall be equal to the total cost of all the land including that which is reserved for streets and other purposes.

14 On any Crown land so set apart or land acquired by agreement, or on the holding of an eligible person, the Board may cause dwelling-houses to be erected, or may convert any buildings into dwelling-houses; and may alter, enlarge, repair, and improve such dwelling-houses.

15 The total cost to the Board of any dwelling-house acquired or erected in pursuance of this Part, together with the cost of the land on which it is erected or held therewith, shall not exceed seven hundred and fifty pounds, except in the case of the erection of a new concrete or brick dwelling-house, when such total cost shall not exceed, in any case, the sum of eight hundred and fifty pounds.

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Acquisition by purchase of land for the purposes of this Act.

10 Geo. V. No. 39, s. 12.

Plan, &c., of land, and building thereon. *Ib.*, s. 13.

Board may determine cost of each lot.

Ib., s. 14.

Board may erect dwelling-houses.

Ib., s. 15.

Total cost of land and dwelling-house.

Ib., s. 16, as amended by 15 Geo. V. No. 23, s. 2.

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PART IV.

DISPOSAL OF DWELLING-HOUSES.

Power to let
dwelling-houses.10 Geo. V. No.
39, s. 17.

16 Until any dwelling-house, together with the land on which it is erected or to be held therewith, becomes the subject of a contract of sale by the Board, the Board may let such dwelling-house and land, by agreement, for a weekly, monthly, or quarterly tenancy, and at such rent, and on such other terms and conditions as may be mutually agreed upon.

Sale of dwelling-
houses.*Ib.*, s. 18.

17—(1) Subject to this Act, the Board may sell to any eligible person a dwelling-house acquired or erected in pursuance of Part III., together with the land on which it is erected or to be held therewith, if such person or his wife, if any, is not the owner of a dwelling-house within this State.

(2) The sale may be upon such terms and subject to such conditions as are prescribed or are fixed by the Board.

(3) The price shall not exceed the capital cost to the Board of the dwelling-house and land.

(4) With the approval of the Board a dwelling-house, together with the land on which it is erected, or to be held therewith, may be sold to an eligible person without a deposit.

(5) The purchaser shall be permitted to occupy the dwelling-house and land as a weekly tenant, and shall pay therefor a rental sufficient to cover interest at a rate to be determined by the Board, not exceeding the annual rate of interest to be charged purchasers fixed by the Treasurer and in force under section twenty-eight, on the capital cost of the property (less any deposit paid), together with insurance, rates, repairs, and such sum in reduction of the purchase-money as the Board may determine.

(6) At any time after the purchaser has paid in reduction of the purchase-money a sum amounting to not less than one-fifth of the purchase-money, and has paid to the Board the amount due to it up to that time by way of instalments, and has complied to the satisfaction of the Board with the conditions contained in the contract of sale relating to the land, he may, if he so desires, upon giving to the Board the prescribed notice in writing of his intention so to do, execute in favour of the Board a mortgage in the prescribed form for the balance of the purchase-money and interest, securing the payment thereof by instalments of principal and interest combined or by such other method as the Board may determine, and thereupon the purchaser shall be entitled to obtain from the Board a transfer of the land; but, except as provided by this subsection, he shall not be entitled to obtain from the Board a transfer of the land.

(7) For the purposes of subsection (6) hereof, the amount standing to the credit of the purchaser by way of deposits paid in pursuance of subsection (2) of section twenty-nine, and of interest accumulated thereon, shall be deemed to be money paid in reduction of the purchase-money.

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(8) Subject to this Act, the cost and expenses of any transfer or mortgage executed in pursuance of this section shall be borne by the purchaser. A.D. 1935.

18 In any case in which an eligible person applies to the Board for a piece of land held by the Board under this Act and satisfies the Board that the same is required for the purpose of the erection thereon of a home for such person, and that the officer administering the *War Service Homes Act 1918-1934* of the Commonwealth in this State has consented to assist such person therein, under the provisions of that Act, the Board may sell such land to such person or, at his request, to the Commissioner of War Service Homes under that Act. Sale of land in certain cases.
Ib., s. 18A
(inserted by 15
Geo. V. No. 23.)

PART V.

ADVANCES.

19—(1) Subject to this Act the Board may make advances to any eligible person on the prescribed security for the purpose of enabling him— Advances for homes.
10 Geo. V. No.
39, s. 19.

- i. To erect, as a home for himself and his dependants, a dwelling-house on his holding :
- ii. To purchase land and erect a dwelling-house thereon :
- iii. To purchase a dwelling-house, together with the land on which it is erected, or which is occupied therewith, as a home for himself and his dependants :
- iv. To complete a partially erected dwelling-house owned by him :
- v. To enlarge a dwelling-house owned by him :
- vi. To discharge any mortgage, charge, or encumbrance already existing on his holding : or
- vii. To defray the cost of any work which the Board has caused to be done on the holding of such person under the provisions of section fourteen.

(2) The amount which may be advanced under this Part to any applicant shall be such sum as the Board considers necessary to give effect to the purposes for which the advance is made, but shall not exceed in any case— See 20 Geo. V.
No. 4, s. 2.

- i. Nine-tenths of the total value of the property in respect of which the advance is made, including therein the value, as estimated by the Board, of any improvements to be effected by means of such advance : or
- ii. Where a new dwelling-house is to be erected—
 - (a) Of stone, concrete, or brick—
 - (i) For an applicant with two or more children, one thousand pounds : or
 - (ii) Otherwise, nine hundred pounds :
 - (b) Of any other material, for an applicant with two or more children, nine hundred pounds : or

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iii. In any case to which paragraph ii. hereof is not applicable—

(a) Where the applicant has two or more children and the building is of stone, concrete, or brick, one thousand pounds : and

(b) In any other case, nine hundred pounds.

(3) Any advance may be made by instalments and subject to such conditions as are prescribed.

(4) If the advance is for any of the purposes mentioned in subsection (1) hereof, other than those mentioned in paragraphs iii. and vi., then—

i. An instalment or instalments of such advance may be made before the building is commenced, provided that the total of the amounts so advanced shall not exceed four-fifths of the fair estimated value of the applicant's estate or interest in the holding and the permanent improvements thereon :

ii. The total of the amounts advanced up to any given time shall not exceed the value of the progress theretofore made with the building, as certified in writing by a valuer to the satisfaction of the Board, in addition to the amount, if any, advanced as provided for by paragraph i. of this subsection.

Application for
advance

Ib., s. 20
(inserted by 20
Geo. V. No. 4.)

20—(1) Every application for an advance under this Act shall be made in such form and contain such particulars as may be prescribed.

(2) The applicant shall lodge with his application a statutory declaration in the prescribed form setting forth—

i. The purposes to which the advance is to be applied :

ii. That his income does not exceed the appropriate amount applicable to him as provided in the definition of an eligible person : and

iii. That not more than twenty-five pounds of such income is income from property as provided by that definition.

(3) Every such application shall be supported by such evidence as the Board may think necessary.

(4) Where any such application is made for the purpose of erecting, completing, or enlarging a dwelling-house, the applicant shall satisfy the Board before such advance is made—

i. That the dwelling-house when so erected, completed, or enlarged will be substantial and durable : and

ii. That the plans and specifications for the proposed work comply with the prescribed conditions and the requirements of the Board.

(5) The Board may refuse any application in relation to which the Board is not satisfied that the applicant has complied with all the prescribed conditions.

Advances by
instalments.
10 Geo. V. No.
39, s. 21.

21—(1) If at any time, in the opinion of the Board, any money advanced under this Act has not been applied for the purpose for which it was advanced, or has not been carefully and economically expended, the Board may refuse to pay any further instalment of the

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proposed advance, and may, by notice in writing, at once call in the whole or part of the amount already advanced. A.D. 1935.

(2) If the Board in pursuance of this section calls in the whole or part of the amount advanced, the borrower shall forthwith repay the same, and in default the Board shall have the same remedies for the recovery of the amount called in, or such part thereof as remains unpaid, as are provided by this Act for the recovery of sums payable by the borrower.

22—(1) No advance shall be made except upon the security of a mortgage or mortgages in the prescribed form to the Board of the borrower's estate and interest in his holding, including the improvements already thereon, and the improvements, if any, for the purpose of which such advance is made, and such additional security, if any, as the Board requires. Advances to be secured by mortgage.
Ib., s. 22.

(2) The provisions of the *Bills of Sale Act 1900* shall not apply to any mortgage or other security executed under the provisions of this Act, or affect the validity of any such mortgage or security in respect of any chattels comprised therein. 64 Vict. No. 70.

23—(1) No advance shall be made on any property which is encumbered by any previous mortgage or charge, other than a mortgage or charge under this Act, or a charge in favour of the Crown, unless the advance is applied for the purpose of discharging a previous mortgage or charge. Advances only to be made on first mortgages.
Ib., s. 23.

(2) Notwithstanding anything hereinbefore contained a second mortgage may be taken as collateral security.

24—(1) Repayment of an advance shall be made in monthly or quarterly instalments in accordance with the mortgage executed at the time of the advance : Provided that in no case shall the period over which such instalments are repayable exceed in the case of a dwelling-house composed of or to be composed of— Purchase-money or advance, how payable or repayable.
Ib., s. 24.

(a) Stone or brick, or stone and brick, ordinary concrete, ferro-concrete, reinforced concrete, or other similar material, forty-two years :

(b) Tasmanian hardwood, thirty years :

(c) Other wood, twenty years.

(2) Every such instalment shall consist partly of principal and partly of interest, and every such instalment shall, in respect of each one hundred pounds thereof, be of the amount set forth opposite to the term for which the loan is made in the fixed table which is in force at the time when the loan is made and is applicable to the case, and in respect of any part of one hundred pounds shall be of an amount proportionate to the amount so set forth.

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Provisions
relating to
advances.
Ib., s. 25.

25 With respect to every advance under this Act the following provisions shall apply :—

- i. The loan, if made in one sum, shall date as from the first day of the month next following that in which it is made, and, if made by instalments, shall date as from the first day of the month next following that in which the final instalment is made :
- ii. Interest at the fixed rate per annum, subject to a rebate as provided by section twenty-six, shall be paid on the loan or each instalment thereof, computed from the date when the loan or instalment is made :
- iii. If the loan is made in one sum, interest at the fixed rate per annum, less the rebate mentioned in section twenty-six, computed from the date when the same is made to the first day of the next following month, shall be paid to, or may be deducted by, the Board at the time when the loan is made :
- iv. If the loan is made by instalments, then, until and including the first day of the month next following after that in which the final instalment is made, interest at the fixed rate per annum, less the rebate mentioned in section twenty-six, shall be paid to the Board on the first day of each month on all instalments theretofore made, computed from the dates of making the same respectively ; or such interest may be deducted by the Board from any instalment of the loan :
- v. After the first day of the month next following that in which the loan or the final instalment thereof is made, the principal, with interest thereon as provided by paragraph ii. hereof, shall be repaid to the Board by instalments as agreed between the Board and the borrower.

Rebate of interest
when instalments
paid punctually.
Ib., s. 26.

26 In order to encourage the early payment of the prescribed instalments of principal and interest, the following provisions shall apply with respect to every instalment in respect of an advance :—

- i. If the borrower (not being in arrear with any previous instalment or other payment under the mortgage) pays the instalment not later than the fourteenth day after the due date thereof, he shall be entitled to such a rebate of so much thereof as consists of interest as will reduce the annual rate of interest by one-half per centum.
- ii. Such rebate may be deducted and retained by the borrower from the full nominal amount of the instalment when making the payment.

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PART VI.

CONDITIONS OF CONTRACTS OF SALE AND ADVANCES.

27 The Board, at its discretion, may refuse to enter into a contract for the sale or letting of any land, or land and dwelling-house to, or to make any advance, to an eligible person, and the decision of the Board shall be final.

Discretion of Board.

10 Geo. V. No. 39, s. 27.

28—(1) The Treasurer, by notice published in the Gazette, may fix—

Treasurer may from time to time fix rate of interest and tables of instalments.

Ib., s. 28.

- i. The maximum annual rate of interest to be charged to any purchaser in respect of any purchase-money in accordance with this Act :
- ii. The annual rate of interest to be charged to any borrower in respect of any advance in accordance with this Act : and
- iii. Tables of the amounts of the monthly or quarterly instalments of principal and interest combined to be paid by borrowers in respect of advances under this Act, showing the amounts payable for the various terms of years during which repayment of an advance may be made—

and may, in the same manner, annul any rate or table so fixed.

(2) Any rate or table so fixed shall come into force on the fourteenth day after the date of the Gazette in which the same is published, and shall continue in force until the fourteenth day after the date of the Gazette in which the notice annulling the same is published.

(3) In this Act the expression “the fixed rate” means the rate fixed as provided by this section which is in force at the time when the purchase or loan in question is made, and the expression “fixed table” means table fixed as provided by this section.

29—(1) In addition to making any payment in accordance with his contract, the purchaser or borrower may from time to time deposit with the Board any sum being not less than five pounds, and being either five pounds or a multiple of five pounds, and any sum so deposited shall be credited to the purchaser or borrower with compound interest calculated yearly at the same rate as is charged on the purchase-money or advance.

Power for purchaser or borrower to pay amounts on account.

Ib., s. 29.

(2) Deposits and interest accumulated to the credit of a purchaser or borrower under this section shall be available for payment of any instalments, or arrears of instalments, or other payments due to the Board by the purchaser or borrower.

30—(1) Every purchaser and every borrower shall, until the whole amount of purchase-money or advance due by him has been paid or repaid, insure and keep in good and tenantable repair, to the satisfaction of the Board, all buildings, fences, fixtures, and improvements upon the land comprised in contract of sale, mortgage, or other security.

Property to be kept in repair until payment in full.

Ib., s. 30.

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(2) If after the expiration of one month's notice in writing by the manager, any purchaser or borrower has not complied with the requirements of this section—

- i. The manager or any person acting under his authority may enter and take possession of the land or land and dwelling-house, as the case may be, and the like consequences shall follow as are provided by section thirty-five in case of breach of the terms or conditions of the contract of sale, mortgage, or other security, or default made in the payment of any instalment of money payable in respect of any contract of sale or advance under this Act : or
- ii. The manager, or any person acting with his authority, may enter upon the property and effect all repairs which the manager deems necessary ; and the expenses thereby incurred, with interest at the same annual rate as that which is payable on the purchase-money or advance, as the case may be, shall be paid to the Board by the purchaser or borrower on demand, and, until repayment, shall be a charge under the contract of sale or mortgage or other security upon the property, notwithstanding that the amount of the purchase-money or advance is thereby increased to more than the amount of the maximum cost or advance, as the case may be, applicable in respect of that property under the foregoing provisions of this Act.

Conditions operative so long as money owing to Board.

Ib., s 31.

31—(1) As between the Board and the purchaser or borrower with respect to the land or land and dwelling-house forming the subject of a contract of sale, mortgage, or other security, the following condition shall be imposed, so long as any money due to the Board under the contract of sale, mortgage, or other security remains unpaid, namely—

- i. The land or land and dwelling-house, as the case may be, shall not be let, sublet, or mortgaged by the purchaser or borrower without the consent in writing of the Board : and
- ii. Every lease, sublease, mortgage, or agreement entered into or made in contravention of the provisions of this section shall be void and of no effect.

(2) If the purchaser or borrower lets, sublets, or mortgages the land or land and dwelling-house, or any part thereof, in contravention of the provisions of this section, the Board may—

- i. In the case of a purchaser, cancel the contract of sale, and, in its discretion, forfeit the instalments previously paid by the purchaser : and
- ii. In the case of a borrower, sell the estate and interest of the borrower in the land or land and dwelling-house.

Sale where borrower bankrupt.
Ib., s. 32.

32 When the borrower's title to any land or land and dwelling-house, over which the Board holds a mortgage in pursuance of this Act, is divested from him under any law relating to bankruptcy, the Board may cause his estate and interest in the land or land and dwelling-house to be sold at such time and place, in such manner and on such terms and conditions as it thinks fit.

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33 The provisions of section thirty-five of this Act as to the sale of any land or of land and a dwelling-house and the application of the proceeds of the sale shall apply to any sale made in pursuance of sections thirty-one and thirty-two.

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Application of section 35 to sales under sections 31 and 32.

Ib., s. 33.

Land, &c., not to be transferred, &c., while subject to mortgage, &c.

Ib., s. 34.

34—(1) So long as any land or land and dwelling-house is subject to a contract of sale, mortgage, or other security in accordance with this Act, a transfer of that land or land and dwelling-house, or of any estate or interest therein, shall not have any force or effect, nor shall it be registered in the Lands Titles' Office or Registry of Deeds, unless it—

- i. Arises through the operation of any law relating to bankruptcy :
- ii. Is made to a devisee by a person acting in the capacity of executor or administrator of the purchaser or borrower: or
- iii. Is made with the consent in writing of the Board.

(2) Consent to the transfer of land or of land and dwelling-house, or of any estate or interest therein, shall not be granted by the Board in pursuance of this section, except in the following cases and subject to the following conditions:—

- i. Where the proposed transferee is an eligible person—such conditions as the Board shall determine: and
- ii. Where the proposed transferee is not an eligible person—
 - (a) In the case of a transfer within five years after the making of the advance—where it is proved to the satisfaction of the Board that the refusal thereof would inflict great hardship: and
 - (b) In the case of a transfer after the expiration of five years after the making of the advance—such conditions as the Board shall determine.

(3) In dealing with applications for consent to any transfer, the Board shall, as between two alternative transferees, one of whom is an eligible person and the other is not, give preference, as far as reasonably practicable, to the former.

(4) In this section "transfer" includes conveyance, assignment, and surrender.

35—(1) In addition and without prejudice to any other remedy, if at any time any instalment or money payable in respect of any contract of sale or advance under this Act, or any part thereof, is unpaid for thirty days next after the time appointed for the payment thereof, then, although no legal demand has been made for the payment thereof, the Board may enter upon the land or land and dwelling-house with respect to which the contract of sale was entered into or the advance was made, and recover the amount due by distress and sale of any goods and chattels on such land or land and dwelling-house, or such amount may be recovered in any court of competent jurisdiction by action, in the name of the Board, from the owner for the time being of such land or land and dwelling-house.

Remedies for recovery of instalments.

Ib., s. 35.

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(2) If at any time any instalment, or any part thereof, is unpaid for three calendar months next after the time appointed for the payment thereof, then, although no legal demand has been made for the payment thereof, the Board may enter upon and take possession of the land or land and dwelling-house with respect to which the contract of sale was entered into or the advance has been made, and may—

- i. In the case of a purchaser, cancel the contract of sale and, in its discretion, forfeit the deposits and instalments or any part thereof previously paid by the purchaser : and
- ii. In the case of a borrower, or in the case of a purchaser who has obtained from the Board a transfer and executed a mortgage to it of such land or land and dwelling-house, sell the estate and interest of the borrower therein, either by private sale or public tender or auction, and subject to such terms and conditions of sale as it thinks expedient, and, after such notice of the time, place, terms, and conditions of sale as it thinks just and expedient, with power to give time for payment of purchase-money, or to allow the purchase-money to remain on mortgage at the risk of the borrower, and to vary or rescind any contract for sale, and to buy in at any auction, and to resell without being answerable for any loss, and may transfer such land or land and dwelling-house to the purchaser and give a good and valid title thereto : Provided that, before any land or land and dwelling-house is sold by private sale under this section, it shall first be offered at public auction, due notice of which shall be publicly advertised in a newspaper.

(3) As against mortgagors, the Board shall not be responsible for involuntary losses or the default of agents or auctioneers.

(4) The Board shall apply the proceeds derived from any sale made in pursuance of this Part in payment, in the first instance, of all moneys due in respect of the land or land and dwelling-house and in payment or repayment of any amount charged thereon in favour of the Board, or of so much thereof as remains unpaid, and of all expenses incurred by the Board in relation to such sale, or otherwise with respect to the land or the land and dwelling-house, and shall pay the balance, if any, to the persons appearing to the Board to be entitled to receive the same

Money due by purchaser or borrower is a debt to Crown.
Ib., s. 36.

36 In addition to any other remedy provided by this Act for the recovery of any sum of money payable under any provision of this Act to the Board by a purchaser or borrower, it is hereby declared that every such sum of money shall be and remain until payment a debt due by the purchaser or borrower to the Crown, and shall be recoverable, with interest, by the Board accordingly.

In event of no purchaser, land to revert to Crown.
Ib., s. 37.

37 Whenever any land or land and dwelling-house, authorised to be sold by the Board under this Act, is offered for sale by public auction, and the amount of the highest bidding at such sale is not sufficient to satisfy the moneys due to the Board, together with the

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cost and expenses of and occasioned by such attempted sale, or there is no bid, the Board may advertise the land or land and dwelling-house for private sale in the Gazette and in at least one newspaper, once at least in each of three successive weeks, and shall in such advertisement name a day and time, not less than one month from the date of the first of such advertisements, on or after which the land or land and dwelling-house shall revert to the Crown, together with all improvements thereon, unless in the interval a sufficient amount has been obtained by the sale thereof to satisfy the moneys due to the Board and all costs and expenses (and occasioned by such sale and proceedings, and upon such reversion the land or land and dwelling-house shall revert in His Majesty accordingly.

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PART VII.

MISCELLANEOUS.

38 Any notice required to be given under this Act may be served personally or by post.

Notices.

10 Geo. V. No. 39, s. 38.

39—(1) In cases of hardship the Board may extend for such period and on such terms and conditions as it thinks fit, the time for making any payment required by this Act.

Extension of time for repayment.

Ib., s. 39.

(2) Where the time for making any payment has been so extended, the payment shall bear interest for the time so extended at the same annual rate as that which is payable on the purchase-money or advance.

40—(1) The Board shall from time to time obtain a report from an inspector or valuer as to the manner in which any advance under this Act has been expended and used by the borrower, and generally as to the state and condition of any land or land and dwelling-house or any improvements in respect of which a contract of sale or tenancy has been entered into or an advance has been made.

Board to obtain reports from inspectors and valuers.

Ib., s. 40.

(2) The inspector or valuer directed to make the report may, at any reasonable hour in the daytime, enter and make an inspection of any land or land and dwelling-house or improvements for the purpose of making his report.

41—(1) The Board shall keep registers or lists of all advances, purchases, and tenancies, with the names of the respective borrowers, purchasers, and tenants, and also an alphabetical index of the names of the persons included in each register or list.

Register of advances to be kept for inspection.

Ib., s. 41.

(2) Each such register or list and index shall be open to public inspection on the payment of a fee of one shilling.

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Incorporation of
certain provisions
of 26 Geo. V.
No. 41.

42—(1) The provisions of sections forty-three and forty-five of the *State Advances Act 1935*, as to the annual report and audit shall apply to the Board and Bank in connection with the administration of this Act.

(2) The provisions of sections thirty and forty-four of the *State Advances Act 1935* shall be incorporated in its Act.

Sale or leasing of
land, &c., not
immediately
required.

Ib., s. 43.

43 If the Board is satisfied that any property subject to or held by it under this Act is not immediately required for the purposes of this Act, it may sell or let the property at such price and on such terms and conditions as it thinks fit.

Board may
compound where
breach of contract
occurs.

Ib., s. 44.

44 The Board may compound and agree with any person who has entered into any contract in pursuance of or under the authority of this Act, or against whom any action or suit is brought for any penalty contained in the contract, or in any bond or other security for the performance thereof, or for or on account of any breach of performance of the contract, bond, or security for such sum of money, or other consideration as the Board thinks proper.

Judgment of
court not to affect
contract of sale
or mortgage.

Ib., s. 45.

45 No judgment, order, or decree of any court of law shall in any way affect the security or remedies of the Board under a contract of sale or mortgage; and, until the contract of sale has been fully performed or the terms and conditions of the mortgage complied with, no process of law shall interfere with such security or remedies.

Annual report—
Particulars.

Ib., s. 46.

46 The annual report required by section forty-three of the *State Advances Act 1935* shall show, in respect of the previous financial year—

- i. The profit and loss account for the year;
- ii. The balance-sheet for the year and
- iii. Such other accounts and records, if any, as are prescribed.

Regulations.

Ib., s. 47.

47—(1) The Governor may make regulations under this Act and in particular for—

- i. Prescribing the duties of officers of the Bank under this Act;
- ii. Prescribing the duties of valuers and the scale of their remuneration;
- iii. Fixing the scale of costs and fees for the preparation and completion of leases and rent-purchase contracts, and for the valuation of securities;
- iv. Prescribing the accounts, registers, and books to be kept and the manner of keeping the same.

(2) Any regulations under this Act may provide that any specified provisions of the *State Advances Act 1935* or any regulations made under that Act shall, with such modifications, if any, as are prescribed, apply for the purposes of this Act.

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THE FIRST SCHEDULE.

ACTS REPEALED.

Regnal Year and Number.	Title of Act.
10 Geo. V. No. 39	<i>The Homes Act 1919</i>
11 Geo. V. No. 30	<i>The Homes Act 1920</i>
13 Geo. V. No. 2	<i>The Homes Act 1922</i>
14 Geo. V. No. 16	<i>The Homes Act 1923</i>
15 Geo. V. No. 23	<i>The Homes Act 1924</i>
20 Geo. V. No. 4	<i>The Homes Act 1929</i>
20 Geo. V. No. 31	<i>The Homes Act (No. 2) 1929</i>

THE SECOND SCHEDULE.

ACTS UNDER WHICH MONEYS AUTHORISED TO
BE RAISED.

Enactment.	Amount Authorised.
10 Geo. V. No. 39, as amended by 11 Geo. V. No. 30	£120,000
18 Geo. V. No. 2	£100,000
14 Geo. V. No. 16	£35,000

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