

SOUTH AUSTRALIA

LOANS FOR WATER CONSERVATION ACT, 1948

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LOANS FOR WATER CONSERVATION ACT, 1948

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Loans for Water Conservation Act, 1948,
No. 38 of 1948 [Assented to 16 December 1948]

An Act to empower the State Bank of South Australia to make loans for water conservation purposes and to amend the Highways Act, 1926-1944.

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

Short title

1. This Act may be cited as the *Loans for Water Conservation Act, 1948*.

Interpretation

2. In this Act, unless the context or subject matter otherwise requires—

"bank" means the State Bank of South Australia:

"fixed rate" means the annual rate of interest fixed under section 11 which is in force when the loan in question is made:

"owner" means—

- (a) the registered proprietor under *The Real Property Act, 1886-1945*, of any estate of freehold in possession;
- (b) as regards land not under *The Real Property Act, 1886-1945*, any person who is seised of any estate of freehold in possession, or if the said estate is subject to redemption under any mortgage, the person who upon payment of all moneys secured by such mortgages would be entitled to a conveyance of such an estate;
- (c) as regards land belonging to the Crown, any person who has agreed to purchase the land from the Crown or is the lessee of the land under any lease granted by the Crown,

but does not include a mortgage in possession.

Power to make loans

3. (1) The bank may make loans to owners as provided by this Act.

(2) All such loans shall be made out of moneys provided by Parliament for the purpose.

Application for loan

4. (1) Any owner may make application to the bank for a loan for the purpose of the construction on his land of any dam, storage or other works for the supply or conservation of water or for the extension of any existing dam, storage or other works.

(2) Every application shall—

- (a) be signed by the applicant;
- (b) describe shortly the land owned by the applicant, and state the acreage thereof;

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- (c) state whether the land of the applicant is encumbered with any mortgage or charge whether in favour of the Crown or any instrumentality of the crown or otherwise and state the amount to which the land is so encumbered;
- (d) describe the dam, storage or other works proposed to be constructed or extended by the applicant, the site thereof, and give an estimate of the cost thereof;
- (e) contain such other matters as may be required by the bank.

(3) Any application in respect of any land of which there is more than one owner shall be made by all the owners.

Verification of application

5. The person making an application shall verify the application by a statutory declaration made in manner provided by the *Oaths Act, 1936*.

Power of bank to make loan

6. (1) The bank, in its discretion but subject to this Act, may make a loan to any applicant for any purpose mentioned in subsection (1) of section 4.

(2) No such loan shall exceed the sum of two thousand dollars.

(3) No loan shall be made unless the Land Board certifies to the bank that—

- (a) the Land Board is satisfied that the primary production derived or to be derived from the land in respect of which the loan is to be made is sufficient to justify the construction of the dam, storage or other works or, as the case may be, the extension thereof; and
- (b) the fair estimated value of the land is such that the loan should be made in accordance with this Act,

and unless the Land Board recommends the making of the loan.

(4) No loan shall be made unless the Engineer-in-Chief certifies to the bank that he is satisfied that—

- (a) the dam, storage or other works or, as the case may be, the extension thereof is capable of being carried out;
- (b) the estimated cost of the work proposed to be carried out is not unreasonable;
- (c) the work proposed to be carried out would be effective; and
- (d) the carrying out of the work proposed to be carried out is the most economical means of providing a water supply for the land.

(5) If the works in respect of which an application is made relate to the supply of water from an underground water supply in a locality where a regional geological survey has been made, then, before making the loan, the bank shall obtain a report from the Government Geologist.

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(6) No loan shall be made to an amount so that the total amount secured by mortgage (whether made pursuant to this Act or otherwise) of the land exceeds nine-tenths of the fair estimated value of the land and any improvements already made thereon together with the fair estimated value of the improvement to be made by the construction of the dam, storage or other works or, as the case may be, the extension thereof and for which the loan is to be made.

(7) No loan shall be made in respect of any land situated within a water district within the meaning of the *Waterworks Act, 1932-1936*, or a water district within the meaning of the *Water Conservation Act, 1936*, unless the Engineer-in-Chief certifies to the bank that, in his opinion, it is impracticable to supply water to the land from the waterworks then existing within the water district.

Loan to be secured by mortgage

7. (1) No loan shall be made except upon the security of a mortgage to the bank of the estate and interest of the owner of the land in respect of which it is made. Every such mortgage shall be in such form and shall contain such conditions as are fixed by the bank.

(2) If the land is encumbered by a previous mortgage or charge, the loan may be made upon a subsequent mortgage of the said estate and interest subject to the previous mortgage or charge.

Instalments of loan

8. (1) Any loan may be made by instalments as the work for which it is made is carried out.

(2) If at any time, in the opinion of the bank, any loan or instalment or any part thereof, has not been applied for the purpose for which it was advanced, or has not been carefully and economically expended, the bank may refuse to pay any further instalment of the proposed loan and may by notice in writing given to the owner call in the whole amount already advanced whereupon the owner shall forthwith repay the same.

Interest on loan

9. Interest at the fixed rate shall be payable on every loan.

Repayment of loan

10. Every loan and interest thereon shall be repayable to the bank in such instalments as are fixed by the bank but so that the term of any loan shall not exceed fifteen years.

Power of bank to fix the rate of interest on loans

11. (1) The bank may, from time to time, by notice published in the *Gazette*, fix the annual rate of interest to be paid on loans made by the bank under this Act, and may, in like manner, annul any rate so fixed.

(2) Any rate 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.

Capitalization of arrears

12. If any payment in respect of any loan under this Act is in arrear, the bank may capitalize the arrears which represent interest. In any such case the amount in arrear which represents principal and the amount so capitalized shall be paid to the bank within such time and upon such terms as the bank thinks fit.

Fees to bank

13. Before considering any application under this Act the bank may require payment by the applicant of such inspection fees as the bank deems necessary.

Service of notices

14. (1) Any notice to be given pursuant to this Act to any person shall be duly given if—

- (a) served on him personally;
- (b) left at his usual or last known place of abode or business in the State;
- (c) served on any person resident on the land in question; or
- (d) sent by post in a prepaid letter addressed to the person at his usual or last known place of abode or business.

(2) Where there is more than one owner of the same land, service upon any one of them in manner aforesaid shall be deemed service upon all.

(3) Any person to whom any such notice is required to be given may, by words or conduct, waive the same.

Regulations

15. The Governor may make regulations necessary or convenient for carrying out the objects and provisions of this Act.

Power of Treasurer to borrow

16. (1) The Treasurer may, for the purposes of this Act, arrange to borrow the sum of twenty-five thousand pounds in accordance with the Financial Agreement as set out in the schedule at the end of the *Amending Financial Agreement Act, 1944*.

(2) Without any further appropriation than this section, any amount so borrowed may be applied by the bank for the purpose of making loans under this Act.

Administrative expenses of bank

17. In each financial year the Treasurer may, from the general revenue and without any further appropriation than this section, pay to the bank towards the expenses of the bank in administering this Act such amount as is from time to time fixed by the Treasurer; and the general revenue is hereby appropriated accordingly.

Amendment of s. 32 of the Highways Act, 1926-1944—Advances to councils

18. (1) Paragraph (h) of subsection (1) of section 32 of the *Highways Act, 1926-1944* (as enacted by subsection (1) of section 6 of the *Highways Act Amendment Act, 1944*) is amended by inserting after the word "purposes" in the seventh line thereof the words "or for the purposes of the construction of dams or other works for the storage or supply of water".

(2) This section is incorporated with the *Highways Act, 1926-1944*.

(3) The *Highways Act, 1926-1944*, as amended by this section, may be cited as the *Highways Act, 1926-1948*.