

THE AGRICULTURAL CREDIT BOARD ACT

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SCHEDULE

THE AGRICULTURAL CREDIT BOARD ACT

[19th January, 1961.]

Law
70 of 1960.
Acts
2 of 1970,
11 of 1983,
3 of 2004,
38 of 2013
Sch.

Preliminary

1. This Act may be cited as the Agricultural Credit Board Act. Short title.

2. In this Act, unless the context otherwise requires— Interpretation.

“agricultural loan society” means a body registered under section 12;

“agriculture” includes any activities relating to horticulture, afforestation, apiculture, fish-culture, fishing, the development and maintenance of pastures, the cultivation of crops and the keeping or breeding of livestock or poultry, and “agricultural” shall be construed accordingly;

“approved organization” means any organization, other than an agricultural loan society, carrying on, encouraging or promoting agricultural activities and certified by the Minister to be an approved organization for the purposes of this Act;

“the Bank” means the Agricultural Credit Bank of Jamaica Limited, a company registered under the Companies Act; 11/1983
S. 2(a).

“the Board” means the Agricultural Credit Board established by this Act;

11/1983
S. 2(b).

“borrower” means any person to whom any loan is made by an agricultural loan society;

11/1983
S. 2(c).

“lender” means, in relation to any loan made under this Act by any agricultural loan society, the society by which such loan is made;

“rehabilitation loan” means a loan made under this Act during a rehabilitation period for the rehabilitation of agriculture;

“rehabilitation period” means a period beginning on such day as may be specified by order under section 35, being any day on or after which the agricultural activities of this Island have suffered damage from flood, hurricane or any other natural disaster, and ending on such other day as may be specified in like manner.

Establishment and Functions of the Board

Establish-
ment of
Agricultural
Credit Board.

3.—(1) There shall be established for the purposes of this Act a body to be called the Agricultural Credit Board.

Schedule.

(2) The provisions of the Schedule shall have effect as to the constitution of the Board and otherwise in relation thereto.

Functions of
Board.
11/1983
S. 3.
3/2004
S. 2(a).

4.—(1) It shall be the duty of the Board to assist in the development and maintenance of the agricultural activities of this Island and in promoting the welfare of persons engaged in those activities by fostering, supervising and, subject to the provisions of this Act, regulating agricultural loan societies.

3/2004
S. 2(b).

(2) For the purpose of the discharge of its duty under subsection (1), the Board may—

- (a) enquire into the administration, accounts and proceedings of any agricultural loan society; and
- (b) subject to the provisions of this Act, take over the management and control of such society.

(3) In addition to any powers possessed by the Board by virtue of this or any other enactment, the Board shall have power, subject to the provisions of this Act, to do anything and to enter into any transaction which in the opinion of the Board, is necessary to ensure the proper discharge of its functions.

5. *[Repealed by Act 3 of 2004.]*

6. The Board may, with the approval of the Minister, Regulations.
make regulations—

- (a) providing for the control, governance and administration of agricultural loan societies;
- (b) prescribing forms for the purposes of this Act;
- (c) relating to the development of adequate information, control, evaluation and reporting systems within agricultural loan societies to facilitate the process of accountability and effective management; 3/2004
S. 4 (b).
- (d) relating to the development of specific and measurable objectives and performance targets in respect of agricultural loan societies, including establishing criteria as regards the minimum standards of solvency to be maintained by those societies; 3/2004
S. 4 (b).

3 2004
S. 4 (b).

- (e) providing for the qualification requirements of auditors of agricultural loan societies, the frequency and scope of audits and the furnishing of information to the Board by auditors;

3 2004
S. 4 (b).

- (f) prescribing interest rates and general terms and conditions in respect of the grant of loans by agricultural loan societies under this Act, and policy procedures as to unpaid loans;

3 2004
S. 4 (b).

- (g) prescribing the qualifications and requirements for registration by agricultural loan societies and their members under this Act;

3 2004
S. 4 (b).

- (h) prescribing provisions for encouraging the growth and profitability of agricultural loan societies, including provisions as to asset classification, asset diversification, capital adequacy and asset liquidity; and

3/2004
S. 4 (b).

- (i) providing for such other matters as may be required for the efficient discharge by the Board of its duty under this Act.

Financial

Funds and
resources of
the Board.
11/1983
S. 5 (a) (b).

7. The funds and resources of the Board shall consist of—

- (a) such sums as may be provided annually for the purpose in the Estimates of Revenue and Expenditure of the Island;

- (b) [*Deleted by Act 11 of 1983, S.5.*]

- (c) sums borrowed by the Board for the purpose of meeting any of its obligations or discharging any of its functions;
- (d) all other sums or property which may in any manner become payable to or vested in the Board by virtue of the provisions of subsection (1) of section 45 or in respect of any matter incidental to its powers and duties.

8.—(1) The Board shall establish and maintain a reserve fund.

Reserve fund.

(2) The Board shall pay into the reserve fund—

- (a) the amount standing to the credit of the reserve fund of the Agricultural Loan Societies Board immediately before the 19th January, 1961;
- (b) all sums received by the Board, by virtue of the provisions of subsection (1) of section 45, in respect of the repayment of any loan made under the Banana Industry Aid Law, the Banana Industry Aid Law, 1932, and the Banana Industry Aid Law, 1933, and the payment of interest on any such loan; and
- (c) one-third, or such other proportion as the Board with the approval of the Minister may from time to time determine, of all sums received by the

11/1983
S. 6 (a).

Cap. 343 of
1983.
Revised Edn.
(repealed).
Law 15 of
1932
(repealed).
Law 25 of
1933
(repealed).

11 1983
S. 6 (b).

Board prior to the 10th of June, 1983, in respect of payment of interest on loans made by the Board prior to the aforesaid date.

(3) The reserve fund shall not be utilized other than for such purposes as the Minister may approve.

Borrowing
powers.

9.—(1) Subject to the provisions of subsection (2), the Board may borrow sums required by it for meeting any of its obligations or discharging any of its functions.

(2) The power of the Board to borrow shall be exercisable only with the approval of the Minister, as to the amount, as to the sources of the borrowing and as to the terms on which the borrowing may be effected. An approval given in any respect for the purposes of this subsection may be either general or limited to a particular borrowing or otherwise, and may be either unconditional or subject to conditions.

Accounts
and audit.

10.—(1) The Board shall keep accounts of its transactions to the satisfaction of the Minister and such accounts shall be audited annually by the Auditor-General or by an auditor appointed by the Minister.

(2) The members, officers and servants of the Board shall grant to the auditor appointed to audit the accounts of the Board under the provisions of subsection (1) access to all books, documents, cash and securities of the Board and

shall give to him on request all such information as may be within their knowledge in relation to the operation of the Board.

11.—(1) The Board shall in each year prepare and present, on or before the first day of October, to the Minister a report on its proceedings during the twelve months ending on the thirty-first day of March in such year, including a complete report of its financial position.

Annual
report.

(2) A copy of such report shall be laid on the Table of the Senate and the House of Representatives.

Agricultural Loan Societies

12.—(1) Any body of persons established for the purpose, *inter alia*, of encouraging and promoting the agricultural interests of its members and making loans to its members for agricultural purposes, may apply to the Board for registration under this Act, and the Board may in its discretion register such body.

Agricultural
loan
societies.

(2) Every body of persons which immediately before the 19th January, 1961, was a registered society under the Agricultural Loan Societies Law shall be deemed, on the 19th January, 1961, to be registered under this Act, and the Board shall enter the name of such society in a register of agricultural loan societies as soon as practicable after the 19th January, 1961.

Cap. 5.
(1953
Revised
Edn).

(3) Every body of persons registered under this Act shall, upon such registration, become an agricultural loan society.

Cancellation
of registra-
tion.

13. (1) The Board may in its discretion remove the name of any agricultural loan society from the register and thereupon such society shall cease to be an agricultural loan society.

(2) The Board shall forthwith, upon the removal of the name of an agricultural loan society from the register, notify such society of such removal.

11/1983
S. 7 (a).

(3) Where the Board decides to remove the name of an agricultural loan society from the register, then unless such society is a body of persons established under any law which provides for the payment of the debts and distribution of the assets thereof upon the winding up or dissolution thereof, the Board subject to subsection (5) shall, at the time of the removal of the name of such society from the register, appoint a receiver who shall be entitled to enter into possession and assume control of all property of the society and shall realize the assets thereof and after payment of the debts due by the society shall distribute the surplus, if any, *pro rata* among the shareholders.

2/1970
S. 2.
11/1983
S. 7 (b).

(4) The remuneration of the receiver shall be fixed by the Board or the Bank, as the case may be, and shall be a first charge payable out of the assets of the society.

11/1983
S. 7 (c).

(5) Where an agricultural loan society has, at the time of removal of the society's name from the register, any outstanding loan due to the Bank, the Bank, instead of the Board, shall appoint a receiver.

Scheme for
withdraw-
able deposits.
3/2004
S. 5.

14. (1) Where any agricultural loan society intends to accept any money on deposit by way of savings from any member thereof, it shall, before doing so, prepare a scheme in accordance with subsection (2).

(2) Every scheme prepared under this section shall make provision for—

- (a) the maximum period during which a deposit may be retained by the society;
- (b) the maximum amount which any member may have on deposit;
- (c) the conditions on which deposits may be accepted by the society;
- (d) the rate of interest which may be paid by the society on such deposits;
- (e) the proportion of any such deposits which may be invested by the society;
- (f) such other matters incidental to the acceptance of deposits as the society may consider necessary.

(3) Where any agricultural loan society receives deposits in accordance with any scheme prepared under this section, such society shall not be deemed to be carrying on the business of banking for the purposes of section 18 of the Industrial and Provident Societies Act, and the provisions of that section shall not apply to such society.

(4) Every scheme shall be prepared in a form approved by the Minister and shall in all other respects be subject to the approval of the Board.

(5) No agricultural loan society shall accept any money on deposit by way of savings except in accordance with a scheme approved by the Board.

15.—(1) The Board shall audit or cause to be audited the accounts of every agricultural loan society once at least in every year, and may appoint the auditor for such purpose,

Audit of
accounts of
agricultural
loan societies.
2/1970
S. 3.

and, where the accounts are audited by the Board, the provisions of subsections (2) and (3) shall apply to the Board as they apply to an auditor appointed under this subsection.

(2) The officers and servants of every agricultural loan society in respect of which an auditor is appointed under this section shall grant to such auditor access to all the books, documents, cash and securities of such society and shall give him on request all such information as may be within their knowledge in relation to the operation of such society.

(3) Where an auditor appointed under this section finds that the accounts of the society in respect of which he is appointed have not been kept in a proper manner, he shall serve notice of that fact on the society and shall have power to carry out such further inspections of the accounts of the society as he may consider necessary to determine whether the neglect or failure to keep such accounts in a proper manner has been remedied.

Board may
appoint
member of
committee of
manage-
ment.

16.—(1) The Board may, where it considers it necessary so to do, appoint any person to be a member of the committee of management of any agricultural loan society, whether such person is a member of such society or not.

(2) The Board shall, upon the appointment of any person under this section to be a member of the committee of management of an agricultural loan society, cause notice of such appointment to be served on the committee of management of such society.

(3) Any person appointed under this section to be a member of the committee of management of an agricultural loan society shall have, in relation to the management of such society, all the rights and powers, including the right of voting, of a member of such committee, and in the event of a majority of such

committee being opposed to the views of such person in any particular matter, such matter shall, if such person so requires, be referred to the Board whose decision shall be complied with by such committee.

(4) No appointment shall be made under this section unless the Board is satisfied—

- (a) that it is in the interest of the operation of the society that such an appointment should be made; and
- (b) that if such an appointment is not made it may become necessary to take over the management and control of the society under section 17.

17.—(1) The Board may take over the management and control of any agricultural loan society—

When Board may take over management and control of agricultural loan society.

- (a) where the auditor appointed under section 15 certifies—
 - (i) that the accounts of such society have not been kept in a proper manner and that the failure or neglect to keep such accounts in a proper manner has continued for a period of twenty-eight days after service on the society of a notice of that fact; or
 - (ii) that the payment of debts due to such society in respect of shares, loan, interest or otherwise is not being enforced; or
 - (iii) that he has been unable to obtain satisfactory information as to the affairs or assets of such society;
- (b) where the committee of management of such society—

11/1983
S. 8 (a) (i).

(i) fails to comply with any decision given by the Board under subsection (3) of section 16; or

11/1983
S. 8 (a) (ii).

(ii) prior to the 10th of June, 1983 obtains a loan from the Board by any false representation; or

(iii) without the consent of the Board uses any loan from the Board being a loan made prior to the 10th of June, 1983 for any purpose other than a purpose for which such loan was made;

11/1983
S. 8 (b).

(c) where such society defaults for at least sixty days in the payment of any money owing by such society to the Board in respect of any loan made prior to the 10th of June, 1983; or

(d) where a request that the Board should take over the management and control of such society is made in an application—

(i) by the majority in number of the members of such society; or

(ii) pursuant to a resolution of the committee of management of such society confirmed by a special general meeting; or

11/1983
S. 8(c).

(iii) by the Bank.

(2) The Board shall cause notice of its intention to take over the management and control of an agricultural loan society to be served on the committee of management thereof and from the date of service of such notice the Board shall be deemed to have taken over the management and control of such society.

18. Where the Board has taken over the management and control of an agricultural loan society—

Con-sequences of taking over of management and control.

- (a) the Board shall have all the rights, powers and privileges of the society and of the committee of management and any council thereof, and such other powers, including power to sue and be sued on behalf of such society, as may be necessary, for the proper conduct of the affairs of the society whether for the purpose of continuing the operations of the society or for the purpose of winding up the affairs thereof;
- (b) every officer and servant of such society shall deliver to the Board all books, documents, cash and securities of the society in the custody, control or possession of such officer or servant;
- (c) the Board may—

11/1983
S. 9.

- (i) where such society was taken over at the request of the Bank, after consultation with the Bank; or

- (ii) in any other case, in its discretion,

- appoint any person to manage the affairs of such society, and any person so appointed shall, subject to the general or special directions of the Board, have all the powers of the Board in relation to the management and control of such society.

19.—(1) Where the Board has taken over the management and control of an agricultural loan society, the Board may at such time as it thinks fit, reconstitute the management and control of such society in the committee of management thereof, and if no committee of management is in existence the Board may—

Reconstituting of management and control in committee.

- (a) call a special general meeting of the society to elect a committee of management in which the

management and control of the society may be revested; or

- (b) appoint a provisional committee of management for the management and control of the society during such period as the Board may consider necessary.

(1A) If the management and control of an agricultural loan society was taken over at the request of the Bank, the powers of the Board under subsection (1) shall be exercised in relation to that agricultural loan society only with the approval of the Bank.

(2) Where the Board has decided to revest the management and control of an agricultural loan society in the committee of management or in a provisional committee of management, the Board shall cause notice of its decision to be served on the committee of management, or the provisional committee of management, as the case may be, and from the date of service of such notice the management and control of such society shall be deemed to be revested in such committee of management, or provisional committee of management.

(3) Upon the revesting of the management and control of an agricultural loan society in the committee of management or a provisional committee of management thereof, all acts done by the Board in the management and control of the society while the Board had such management and control shall be deemed to have been done on behalf of the committee of management of the society.

20. Any notice published in the *Gazette* to the effect that the Board has taken over the management and control of an agricultural loan society, or has revested the management and control of such society in the committee of management or a provisional committee of management

[The inclusion of this page is authorized by L.N. 55/1984]

11/1983
S. 10.

Gazetted
notice to be
evidence of
the taking
over or
revesting of
manage-
ment and
control.

of such society, shall be conclusive evidence in all courts of the fact contained in such notice.

21.—(1) Every security given to the Bank by any agricultural loan society in respect of a loan made to such society by the Bank, shall include all the share capital, assets and property, real or personal, of such society at the time of the execution of such security and any property, real or personal, acquired subsequently by such society and not expressly and with the permission of the Bank excluded from such security

Security given to the Bank by an agricultural loan society. 11/1983 S. 11 (a), (b).

(2) The recording of notice in the proper office of record that any agricultural loan society has given security to the Bank shall be sufficient notice of the effect of such security to all persons concerned.

22. It shall not be necessary for an agricultural loan society to make to the Bank a specific assignment of any debt due to the society so as to enable the Bank to take proceedings for the recovery of such debt, but the execution by such society to the Bank of the security referred to in section 21 shall confer on the Bank all the rights and powers of the society in relation to debts due to such society.

Specific assignment to the Bank of debt unnecessary. 11/1983 S. 12.

23.—(1) No agricultural loan society which is indebted to the Bank shall—

- (a) hypothecate any security given to such society in respect of a loan made by such society to any member;
- (b) except in accordance with the permission in writing of the Bank—
 - (i) borrow money from any person other than the Bank;

Restrictions on agricultural loan societies indebted to the Bank. 11/1983 S. 13.

(ii) sell any of its assets; or

(iii) consent to the sale or gift by any person of the whole or any part of any security given by such person to such society.

(2) Every hypothecation made in contravention of this section shall be null and void.

Power of
agricultural
loan societies
to make
loans.
11/1983
S. 14.

24. Subject to the provisions of sections 25 and 26 every agricultural loan society shall have power to make to its members, out of sums loaned by the Bank to such society—

(a) loans for agricultural purposes;

(b) rehabilitation loans in cases where the lands, buildings or crops of members of such society have suffered damage from flood, hurricane or any other natural disaster;

(c) loans for the construction, improvement, maintenance and repairs of farm buildings.

Restrictions
on loans by
agricultural
loan
societies.
11/1983
S. 15.

25.—(1) [*Repealed by Act 3 of 2004.*]

(2) No agricultural loan society shall, except with the prior approval in writing of the Board—

(a) make a loan or be a party to any financial accommodation to any member of the committee of management or any officer of such society; or

(b) permit any of its funds to be used for the personal purposes of any such member or officer, other than

the payment of the duly authorized salary of such officer.

Security for Loan

26. Every loan made by an agricultural loan society under this Act shall be secured in any one or more of the following ways that is to say—

Security
for loans.
11/1983
S. 16.

- (a) by a mortgage of any land belonging to the borrower;
- (b) by a security interest created in accordance with the Security Interests in Personal Property Act;
- (c) in such other manner as may be acceptable to the Bank.

38/2013
Sch.

27.—(1) Where it is proposed to make any loan under this Act to any person for the cultivation of crops or for reaping and making merchantable any crops, the repayment of such loan and payment of interest thereon may be secured by a security interest in such crops in favour of the lender.

Charge on
crops and
movable
property.

38/2013
Sch.

(2) The repayment of any loan made under this Act and payment of interest thereon may be secured by a charge in favour of the lender on such movable property belonging to the borrower on the date of the security interest as the lender may approve.

38/2013
Sch.

(3) In this section, “security interest” means a security interest within the meaning of the Security Interests in Personal Property Act.

38/2013
Sch.

28.—(1) Where any loan made under this Act is secured by a mortgage of any land not under the operation of the Registration of Titles Act, a memorandum of such mortgage shall, as soon as practicable after the

Memoranda
of charges
and of
certain
mortgages.
38/2013
Sch.

creation of such mortgage, be prepared in the prescribed form and transmitted by the lender to the Deputy Keeper of the Records.

38/2013
Sch.

(2) The Deputy Keeper of the Records shall keep a record of every memorandum received by him under this section, and such record shall be sufficient notice of the existence of the mortgage to which the memorandum refers and may be inspected by any person without payment of any fee.

38/2013
Sch.

(3) *[Deleted by Act 38 of 2013, Sch.]*.

38/2013
Sch.

(4) Notwithstanding anything to the contrary contained in any Act, where any loan made under this Act is secured by mortgage of any land not under the operation of the Registration of Titles Act, it shall not be necessary to record such mortgage unless and until it is deemed advisable to enforce it.

38/2013
Sch.

(5) Every mortgage of which a memorandum is recorded in accordance with the provisions of this section shall have the same force and effect as if such mortgage had been fully recorded.

38/2013
Sch.

(6) Every person interested in any property, real or personal, affected by any such mortgage shall be entitled to have access to the original for all proper purposes and at all reasonable times.

38/2013
Sch.

29. *[Repealed by Act 38 of 2013, Sch.]*.

38/2013
Sch.

30. *[Repealed by Act 38 of 2013, Sch.]*.

38/2013
Sch.

31. *[Repealed by Act 38 of 2013, Sch.]*.

32. [Repealed by Act 38 of 2013, Sch.].

38/2013
Sch.

33.—(1) Where any loan made under this Act is secured by a mortgage of any land not under the operation of the Registration of Titles Act, the lender shall, upon payment of all the moneys owed to the lender in respect of such loan, prepare a release in the prescribed form stating that the crops or property specified in the memorandum to which such release relates are released from the mortgage.

Release of
charges and
certain
mortgages.
38/2013
Sch.

(2) Every release prepared under this section shall be transmitted to the Deputy Keeper of the Records who shall, upon receipt thereof, make the appropriate entry in his records to show that the crops or property specified in the memorandum to which the release relates have been released from the mortgage.

38/2013
Sch.

(3) Where any release relates to a memorandum of which a copy was transmitted to the Registrar of Titles in accordance with the provisions of subsection (3) of section 28, a copy of such release shall be transmitted to the Registrar of Titles who shall, upon receipt thereof, remove the caveat entered, under subsection (3) of the said section 28, against the title to the land specified in the memorandum.

(4) Notwithstanding anything to the contrary contained in any law, every release transmitted to the Deputy Keeper of the Records in accordance with the provisions of this section shall operate as a full and effectual release of the mortgage in respect of which it was made.

38/2013
Sch.

Power of
Bank and
agricul-
tural loan
societies to
make other
arrange-
ments re-
garding
loans.
11/1983
S. 17.

33A. Nothing in sections 21 to 33 inclusive shall prevent the Bank and any agricultural loan society from entering into arrangements mutually agreeable to them with regard to the terms of any loan, or security for a loan, made by the Bank to that agricultural loan society.

Miscellaneous

Policy
directions.

34. The Minister may, after consultation with the chairman, give to the Board directions of a general character as to the policy to be followed in the exercise and performance of its functions in relation to matters appearing to him to concern the public interest, and the Board shall give effect to any such directions.

Minister
may specify
rehabilita-
tion periods
and certify
organiza-
tions.

35. The Minister shall have power—

- (a) to make orders specifying the days on which rehabilitation periods shall begin and end;
- (b) to certify organizations to be approved organizations for the purposes of this Act and to direct that any approved organization shall, from such time as he may specify, cease to be an approved organization.

Loans may
be made
notwith-
standing
contracts
to the
contrary.
11/1983
S. 18.

36. An agricultural loan society may make a loan to any person under this Act notwithstanding any provision to the contrary contained in any contract made between such person and a third party.