

## Serial Number 1940/153.

**THE FARMERS' LOANS EMERGENCY REGULATIONS 1940.**

GALWAY, Governor-General.

## ORDER IN COUNCIL.

At the Government House at Wellington, this 17th day of July, 1940.

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL.

PURSUANT to the Emergency Regulations Act, 1939, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, doth hereby make the following regulations.

## REGULATIONS.

1. These regulations may be cited as the Farmers' Loans Emergency Regulations 1940.

2. In these regulations, unless the context otherwise requires,—

“ Chattels ” means chattels as defined in section 2 of the Chattels Transfer Act, 1924:

“ Corporation ” means the State Advances Corporation of New Zealand:

“ Farmer ” means a person occupied in the carrying-out of farming operations (whether by himself or by a manager or other person on his behalf) on land owned or leased by him; and includes the personal representatives of a deceased farmer:

“ Mortgage ” means a mortgage affecting land, an instrument by way of security, or a charge created by a company incorporated under the Companies Act, 1933.

3. (1) The Corporation may make special advances under these regulations to any farmer for the purpose of increasing or promoting the production of any primary product.

(2) Every such advance shall be made out of moneys made available for the purpose by the Minister of Finance.

(3) The amount of any such advance shall from the time of the making of the advance be a charge in favour of the Corporation on any property on the security of which it is agreed by the farmer that the advance shall be made. Nothing in the Statutory Land Charges Registration Act, 1928, shall apply to any such charge.

(4) An agreement that an advance shall constitute a charge on property may be in the form No. 1 in the Schedule to these regulations.

4. (1) The Corporation by its duly authorized agent may execute a certificate of charge describing the property affected by any charge created by virtue of these regulations and specifying the amount secured thereby.

(2) If the property affected by the charge comprises land, the certificate of charge shall be deemed to be a mortgage of the land duly executed by the farmer, and, subject to these regulations, the provisions of the Property Law Act, 1908, the Deeds Registration Act, 1908, and the Land Transfer Act, 1915, shall, so far as they are applicable and with the necessary modifications, apply accordingly.

(3) If the property affected by the charge comprises chattels, the certificate of charge shall be deemed to be an instrument by way of security under the Chattels Transfer Act, 1924, comprising those chattels duly executed by the farmer, or, if the farmer is a company incorporated under the Companies Act, 1933, the certificate of charge shall be deemed to be a charge issued by the company to which section 89 of that Act applies, and, subject to these regulations, the provisions of the Chattels Transfer Act, 1924, and the Companies Act, 1933, shall, so far as they are applicable and with the necessary modifications, apply accordingly:

Provided that on registration no affidavit or statutory declaration shall be required:

Provided also that if the charge affects crops then, for the purposes of section 37 of the Chattels Transfer Act, 1924, any landlord or mortgagee of the land whereon the crops are growing or to be grown shall be deemed to have consented thereto in writing.

(4) A certificate of charge under this regulation may be in the form No. 2 or in the form No. 3 in the Schedule to these regulations.

5. (1) Notwithstanding anything to the contrary in any Act or rule of law, if any property subject to a charge created by virtue of these regulations is, at the time of the registration of the certificate of charge under the last preceding regulation, subject to a registered mortgage the charge shall rank *pari passu* with that mortgage, or if there are two or more mortgages then with that mortgage which ranks first in order of priority.

(2) In any case to which the last preceding clause applies the rights, powers, and duties of the Corporation and of the mortgagee under the mortgage ranking *pari passu* with the charge in relation the one to the other shall be as follows:—

(a) Until either the Corporation or the mortgagee (each hereinafter in this clause referred to as a creditor) exercises one of the powers mentioned in paragraph (b) or paragraph (c) of this clause, each creditor shall be entitled to demand and receive payment of the principal and interest payable to such creditor:

- (b) If either creditor enters into possession of the property, he shall hold such proportion of the rents and profits received by him or the occupation rent with which he is charged (after deducting expenses in connection with the entry into possession and outgoings in respect of the property) in trust for the other creditor as the debt of that other creditor bears to the total of the debts owing to both at the date of such entry, and he shall be accountable to the other creditor for the proper administration of the property to the same extent as he is accountable to the farmer:
- (c) Either creditor may exercise any power of sale exercisable under his security, and the creditor exercising that power may transfer the property to any purchaser freed and discharged from all liability on account of the charge or of any mortgage affecting the property:
- (d) The creditor so exercising the power of sale shall hold in trust for the other creditor such proportion of the net proceeds of the sale as the debt of that other creditor bears to the total of the debts owing to both at the date when a valid contract to sell is entered into, and he shall be accountable to that other creditor for the proper exercise of such power to the same extent as he is accountable to the farmer:
- (e) If either creditor exercises any power of entry into possession or sale, that creditor shall forthwith notify the other creditor:
- (f) In any case where either creditor receives moneys—  
(i) For compensation in respect of the compulsory taking of any of the property charged; or  
(ii) From insurance in respect of any of the property charged; or  
(iii) From the sale of any part of the property charged; or  
(iv) From the sale of any produce of any of the property charged,—  
the creditor receiving the moneys shall hold in trust for the other creditor such proportion of the moneys as the debt of that other creditor bears to the total of the debts owing to both:
- (g) If the property charged in favour of the two creditors is not identical, and moneys are payable under any of the provisions of paragraphs (b), (d), and (f) of this clause in respect of property comprised in both securities or the produce of any such property, it shall be determined in respect of each security what amount of the debt is apportionable to the property common to both securities, and adjustments shall be made as though each creditor held security for that amount over the property common to the security of each. In the event of the creditors not

being able to agree as to the amounts, the question shall be referred to the Valuer - General, whose decision shall be final:

- (h) Nothing in these regulations shall prevent a creditor making further advances to the farmer for reasonable living-expenses of the farmer and his household and reasonable working-expenses of and incidental to the carrying-on of the farmer's usual farming operations, and, if such advances are covered by the security, the moneys so advanced may be included in the debt owing to the creditor making the advance in ascertaining the debt of that creditor for the purpose of any of the paragraphs (b), (d), and (f) of this clause.

6. (1) Whenever any certificate of charge under these regulations is presented for registration to the District Land Registrar, Registrar of Deeds, Registrar of the Supreme Court, or Registrar of Companies, he shall forthwith register it, and shall forward to the person (if any) having any mortgage ranking *pari passu* with the charge a notice of the registration of the charge, and shall furnish the Corporation with such particulars as it may require of any mortgage affecting the property.

(2) The person holding any mortgage ranking *pari passu* with a charge created by virtue of these regulations may at any time, on paying to the Corporation all moneys secured by the charge and interest thereon, together with any costs payable to the Corporation, require the Corporation to transfer to such person the benefit of such charge and any documents lodged with the Corporation in respect of the security.

(3) Upon the satisfaction of any charge created by virtue of these regulations the person entitled to the benefit of the charge shall, without fee, sign a certificate in the form No. 4 in the Schedule to these regulations, and on such certificate being presented for registration to the District Land Registrar, Registrar of Deeds, Registrar of the Supreme Court, or Registrar of Companies, as the case may require, he shall cause a release of the charge to be registered.

7. (1) Every certificate of charge under these regulations and every release or satisfaction of a certificate of charge shall be registered by the District Land Registrar, Registrar of Deeds, Registrar of the Supreme Court, or Registrar of Companies, as the case may be, without payment of any fee.

(2) No stamp duty shall be payable in respect of any agreement, mortgage, promissory note, bill of exchange, or other instrument executed or any statutory declaration required in respect of an advance under these regulations.

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## SCHEDULE.

[Form No. 1.]

To [Name of farmer].

*The Farmers' Loans Emergency Regulations 1940.*

WITH reference to your application, you are offered an advance of £.....  
under the above-mentioned regulations, on the following terms:—

Purpose of advance: .....

Date and manner of repayment: .....

Rate of interest: ..... per cent. per annum, payable on the amount of  
the advance for the time being outstanding with ..... rests.

Security: (1) .....

If you accept this offer, please sign the agreement at the foot hereof and  
return this form to the undersigned.

.....  
[Officer of the Corporation authorized to make offer.]

I accept the above offer, and I agree that the property on the security of  
which the advance shall be made shall be as set out above.

.....  
[Farmer.]

(1) State briefly but comprehensively the property upon the security of which it will be  
agreed that the advance is made.

[Form No. 2.]

## CERTIFICATE OF CHARGE AFFECTING LAND.

*The Farmers' Loans Emergency Regulations 1940.*

To the District Land Registrar,

[or Registrar of Deeds,]

..... Land Registration District.

[or Deeds Registration District.]

THE State Advances Corporation of New Zealand hereby certifies that the land  
hereinafter described is subject to a charge for [Specify amount of charge] on  
account of an advance under the Farmers' Loans Emergency Regulations 1940.

## DESCRIPTION OF LAND AFFECTED BY CHARGE.

Name of proprietor: .....

Situation: .....

Area: .....

Description by reference to section number, &amp;c.: .....

[If under *Land Transfer Act, 1915.*] Reference to certificate of title: Vol. ....,

Fol. ....

Dated at ....., this ..... day of ....., 19..

Executed on behalf of the State Advances }  
Corporation of New Zealand by the }  
Branch Manager of the Corporation at } .....

[Form No. 3.]

## CERTIFICATE OF CHARGE AFFECTING CHATTELS.

*The Farmers' Loans Emergency Regulations 1940.*

To the Registrar of the Supreme Court,

[or Registrar of Companies,]

at .....

THE State Advances Corporation of New Zealand hereby certifies that the chattels  
described in the Schedule hereto are subject to a charge for [Specify amount of  
charge] on account of an advance under the Farmers' Loans Emergency Regula-  
tions 1940.

## SCHEDULE.

Name of owner of chattels: (1) .....

Address of owner of chattels: (2) .....

Occupation of owner of chattels: (3) .....

All the stock, crops, machinery, implements, and plant of the owner above mentioned including (but not limited to) the following sheep, cattle, horses, pigs, crops, machinery, implements, and plant :—

## STOCK.

Particulars : (4) ..... *Class of Stock : Sheep.*  
 Particulars : (4) ..... *Class of Stock : Cattle.*  
 Particulars : (4) ..... *Class of Stock : Horses.*  
 Particulars : (4) ..... *Class of Stock : Pigs.*

The brands, earmarks, and marks with which all stock of the owner above mentioned are during the continuance of this charge to be branded, earmarked, and marked are as follows :—

| (5) Earmarks. | (5) Brands and Marks. |
|---------------|-----------------------|
| For males :   |                       |
| For females : |                       |

And the land or premises on which the hereinbefore-described stock are or are intended to be depastured or kept is as follows : (6) .....

## CROPS.

Particulars of crops actually sown or growing or to be sown or grown upon the lands or premises hereinafter described are as follows : (7) .....

And the land or premises on which the hereinbefore-described crops are sown or growing or to be sown or grown are as follows : (8) .....

## MACHINERY, IMPLEMENTS, AND PLANT.

The following machinery, implements, and plant : (9) .....

And the land or premises on which the hereinbefore-described machinery, implements, and plant are is as follows : (10) .....

Particulars of documents which collaterally secure the payment of the moneys or part of the moneys payable in respect of the charge :—

| Date. | Names of the Parties thereto. | Nature of the Security. |
|-------|-------------------------------|-------------------------|
|       |                               |                         |

Dated at ....., this ..... day of ....., 19..

Executed on behalf of the State Advances  
 Corporation of New Zealand by the  
 Branch Manager of the Corporation at } .....

(1) Name in full.

(2) Exact residence. If the farmer is a company, substitute the place of its registered office.

(3) Exact occupation.

(4) State numbers, descriptions, brands, earmarks, marks, sex, age, name, colour, or give other description so that all the stock described shall be readily capable of identification.

(5) Draw diagrams of the brands, earmarks, and marks.

(6) Specify fully the land or premises on which the stock are or are intended to be depastured or kept, giving wherever possible Survey District, Block, Section numbers, area and name of farm or station (if any), and Certificate of Title, Volume and folio, of the land or premises, and/or of the lease to the farmer.

(7) Set out full details of all the crops actually sown or growing, and also of all the crops to be sown or grown.

(8) Specify fully the lands or premises on which the crops are actually sown or growing, or to be sown or grown, giving wherever possible Survey District, Block, Section numbers, area, and name of farm or station (if any), and Certificate of Title, Volume and folio, of the land or premises and/or of the lease to the farmer.

(9) Set out detailed list of all machinery, implements, and plant, giving wherever possible maker, number, and other details sufficient to render each article readily capable of identification.

(10) State the land or premises where the machinery, implements, and plant are.

[Form No. 4.

RELEASE OF CHARGE.

*The Farmers' Loans Emergency Regulations 1940.*

To the District Land Registrar,  
[or Registrar of Deeds,  
or Registrar of the Supreme Court,  
or Registrar of Companies,]  
at .....

It is hereby certified that the charge created by virtue of the Farmers' Loans Emergency Regulations 1940 over certain land [or chattels] the property of [*Name of farmer*], a certificate whereof has been registered in your Registry as No. ...., has been satisfied, and you are hereby required and directed to register a release of the same accordingly.

Dated at ....., this ..... day of ....., 19..

.....  
.....

[*Signature and description of the holder of the charge.*]

C. A. JEFFERY,  
Clerk of the Executive Council.

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Issued under the authority of the Regulations Act, 1936.  
Date of notification in *Gazette* : 18th day of July, 1940.  
These regulations are administered in the State Advances Corporation.