

No. 35, 1961.]

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ACT

To amend the Land Bank Act, 1944.

(English text signed by the Officer Administering the Government.)
(Assented to 10th May, 1961.)

BE IT ENACTED by the Queen's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:—

Amendment of section 20 of Act 13 of 1944, as amended by section 5 of Act 47 of 1959.

1. (1) Section *twenty* of the Land Bank Act, 1944 (hereinafter referred to as the principal Act), is hereby amended by the substitution in sub-section (6) for all the words appearing after the words "may make" of the word "investments".

(2) Any investment of moneys made by the Public Debt Commissioners in Land Bank debentures prior to the commencement of this Act, shall be deemed to have been made in terms of sub-section (6) of section *twenty* of the principal Act as amended by sub-section (1) of this section.

Amendment of section 21 of Act 13 of 1944, as amended by section 6 of Act 47 of 1959.

2. Section *twenty-one* of the principal Act is hereby amended by the insertion at the end of sub-paragraph (iii) of paragraph (c) of sub-section (1) of the word "or", and by the insertion after the said sub-paragraph of the following sub-paragraph:

"(iv) to any body established by an Act of Parliament which, in the opinion of the board, has as an object the promotion of any division of the agricultural industry."

Amendment of section 34*bis* of Act 13 of 1944, as inserted by section 16 of Act 47 of 1959.

3. Section *thirty-four bis* of the principal Act is hereby amended—

(a) by the substitution in paragraph (a) of sub-section (6) for all the words appearing after the words "court of law" of the words "require any messenger of the court or any other person nominated by the board for the purpose, to seize the property thus hypothecated and, whether or not such messenger of the court or such other person is a licensed auctioneer, to sell such property by public auction at such place and at such time and on such conditions as the board may determine, or the board may itself sell the property so seized by public tender on the conditions which it may determine", and by the insertion after the said paragraph of the following paragraph:

"(a)*bis* (i) Notwithstanding anything to the contrary contained in this Act, the board may with a view to making an advance under this section to any farmer for the purchase of any movable property, issue to that farmer a letter of authority purporting to convey to the seller of such property that the bank will advance the purchase price of the property in question or any part of such price if the conditions which the board may specify in such letter are satisfied or complied with, and the board may, if the seller on the strength of such letter disposes of the property in question to such farmer and the said farmer fails to observe or to comply with any condition which he is in terms of such letter required to observe or to comply with, seize such property in any manner provided for in paragraph (a) and out of the funds of the bank pay to the seller of such property so much of the purchase price as the board may in the said letter of authority have undertaken to advance.

(ii) Any amount paid by the bank under sub-paragraph (i), together with any interest thereon, shall constitute a debt due by the farmer concerned in favour of the bank and may, subject to the provisions of sub-paragraph (iii), be recovered from such farmer as if it were a debt due under a civil judgment of a court of law having jurisdiction in the matter.

- (iii) The board may sell the property referred to in sub-paragraph (i) in any manner provided for in paragraph (a), and the proceeds of the sale shall be applied towards reducing the debt referred to in sub-paragraph (ii): Provided that the board may deduct from the proceeds of the sale any costs incurred by it in connection with the seizure and the sale of the property in question.
 - (iv) If any balance of the proceeds of the sale remains after the proceeds have been applied as provided in sub-paragraph (iii), such balance shall be paid to the farmer concerned.
 - (v) The property referred to in this paragraph shall not at the instance of any creditor of the farmer concerned be attached in execution of a judgment of any court of law.
 - (vi) The provisions of sub-section (7) shall *mutatis mutandis* apply with reference to a farmer in respect of whom this paragraph applies.”;
- (b) by the substitution in paragraph (b) of the said sub-section for the words “such sale” of the words “a sale referred to in paragraph (a)”;
- (c) by the addition after sub-section (10) of the following sub-sections:

“(11) Any debtor who without the written authority of the board, disposes of, destroys or consumes any property hypothecated under this section or removes any such property from the land where it is by agreement with the board to be kept, shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

(12) If at a trial in respect of any contravention of sub-section (11) it is proved that the accused failed on the demand of any person designated by the board for the purpose, to produce the property hypothecated or any part thereof, the accused shall be presumed to have disposed of, destroyed, consumed or removed the property in question as the case may be according to the charge, unless the contrary is proved.

(13) The provisions of sub-sections (11) and (12) shall *mutatis mutandis* apply with reference to a farmer in respect of any property purchased in terms of a letter of authority referred to in paragraph (a)bis of sub-section (6).

(14) Any person who obstructs or hinders the seizure or sale of any property under paragraph (a) or (a)bis of sub-section (6), shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.”.

Insertion of section 45bis in Act 13 of 1944.

4. The following section is hereby inserted after section forty-five of the principal Act:

“ADVANCES TO STATUTORY AGRICULTURAL INSTITUTIONS.

Advances to certain statutory agricultural institutions.

45bis. The bank may on the application of any body established under an Act of Parliament which, in the opinion of the board, has as an object the promotion of any division of the agricultural industry, lend money to that body on such conditions and against such security as the board may determine, for the purpose of the promotion of such object.”.

Amendment of section 56 of Act 13 of 1944, as amended by section 25 of Act 47 of 1959.

5. Section fifty-six of the principal Act is hereby amended by the substitution for paragraph (c) of the following paragraph:

“(c) if the property so realized has been declared executable or has been attached by a sheriff or his deputy or a messenger of the court, to the sheriff or the messenger of the court, as the case may be;”.

Short title.

6. This Act shall be called the Land Bank Amendment Act, 1961.