

CHAPTER 252

AGRICULTURAL AIDS

1905-2

This Act came into operation on 28th February, 1905.

Amended by:

1973-28
1967/168

1981-50
1988-12

1992-17
2000-24

Law Revision Orders

The following Law Revision Order or Orders authorized the insertion and removal of pages as the case may be under the Law Revision Act Cap.2 now repealed:

1995

2002

Guide to symbols in historical notes:

- indicates an amendment made by an Act

/ indicates an amendment made by statutory instrument

CHAPTER 252

**AGRICULTURAL AIDS
1905-2**

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SCHEDULE

**BARBADOS****AGRICULTURAL AIDS
1905-2**

An Act to consolidate and amend the Acts to facilitate the raising of money on loan by owners and others legally authorised to carry on the cultivation of land in Barbados to enable them to carry on such cultivation.

[Commencement: 28th February, 1905]

PART I**PRELIMINARY****Short title**

1. This Act may be cited as the *Agricultural Aids Act*.

Interpretation

2. For the purposes of this Act

“land” means sugar plantations and all other real estate or property usually or about to be cultivated for producing an annual crop;

“owner” means any person for the time being legally charged with the cultivation, or the receipt of the rents and profits, of any land, and includes life tenants

and guardians and trustees and executors, if such trustees and executors are so charged by the instrument appointing them, but not receivers;

“person” includes any body corporate or politic;

“receiver” means any person appointed by any court to take charge of, manage and cultivate, or receive the rents and profits of, land in Barbados;

[1967/168]

“Registrar” means the Registrar of Titles.

[1988-12]

PART II LOANS TO OWNERS

Loans to owners for upkeep of plantations to be a prior charge on current year’s crops

- 3.(1) All loans or advances made by any person to an owner of land for
- (a) the purpose of carrying on the general cultivation and management thereof;
 - (b) the purchase of stock and manure and other necessaries;
 - (c) paying taxes; and
 - (d) meeting and paying all other usual and necessary outgoings connected with the upkeep thereof, including a reasonable salary to the owner in any case where he is the manager of such land,

together with interest on such loans not exceeding such rate as the Central Bank of Barbados may determine shall become, subject to this Act and subject to the *Barbados National Bank (Transfer and Vesting of Assets) Act, 2000*, a charge in preference to all other charges on the then current year’s crop or crops on such land or such of them as may have been pledged, and shall be paid thereout in the first place and in priority to all other claims or liens affecting the said crop, including any receiver’s account, where proceedings are taken against the land

on which the crop is growing before the reaping or sale thereof; but the owner shall be personally liable for such loans or advances except where it is agreed between himself and the person making such loans and advances that he shall not be so liable.

[1973-28; 1981-50; 2000-24]

(2) Notwithstanding subsection (1), where a loan is raised by means of promissory notes through any bank, the usual bank charges may be allowed as interest thereon in addition to the rate of interest determined by the Central Bank of Barbados.

[1981-50; 1973-28]

(3) No loan under this Act shall be made to any owner on the security of any cane crop prior to the 1st June in the year preceding the reaping of such crop but a loan under the Act may be made for the purchase of manure between the 1st January and the 1st June of any such year.

Lender not obliged to see to application of loan

4. It shall not be incumbent on any person making a loan or advance to an owner of land under this Act to see to the due application of the loan, and the misapplication or non-application of such loan shall not affect the security for the same.

When attorney may act for owner under this Act

5. For the purposes of this Act, a constituted attorney of any owner having authority by deed to carry on the cultivation of land shall be able to exercise for the owner all the powers conferred by this Act on such owner in the same manner as such owner could exercise them for himself.

Owner to give lender a certificate to be recorded by Registrar

6.(1) The owner shall execute and give to the person or persons making such loan or loans a certificate or certificates in the Form A in the *Schedule*, or as near thereto as the circumstances of the case permit.

(2) On production of such certificate or certificates to the Registrar, he shall enter the particulars of such loan or loans, in the order in regard to time in which they are produced to him, in a book to be kept for that purpose and to be called "The Owners' Loan Book" and shall certify on such certificate or certificates that the particulars thereof have been so entered.

(3) All such loans when so entered shall be and become liens on the current year's crop or crops of the land or such of them as may have been pledged ranking and payable in the manner hereinbefore specified but as between several loans of the same nature, if more than one, the same shall rank according to their priority of entry in the Owners' Loan Book.

Owner to give notice of intention to borrow money under this Act

7.(1) Before any loan is effected under this Act between an owner and any person and unless the owner first obtains the consent in writing of the several encumbrancers against the plantation, such owner shall cause an advertisement to be inserted in three consecutive issues of the *Official Gazette* and one daily newspaper of Barbados, giving notice to the persons holding liens against such land of his intention to obtain such loan.

(2) Every such advertisement shall state what sum, if any, has been already borrowed on the crop and the sum then proposed to be borrowed and shall be in the Form B in the *Schedule* or as near thereto as circumstances permit.

Lender may inspect crops on which money lent

8.(1) Any person making advances to an owner under this Act may from time to time, at his discretion, either in person or by his agent, enter at all reasonable times on any lands, against the crop of which he has made advances and inspect the same.

(2) Any owner or other person obstructing a holder of a certificate of loan or his agent in making such inspection shall be liable to a fine of \$480, to be recovered in a summary way before a magistrate on the information of any person.

Crops to be sold in Barbados when reaped and proceeds applied in discharge of loans

9.(1) Each crop charged in accordance with this Part shall, when reaped, be sold in Barbados by the owner unless otherwise agreed upon between the owner and person or persons, or major part in value of such person or persons, holding the certificate or certificates of loan.

(2) Immediately after the sale of any portion of his crop, the owner shall furnish the person or persons holding certificates of loan against such crop with a detailed account of the amount of such crop so sold or disposed of by such agreement and to whom the same was sold or disposed of by such agreement and the amount realised thereby and shall pay or caused to be paid to such person or persons the whole or so much thereof as is sufficient to satisfy the claim or claims of such person or persons, such payment to be made in accordance with the priority of the claims.

(3) Any owner committing a breach of this section, or his attorney where such attorney commits such breach, shall be guilty of an offence and on conviction thereof shall be liable to be imprisoned for 2 years.

[1992-17]

Magistrate may enquire whether owner is keeping up cultivation of crops

10.(1) Where any person having a certificate of loan under this Part against any crop or crops lodges a complaint before the magistrate of the district to the effect that he has reasonable grounds for believing that the owner to whom he has made advances has ceased cultivating the said crop or crops, the magistrate shall appoint three freeholders who are hereby authorised and required to visit and examine such crop or crops and make a return to him on oath whether the cultivation of such crop or crops has ceased.

(2) Where such freeholders make a return that the owner of such crop or crops has ceased to cultivate them, the magistrate shall, by warrant under his hand,

authorise the complainant or his agent to enter upon the land on which such crop is growing and cultivate the same and reap and manufacture such crop and sell the same for the benefit of the persons holding such certificate or certificates.

(3) Such agent shall apply the proceeds of such crop, after deducting the cost of growing, reaping, and selling the same, in the manner indicated in section 9 and shall be responsible to the holders of such claims and the owner for the due application of the proceeds of such crops in accordance with section 9 and shall be liable to the penal provisions thereof on the information of the persons therein named or of the owner.

(4) Any owner or other person obstructing such agent shall be guilty of a misdemeanour and on conviction thereof shall be liable to be imprisoned for 6 months.

Owner to keep account of application of loans

11.(1) Every owner or his attorney who obtains a loan against his crop under this Act shall keep, in the books relating to the land on which such crop is growing, a particular account in writing of the amount of money so borrowed and the application thereof, showing the balance in hand unapplied from time to time.

(2) Where proceedings are taken against such land before all such moneys are applied, the owner or attorney of such owner shall hand over to the Registrar or the Chief Marshal such particular account with the vouchers for the expenditure mentioned therein and shall pay over any unapplied balance to the Registrar or the Chief Marshal, as the case may be, to be applied by him in accordance with the order of a Judge to be obtained on motion at chambers to be made by the attorney-at-law for the proceeding creditor.

(3) Any owner or attorney who fails for 1 month after having been called upon to do so to comply with any of the provisions of subsection (1) or (2) shall be liable on the information of any lienholder or certificate holder, on summary conviction before a magistrate, to a penalty of \$24 for each day during which he fails to comply with such provision.

(4) Any lien-holder may, on 1 month's notice to an owner or his attorney, require such owner or attorney to produce at the end of the then current quarter of the year to such lien-holder for his inspection during a reasonable time not exceeding 2 days (Sundays and public holidays excepted) such particular account in writing made up to the end of such quarter.

(5) Any such owner or attorney who, after notice, fails to produce such particular account in writing shall be liable on the information of any lien-holder, on summary conviction before a magistrate, to a penalty of \$24 for each day during which he fails to produce such particular account.

Misapplication of loan

12. Any owner or attorney who applies any money borrowed under this Act for any purposes other than those authorised by this Act or fails, neglects or refuses to apply the same in accordance with this Act shall be guilty of an offence and on being convicted thereof shall be liable to be imprisoned for 2 years.

[1992-17]

Act not to affect the right of holders of liens to proceed on them

13.(1) Nothing in this Act shall prevent any person holding any security of any nature or kind whatsoever against or affecting any land, for which advances have been made under this Part, from taking proceedings for recovering any moneys due on his security, but the amount due to any person by whom such advances were made on account of the said land shall be a lien, taking precedence of the claim of any receiver or of any other claim whatsoever, any law, rule or custom to the contrary notwithstanding, on the crop or crops in respect of which the advances have been made before or after any such proceedings or on the appraised value thereof.

(2) In arriving at such appraised value of any crop, the appraisers shall if possible arrive at such value by an estimate of the amount of money that will probably be realized by the sale of the sugar and molasses obtained from the manufacture of such crop at maturity and shall deduct the cost of and incidental

to the reaping and manufacturing of the same crop and of providing packages for, and freighting to market of, such sugar and molasses.

(3) Where from the immaturity of such crop at the time of appraisal, it is not possible for the appraisers to estimate the sugar and molasses to be obtained from such crop and the value thereof, then the appraisers shall ascertain approximately the amount of money that has been expended on the cultivation, manuring and general upkeep of the land on which such crop is growing, and such amount shall be taken as the appraised value of such crop.

(4) When such proceedings as are mentioned in subsection (1) are taken and a receiver is appointed by the High Court it shall be the duty of the receiver to assume entire control of the crop against which such advances have been made, to reap, manufacture and sell the proceeds of such crops and, after deducting all expenses incurred in the reaping and manufacturing and freight to market thereof, to apply the remainder of the proceeds in paying off the loans as directed in section 9.

(5) Nothing in subsection (4) shall prevent a sale of the said crop along with the land at any time after such proceedings have been taken.

Conditions under which purchaser of land sold by High Court may raise loan

14. It shall not be lawful for the purchaser of any land in the High Court to raise money against the crop or crops of such land under this Act until he has obtained a conveyance or transfer therefor from the Registrar or has obtained the consent in writing of the lien-holders coming within the purchase money to obtain such loan or has paid or given security for the payment of the whole of the purchase money.

[1988-12]

PART III
LOANS TO RECEIVERS

Receivers with sanction of court may borrow money for upkeep of plantation

15.(1) Any receiver of land may from time to time obtain on loan from any person, ready and willing to lend the same, such sum or sums of money as may be necessary for carrying on the management and cultivation of such land and the general business thereof, the amount of such loan to be first approved by the High Court in accordance with this Part.

(2) Such loan shall carry interest at the rate determined by the Central Bank of Barbados and shall be upon such terms and payable at such times as shall be agreed upon between the receiver and the person lending or advancing the same.

[1981-50]

(3) Notwithstanding subsection (2), where such a loan is raised by means of promissory notes through any bank, the bank charges shall be allowed as interest thereon in addition to the rate determined by the Central Bank of Barbados.

[1981-50]

Order of court first to be obtained

16.(1) Before obtaining any loan or giving any security, the receiver shall obtain an order of court approving of the amount of the loan or the giving of any security.

(2) Such order shall be obtained on motion in the suit before a Judge in chambers to be made by the attorney-at-law of the plaintiff in the action after 2 days' notice thereof to the defendant's attorney-at-law, if any; and the cost of such application shall be allowed as costs in the action.

Receiver to give lender a certificate to be recorded by Registrar

17.(1) The receiver shall execute and give to the person making such loan or taking such security a certificate in the Form C in the *Schedule*, or as near thereto as the circumstances of the case permit.

(2) On production of such certificate to the Registrar, he shall enter the particulars of such loan, in the order as regards time in which they are produced to him, in a book to be kept for that purpose at his office to be called “The Receivers’ Loan Book”; and the Registrar shall certify on such certificate that the particulars thereof have been so entered.

(3) All such loans when so entered and the interest thereon shall, subject to any charges against the crop created under the foregoing sections of this Act and subject to the *Barbados National Bank (Transfer and Vesting of Assets) Act, 2000*, be a first charge or lien on such land; but as between the several loans, if more than one, the same shall rank according to their priority of entry by the Registrar.

[2000-24]

Receivers to apply loan in upkeep of plantation, and to apply proceeds of crops in payment of such loans

18.(1) The receiver shall apply the moneys borrowed under this Part towards the management and cultivation of such land and carrying on the business thereof in the usual course and, on receipt of the rents, issues, proceeds and profits of such land, shall apply the same after payment of all charges against the crop created under the foregoing sections of this Act in payment and liquidation of the several loans against the said land and interest thereon, according to their priority.

(2) Any receiver wilfully or fraudulently misapplying the moneys received from any such loan or from the rents, issues, proceeds or profits of such land shall be guilty of an offence and on being convicted thereof shall be liable to be imprisoned for 2 years.

[1992-17]

PART IV
GENERAL

A loan may be obtained to be issued in instalments

19. An owner or receiver may at any time on obtaining a loan and giving a certificate thereof arrange that the same shall form part of a larger loan to be then named, and in that case it shall be stated on the face of such certificate that the same forms part of such greater loan, and all certificates issued by the owner or receiver to the extent of and forming part of such greater loans and the moneys, principal and interest thereby secured shall in that case rank *pari passu*, notwithstanding the date of issue or entry of such certificate.

Books open to public

20. The Owners' Loan Book and the Receivers' Loan Book shall be open for reference to any person desiring to see the same.

Index to be kept by Registrar

21. The Registrar shall keep an index to the said various charges and loans and shall index each charge or loan under the initial letter of the name, if any, of the land and also under the initial letter of the name of the owner of such land and, in case of a receiver, also under the name of such receiver obtaining the loan or creating the charge.

Repayment of loan to be endorsed on the certificate to be recorded by Registrar

22.(1) On payment of any such loan or charge as aforesaid, the owner or receiver or other person paying the same shall obtain from the person, entitled to such loan or charge a receipt for the money so paid, which receipt shall be endorsed on the said certificate and shall be in the Form D in the *Schedule* or as near thereto as circumstances permit.

(2) Such owner or receiver shall produce such receipt to the Registrar, who shall enter the particulars thereof in the Owners' Loan Book or the Receivers' Loan Book, as the case may be, against the entry of the certificate of loan or charge.

Certificate of loan to be transferable

23. Every certificate of loan, shall be transferable either absolutely or as collateral security, and on production of any transfer the Registrar shall enter the particulars thereof in the Owners' Loan Book or the Receivers' Loan Book, as the case may be, against the entry of the certificate of such loan.

Fee for recording, etc.

24. The Registrar shall be entitled to the sum of 24 cents for every entry of a certificate of loan, transfer of such certificate or discharge of the same, entered by him.

SCHEDULE

FORM A

(s.6)

Agricultural Aids Act - Chapter 252

.....Plantation

I, _____ of the parish of _____ and Island of Barbados, the owner of the above plantation, do hereby certify that I have this day borrowed from _____ of _____ the sum of \$ _____ which sum is to carry interest at the rate of \$ _____ per cent per annum, and the said sum and interest thereon are to be repaid by me out of the proceeds of the following crops namely: *(here specify the crops as accurately as possible)*

Given under my hand this _____ day of _____ 19

FORM B

(s.7)

Agricultural Aids Act - Chapter 252

To the creditors holding specialty liens against

.....Plantation

Take notice that I, the owner of the above plantation, am about to obtain a loan of \$ _____ under the provisions of the above Act against the crop of the above plantation to be reaped in 19

No money has been [*or* \$ _____ has been already] borrowed on the said crop.

Dated this _____ day of _____ 19 _____ .

FORM C

(s. 17)

Agricultural Aids Act—Chapter 252

.....Plantation

A. B., v. C. D.

I, _____ of _____ the receiver of the above plantation appointed by the High Court in the above suit do hereby (under the authority of an order of the said Court dated the _____ day of _____ 19_____) certify that I have this day borrowed from _____ of _____ the sum of \$ _____ which sum is to carry interest at the rate of \$ _____ per cent per annum, and the said sum and interest thereon are to be repaid by me out of the proceeds of the crop to be reaped in 19_____, and if such crop is insufficient, then to be paid out of the purchase money to arise by the sale of the said plantation.

Given under my hand this _____ day of _____ 19____.

FORM D

(s. 22)

Agricultural Aids Act—Chapter 252

.....Plantation

I do hereby acknowledge to have received the whole amount of principal and interest secured me by the within certificate dated the _____ day of _____ 19____ and given by _____ owner [*or* receiver] of the above plantation to _____ under the provisions of the above Act.

Dated this _____ day of _____ 19____ .