

South Australia

Rural Advances Guarantee Act 1963

An Act to empower the Treasurer to guarantee the repayment of loans made or proposed to be made to persons in certain circumstances to assist them in acquiring land for the business of rural production, and for other purposes.

Contents

- 1 Short title
- 2 Interpretation
- 3 Treasurer may guarantee repayment of loan
- 4 Duties of Director-General
- 6 Conditions of guarantee
- 7 Treasurer may agree to deferment of interest or principal
- 8 Application for guarantee
- 9 Report by Auditor-General
- 10 Financial provision
- 11 Regulations

Legislative history

The Parliament of South Australia enacts as follows:

1—Short title

This Act may be cited as the *Rural Advances Guarantee Act 1963* and shall come into operation on a day to be fixed by proclamation.

2—Interpretation

In this Act, unless the contrary intention appears—

approved borrower means a person—

- (a) to whom a bank has made or proposes to make a loan for the purpose of enabling or assisting him to acquire land for the business of rural production; and
- (b) who, having regard to his ability and experience in such business, is approved by the Treasurer as a suitable person to undertake or conduct such business;

bank means—

- (a) any body corporate carrying on the business of banking in South Australia, including the State Bank of South Australia and The Savings Bank of South Australia; or

- (b) any other person or body, whether incorporated or not, approved by the Treasurer as an authorised lender for the purposes of this Act, either generally or in any particular case;

business of rural production means business of agriculture, pasturage, horticulture, viticulture, apiculture, poultry farming, dairy farming or any other business (excluding forestry) consisting of the cultivation of soils, the gathering in of crops or the rearing of livestock;

land includes improvements on land;

the Director-General means the Director-General of Agriculture;

the Treasurer means The Treasurer of South Australia, a body corporate constituted by the *Treasurer's Incorporation Act 1949*.

3—Treasurer may guarantee repayment of loan

- (1) Subject to this Act, the Treasurer may guarantee the repayment of any loan made or proposed to be made by a bank to an approved borrower who, in the opinion of the Treasurer, would not otherwise have, or be in a position to obtain, adequate financial resources to acquire land for the purpose of undertaking or conducting the business of rural production thereon.
- (2) A guarantee shall not be given under this section unless—
 - (a) the Director-General furnishes the Treasurer with a certificate certifying that the amount paid or to be paid for the acquisition of the land by the applicant for the guarantee is no greater than the fair value of the land, having regard to the particular business of rural production to be undertaken or conducted on the land, as stated in a written valuation attached to or incorporated in the certificate; and
 - (b) the loan for which a guarantee is sought does not exceed eighty-five per centum of the value of the land as stated in such valuation; and
 - (c) the Director-General has furnished the Treasurer with a report in writing that the borrower has the ability and experience to undertake or conduct such business of rural production successfully; and
 - (d) the Director-General has furnished the Treasurer with a report in writing that the land is or would be adequate for maintaining the applicant and his family after meeting all reasonable costs and expenses in connection with the conduct of such business and in connection with the repayment of the loan and interest thereon; and
 - (f) the borrower has obtained from a bank a loan, or an offer to make a loan, subject to the guarantee, and the Treasurer is satisfied—
 - (i) that the repayment of the principal sum of the loan and the interest thereon is to be made by such periodical payments as are not less than would be necessary to repay such principal sum together with such interest by equal annual instalments over a period of thirty years; and
 - (ii) that the other terms and conditions of the loan or proposed loan are reasonable; and

- (g) the borrower has given or undertaken to give to the Treasurer or to the bank, or to both the Treasurer and the bank, as the Treasurer may require, such security for the liability under the guarantee or for the repayment of the loan or for both such liability and repayment as the Treasurer considers appropriate, whether by way of mortgage over the land and any other property of or to which the borrower may be or become possessed or entitled, or otherwise; and
 - (h) the borrower gives such other undertakings and enters into such other agreements with the Treasurer or the bank as the Treasurer may require.
- (3) The guarantee may extend to the payment of interest on the loan and to any expenses incidental to the loan and expenses incurred by the bank in obtaining or endeavouring to obtain repayment of the loan and payment of such interest and expenses.

4—Duties of Director-General

The Director-General shall make such enquiries and furnish such certificates, valuations, reports and other information relating to any application for a guarantee under this Act as are appropriate and as the Treasurer may require for the purposes of this Act.

6—Conditions of guarantee

Where the repayment of a loan is guaranteed under this Act, the guarantee shall be deemed to be subject to the following terms and conditions:

- (a) No term or condition of repayment agreed upon between the bank and the borrower after the giving of the guarantee shall have any effect unless approved in writing by the Treasurer:
- (b) The bank shall take all reasonable and necessary steps to ensure recovery of all repayments and interest upon the due dates in accordance with the terms and conditions subject to which the loan was made and the guarantee given:
- (c) The bank shall keep the Treasurer informed of any default or delay by the borrower in respect of the payment of any instalment of principal or interest, or both.

7—Treasurer may agree to deferment of interest or principal

Notwithstanding any other provision of this Act, or any term or condition subject to which a guarantee has been given under this Act, the Treasurer may at the request of both the bank and the borrower and—

- (a) on the recommendation and report of the Director-General, agree to the deferment by the bank of payments of interest on a loan for periods not exceeding two years, in each case, or to the deferment of payments of the principal for periods not exceeding three years, in each case,

if he is satisfied that such deferment would be necessary or expedient to ensure the successful operation or rehabilitation of the business of rural production conducted by the borrower.

8—Application for guarantee

- (1) Every application for a guarantee under this Act shall be made to the Treasurer in writing and the applicant shall furnish the Treasurer with such information as the Treasurer may require in relation to the business of rural production in connection with which the guarantee is sought.
- (2) A person who wilfully or negligently furnishes the Treasurer with false or misleading information in connection with any application for a guarantee under this Act shall be guilty of an offence punishable on summary conviction and liable to a fine not exceeding two hundred dollars.

9—Report by Auditor-General

The Auditor-General shall in every annual report made by him report upon the guarantees given under this Act.

10—Financial provision

- (1) The Treasurer may pay out of the general revenue of the State any money which he becomes liable to pay under or by virtue of any guarantee given under this Act and this Act, without any further appropriation, shall be a sufficient authority for any such payment.
- (2) Any other money required for purposes of this Act shall be paid out of money to be provided by Parliament for those purposes.
- (3) Any moneys received or recovered by the Treasurer pursuant to any security for his liability under a guarantee given under this Act or pursuant to any agreement or arrangement entered into for the purposes of any such guarantee shall be paid into the general revenue of the State.

11—Regulations

The Governor may make such regulations as are necessary or convenient for the administration of this Act and for giving effect to this Act and may by any such regulation prescribe fines recoverable summarily and not exceeding one hundred dollars for the breach of any regulation.

Legislative history

Notes

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of this Act (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
1963	32	<i>Rural Advances Guarantee Act 1963</i>	21.11.1963	19.12.1963 (<i>Gazette 19.12.1963 p1941</i>)
1982	11	<i>Rural Advances Guarantee Act Amendment Act 1982</i>	4.3.1982	15.4.1982 (<i>Gazette 15.4.1982 p1248</i>)
1988	62	<i>Rural Advances Guarantee Act Amendment Act 1988</i>	15.9.1988	15.9.1988
2017	7	<i>Statutes Amendment and Repeal (Simplify) Act 2017</i>	15.3.2017	Pt 29 (ss 103—106)—15.3.2017: s 2(1)

Provisions amended since 3 February 1976

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
s 2		
bank	amended by 7/2017 s 103(1)	15.3.2017
<i>the Board</i>	<i>deleted by 62/1988 s 2(a)</i>	<i>15.9.1988</i>
<i>the Committee</i>	<i>amended by 11/1982 s 3</i>	<i>15.4.1982</i>
	<i>deleted by 7/2017 s 103(2)</i>	<i>15.3.2017</i>
the Director-General	inserted by 62/1988 s 2(b)	15.9.1988
s 3		
s 3(2)	amended by 62/1988 s 3	15.9.1988
	(e) deleted by 7/2017 s 104	15.3.2017
s 4	amended by 62/1988 s 4	15.9.1988
s 5	<i>deleted by 7/2017 s 105</i>	<i>15.3.2017</i>
s 7	amended by 62/1988 s 5	15.9.1988
	(b) deleted by 7/2017 s 106	15.3.2017

Historical versions

Reprint No 1—15.11.1991