

Bill No. 21 of 1965.

AGRICULTURAL LOANS BILL, 1965.

Arrangement of Sections.

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FIRST SCHEDULE

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A BILL

Intituled

AN ORDINANCE to facilitate the raising of loans by farmers upon the security of their land or crop in order to enable them to finance the improvement of lands and the cultivation of crops, and for matters incidental thereto or connected therewith.

Enacted by the Legislature of British Guiana:—

A.D. 1965.

1. This Ordinance may be cited as the Agricultural Loans Ordinance, 1965. Short title.

2. (1) In this Ordinance, unless the context otherwise requires — Interpretation.
- “crop” means sugar cane, or any other crop approved by the Minister pursuant to section 4 of this Ordinance;
 - “farmer” means any person who as a proprietor or tenant is *bona fide* cultivating or about to cultivate an agricultural holding with a crop;

"lender" means a person approved by the Minister pursuant to section 3 of this Ordinance;

"lien" means a lien created pursuant to this Ordinance;

"loan" means a loan advanced pursuant to this Ordinance;

"Loan Book" means "The Agricultural Loans Book" required to be kept in the Registry under this Ordinance;

"loan certificate" means the certificate which a farmer is required to give under this Ordinance as security for a loan;

"loan notice" means the notice of intention to record a loan certificate which is required to be given under this Ordinance;

"machinery" means agricultural vehicles, plant, machinery and agricultural tenants' fixtures or other agricultural fixtures which a tenant is by law authorised to remove;

"Minister" means the Minister for the time being charged with the responsibility for agriculture;

"registered land" means any land registered under the Land Registry Ordinance, 1959;

"Registrar" means the Registrar of Deeds and includes any sworn clerk in the deeds registry;

"Registry" means the deeds registry;

"sale contract" means a contract for the sale or processing of a crop;

"stock" includes cane tops, seeds, seedlings, planting material and fertilisers.

(2) Where the context so admits reference in this Ordinance to —

(a) "lender" shall be construed as reference to a lender in whose favour a lien is created or to a person to whom a loan certificate has been transferred or who is the manager, attorney, agent, representative, guardian or legal personal representative of that lender;

(b) "farmer" shall be construed as reference to a farmer who has created a lien or to any person who has joined with a farmer in creating a lien or who is manager, attorney, agent, representative, guardian or legal personal representative of that farmer.

Approved
lenders.

3. The Minister may approve any person as a lender for the purpose of making advances in accordance with the provisions of this Ordinance to a farmer.

Approved
crop.

4. The Minister may approve any crop for the purpose of this Ordinance.

Loan Book.

5. (1) The Registrar shall keep in the Registry an Agricultural Loans Book in such form as the Minister may prescribe.

(2) The Registrar shall keep an index to the Loan Book and shall index each loan certificate under the initial letter of the name (if any) of the land and also under the initial letter of the name of the farmer.

(3) The Loan Book shall be open to inspection by any person desiring to see it on payment of the prescribed fee.

Application
for loan.

6. (1) Upon a farmer applying to a lender for a loan the lender may make it a condition to the grant of any loan that the farmer enters into a sale contract in a form approved by the lender and that

the farmer executes a loan certificate in favour of the lender in accordance with the provisions of this Ordinance.

(2) An infant (jointly with any other person or persons or by his guardian) may execute a loan certificate and may enter into any sale contract or execute any other document relating to a loan sanctioned by a loan certificate without obtaining any judicial or other sanction and such loan certificate, sale contract or other document shall be binding and enforceable in the same manner and to the same extent as if the infant were an adult person.

*by his guardian
or joint*

7. (1) As security for the repayment by a farmer of any loan together with interest thereon and any costs, expenses and other sums incurred in the protection of such security or in relation thereto with interest thereon, the farmer shall execute in duplicate a loan certificate in form 1 set out in the first schedule to this Ordinance. The loan certificate shall also be signed by the lender.

Execution and form of loan certificate.

First Schedule form 1.

(2) Subject to any contrary intention therein appearing there shall be implied in every loan certificate the covenants on the part of the farmer set out in Part I of the second schedule to this Ordinance and the conditions set out in Part II of that schedule.

Second Schedule.

(3) There may be included in the loan certificate such terms and conditions as the parties think fit.

(4) The terms and conditions of any loan may be varied by the recording of a memorandum of variation executed by the parties thereto but no such variation shall affect the rights of the holder of any mortgage or charge made prior to such variation unless the holder has consented thereto in writing on the memorandum.

8. (1) The loan certificate in duplicate shall be presented by the farmer for recording in the Registry. There shall be lodged at the same time a loan notice in form 2 set out in the first schedule to this Ordinance together with such number of copies thereof and of the loan certificates as the Registrar may require.

Presentation of loan certificate and publication of loan notice. First Schedule form 2.

(2) The Registrar shall —

- (a) endorse on the loan certificate the time and date of its receipt;
- (b) annotate the loan notice on the document of title, if any, to the land comprised in the loan certificate, or in the case of crown lands, forward a copy thereof to the Commissioner of Lands and Mines, or in the case of a registered land, file a copy thereof in the land registry;
- (c) thereupon publish the loan notice in the Gazette.

9. (1) The Registrar shall on the expiration of fourteen days after the date of publication of the loan notice —

Recording of loan certificate.

- (a) record the loan certificate by entering particulars of it in the Loan Book;
- (b) register the lien on the document of title to the land described in the loan certificate and in the case of crown lands send a copy of the loan certificate to the Commissioner of Lands and Mines, and in the case of registered land file a copy of the loan certificate in the land registry; and
- (c) if the farmer is a joint stock company, file a copy of the loan certificate in the office of the Registrar of Companies.

(2) The Registrar shall endorse on one part of the loan certificate a certificate under his hand in form 3 set out in the first schedule to this Ordinance, and the certificate shall be conclusive evidence that the requirements of this Ordinance have been fulfilled. The part so endorsed shall be delivered by the Registrar to the lender.

First Schedule form 3.

(3) Publication in the Gazette of a loan notice or in the case of registered land the filing of a copy thereof in the land registry shall

Insert

be deemed to constitute actual notice to all persons of the lien created by the loan certificate therein mentioned.

(4) The lien conferred by this Ordinance shall on the recording of the loan certificate take effect as from the date on which the loan notice is deemed to constitute actual notice thereof.

(5) Liens shall in relation to one another have priority in accordance with the times at which the loan certificates were received by the Registrar.

Creation of
liens.

10. (1) Subject to any exclusion therein specified a loan certificate shall, in respect of any loan to a farmer on the security of that loan certificate together with interest thereon and any costs, expenses and other sums incurred in the protection of such security or relating thereto with interest thereon, confer on the lender named therein a lien over —

- (a) the farmer's interest in the land described in the loan certificate together with any building thereon and any crop at any time growing thereon and together with any right of way for the purpose of access to and egress from such land over any neighbouring land belonging to the farmer and over and along any roads, tracks, paths, dams and canals which the farmer is entitled to use (all of which land, buildings, crops, and rights are hereinafter referred to as "the immovable property");
- (b) any stock and machinery belonging to the farmer or such part thereof as is mentioned in the loan certificate and any such crop as aforesaid which has been severed from the land;
- (c) all the farmer's rights under any sale contract described in the loan certificate.

(2) Subject to the provisions of this Ordinance, a loan certificate shall, as from the date on which the lien conferred by that loan certificate takes effect —

- (a) have the like effect in relation to the farmer's interest in the immovable property and any other property or interest therein comprised as if it were a mortgage passed under the Deeds Registry Ordinance or in the case of registered land as if it were a mortgage created in accordance with the provisions of the Land Registry Ordinance, 1959;
- (b) have the like effect in relation to any crop severed from the land and any stock and machinery therein comprised as if it were a mortgage bill of sale thereof granted by the farmer to the lender;
- (c) have the like effect in relation to any sale contract therein specified as if it were a mortgage thereof in favour of the lender such mortgage being by way of an assignment to the lender of the farmer's rights under the contract.

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1959.

Priority of
liens.

11. (1) Except as hereinafter provided, a lien shall, notwithstanding the provisions of any other law for the time being in force, rank in priority to all other debts, liabilities and obligations of the farmer whether incurred or contracted before or after the creation of the lien.

(2) A lien shall not be security for principal moneys at any one time outstanding (exclusive of interest and costs, expenses and other sums incurred in protection of the security or relating thereto) in excess of the amount stated in the loan certificate, and a lien shall not be deemed to be discharged by reason only of the payment in full of the amount owing at any time under the loan certificate or of any current account thereby secured having ceased to be in debit.

(3) A lien shall not rank in priority to any statutory claim in respect of the immovable property of the farmer or any loan due to

*To be
amended*

as

any creditor which has been made in good faith before the date on which notice of the lien is deemed to constitute actual notice and which has been secured by a mortgage or charge registered before such date in favour of a person who is entitled as a **bona fide** creditor to the repayment thereof.

12. (1) No loan made by a lender to a farmer in accordance with the provisions of this Ordinance shall be applied by that farmer otherwise than towards the cost of planting or reaping a crop or towards improving land for the purpose of growing any crop thereon.

Application of loan.

(2) It shall not be incumbent on a lender to see to the due application of any moneys advanced to a farmer, and the misapplication or non-application of such moneys shall not affect the lender's security therefor.

(3) Any farmer who applies any loan towards any purpose which is not authorised by this Ordinance or who fails or neglects to apply it in accordance with such provisions shall be liable on summary conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

(4) If any person falsely represents to a lender that he is a farmer and such lender is not aware of the falsity of the representation, no loan certificate granted by that person to such lender and no sale contract mentioned therein shall be invalidated merely by reason of the fact that that person is not a farmer.

13. (1) A lender may, from time to time at his discretion, enter at all reasonable times on any land over which he has a lien and inspect the same.

Right of lender to inspect land.

(2) Any farmer or other person obstructing in any way a lender in making the inspection referred to in the preceding subsection shall be liable on summary conviction to a fine not exceeding one hundred dollars.

14. If a farmer disposes of any part of a crop referred to in any sale contract specified in a loan certificate signed by him, or if he applies any part of the proceeds of sale of any such crop otherwise than in accordance with the provisions of that contract, he shall be liable on summary conviction to a fine not exceeding two hundred and fifty dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

Penalty for disposal of crops contrary to contract.

15. (1) If a lender has reasonable grounds for believing that a farmer has ceased or is neglecting to cultivate a crop in respect of which the lender holds a lien, the lender may enter upon the land on which the crop is growing and take possession of the land and cultivate and reap the crop and sell it and apply the proceeds of sale of the crop (after deducting the cost of upkeep of the land, and of growing, reaping, and selling the crop) towards the reduction or discharge of the loan.

Entry by lender if farmer is not keeping up cultivation.

after obtaining the written consent

(2) Any farmer or other person obstructing in any way a lender in exercising the powers conferred on him in the preceding subsection shall be liable on summary conviction to a fine not exceeding two hundred and fifty dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

16. (1) Upon repayment of a loan the lender shall deliver to the person making the payment the part of the loan certificate in his possession with an endorsement thereon of a receipt in form 4 set out in the first schedule to this Ordinance.

Record of repayment of loans. First Schedule form 4.

(2) On production to the Registrar of the part of the loan certificate delivered under subsection (1) of this section, the Registrar shall enter the particulars thereof in the Loan Book and file particulars thereof with the Commissioner of Lands and Mines and in the deeds registry, land registry and the office of the Registrar of Companies, as the case may require.

To be amended

(3) Such entry in the Loan Book shall operate as a discharge of the lien created by the loan certificate.

Transfer of certificates of loan. First Schedule form 5.

17. Every loan certificate shall be transferable, and the transfer thereof shall be in form 5 set out in the first schedule to this Ordinance; and on production of any transfer the Registrar shall enter the particulars thereof in the Loan Book and file a copy thereof with the Commissioner of Lands and Mines and in the deeds registry, land registry and the office of the Registrar of Companies as the case may require and shall endorse a note of the transfer on the loan certificate and the date on which it was recorded.

Forms.

18. (1) The forms set out in the first schedule to this Ordinance shall be used in all matters to which such forms relate.

(2) The Minister may from time to time by order amend or add to the forms set out in the first schedule to this Ordinance.

Fees and exemption from duty. Third Schedule.

19. (1) Subject to any order made under subsection (3) of this section there shall be paid to the Registrar the fees set out in the third schedule to this Ordinance in respect of the matters specified therein.

(2) Notwithstanding the provisions of any law to the contrary, no stamp duty shall be payable on any loan certificate.

(3) The Minister may from time to time by order amend any of the fees set out in the third schedule to this Ordinance.

Power of Registrar to make rules.

20. ¹⁰₂ The Registrar may, subject to the approval of the Minister, make rules to regulate the keeping of the Loan Book, the filing of documents or copies thereof in the land registry and the office of the Registrar of Companies, the removal or cancellation of entries in the Loan Book and the rectification thereof.

Application of other Ordinances or laws.

21. (1) Except as otherwise provided in this Ordinance, no provision in any ordinance or regulation, rule, law, practice or procedure, relating to property other than registered land shall apply to any property included in a loan certificate so far as it is inconsistent with the provisions of this Ordinance.

Cap. 337
Cap. 32
Cap. 328

(2) Without prejudice to the generality of the last preceding subsection, no loan certificate shall be registrable under the Bills of Sale Ordinance, and the provisions of the Deeds Registry Ordinance relating to mortgages and of the Companies Ordinance relating to the registration of mortgages or charges shall not apply to a loan certificate.

(3) The filing by the Registrar of copies of documents in the register of the land registry shall have the like effect as a registration of the equivalent document under that Ordinance and the filing of a loan notice under section 8 of this Ordinance shall operate as a stay of registration until the loan certificate is recorded and a copy thereof is filed in that registry. The Registrar of Lands shall enter upon the register the appropriate memorials of any such document upon payment of the fee prescribed by this Ordinance.

(4) The provisions of any ordinance or rule of court or practice relating to the enforcement of any mortgage or charge shall apply **mutatis mutandis** to the enforcement of a lien.

Repeal. Cap. 247.

22. The Agricultural Relief Ordinance is hereby repealed.

FIRST SCHEDULE

FORM 1

S. 7(1)

The Agricultural Loans Ordinance
Loan Certificate

I/We.....
of.....(herein referred to as "the Farmer(s)") hereby declare that I/We (or one or more of us) am/are Farmer(s) within the meaning of the abovementioned Ordinance of the land described below and I/We hereby grant to.....of
.....(herein referred to as

and send a copy to the Chief Constable

"the Lender") a lien over the land, the stock and machinery (if any) and sale contract (if any) described below together with the rights and crops specified in Section 10 of the abovementioned Ordinance, such lien to be security for repayment to the Lender of the loan of \$.....to be made to me/us by the Lender on the recording of this certificate by the Registrar together with interest thereon payable at the rate and in the manner hereinafter provided and together also with any costs, expenses or other sums incurred in the protection of such security or in relation thereto. (Here insert terms and conditions as to interest and repayment and any special terms or conditions and any modifications of the covenants and conditions implied by the Ordinance).

of the principal money not exceeding any one time the \$..... to be advanced to Lender (on loan or current account)

DESCRIPTION OF LAND AND CROP GROWING OR TO BE GROWN THEREON
DESCRIPTION OF STOCK AND MACHINERY (IF ANY)
DESCRIPTION OF SALE CONTRACT (IF ANY)

Given under my/our hand(s) this.....day of.....
19.....

Signed by Farmer(s).....

Signed by Lender or his agent

fore

Received at.....o'clock in the — noon this.....day of.....
after

19.....

Registrar.

Form 2

S. 8.

The Agricultural Loans Ordinance

Loan Notice

NOTICE is hereby given that the undermentioned Farmer(s) has (have) lodged a Loan Certificate in respect of the undermentioned immovable property stock, machinery and Sale Contract and that I intend to record the Loan Certificate in respect thereof on the expiration of fourteen days after the publication of this notice in accordance with the provisions of the abovementioned Ordinance.

Dated this.....day of.....19....

Registrar of Deeds.

Name(s) and Address(es) of Farmer(s)

Nature of Crop and short description of agricultural holding, stock, machinery and Sale Contract

Short Description of immovable property and Document of Title thereto.

Form 3

S. 9 (2)

The Agricultural Loans Ordinance

Certificate of Registrar.

I,.....Registrar of Deeds hereby certify that the Loan Certificate on the front hereof was this day recorded and that the provisions of sections 8 and 9 of the Ordinance have been complied with.

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

Registrar of Deeds.

Form 4

S. 16 (1)

The Agricultural Loans Ordinance

Receipt

I/We hereby acknowledge the receipt from.....of the whole amount of the loan and interest secured under the Loan Certificate recorded on the.....day of.....19....

Dated this.....day of.....19....

Signature(s).....

of Lender(s).....

Form 5

S. 17

The Agricultural Loans Ordinance

Transfer

I/We.....of.....

hereby transfer the Loan Certificate executed by.....of.....

.....and recorded on the.....day of.....19.....under which there is at present owing to me/us the sum of \$.....(.....dollars) in respect of the Loan (and

\$.....interest thereon) and all my/our right, title and interest in and to the same to.....
of.....
who hereby accept such transfer.

Dated this..... day of.....19.....

Signature of Transferor (s).....

Signature of Transferee(s).....

SECOND SCHEDULE

S. 7(2)

PART I

Terms and conditions to be implied in every Loan Certificate recorded under this Ordinance save as otherwise expressly provided in the Loan Certificate.

That the Farmer shall —

- (a) cultivate and manage the land described in the Loan Certificate in accordance with sound husbandry and keep the same in good condition and free from weeds;
- (b) plant and cultivate such land with the crop mentioned in the Loan Certificate;
- (c) subject to the provisions of the Sale Contract mentioned in the Loan Certificate, cut and harvest the aforesaid crop from time to time growing on the said land whenever the same should properly be cut and harvested;
- (d) observe and perform the agreements on the part of the Farmer to be observed or performed in accordance with the provisions of the Sale Contract mentioned in the Loan Certificate or in accordance with the provisions of any lease, tenancy agreement or other instrument affecting the aforesaid land or any part thereof and for the time being in force;
- (e) pay punctually and regularly as the same shall become due all taxes, rates, special rates, rent outgoings and assessments which may be due in respect of the aforesaid land or any part thereof;
- (f) not, save with the previous written consent of the Lender, assign or let or otherwise part with possession of the aforesaid land or any part thereof;
- (g) not, save with the previous written consent of the Lender, sell or otherwise dispose of any crop harvested on the aforesaid land otherwise than in accordance with the provisions of the Sale Contract mentioned in the Loan Certificate;
- (h) if default is made in any of the abovementioned matters, permit the Lender to enter upon the aforesaid land and do whatever may be requisite to make good the default in question or (as the case may require) to pay any taxes, rates, special rates, rents, outgoings and assessments so due and the Farmer shall from time to time on demand reimburse the Lender all sums of money expended or paid by the Lender in making good the default in question or in making any such payment as aforesaid and all costs, expenses and other sums incurred by the Lender in the protection of his security or in relation thereto together, in the case of every sum to be reimbursed, with compound interest thereon at the rate for the time being payable on any capital sum owing by the Farmer to the Lender calculated with half-yearly rests from the date when the sum in question was expended or paid and for this purpose all legal costs and expenses will be ascertained as between solicitor and own client and by way of complete indemnity to the Lender.

PART II

S. 7(2)

- (1) All capital sums owing by the Farmer to the Lender together with any interest which has accrued thereon but remains unpaid shall immediately become payable —
 - (a) if the Farmer shall make default of a period of two months in the payment of any interest due to the Lender or shall make default in the repayment of any capital sum due to the Lender; or
 - (b) if a distress or execution is levied or sued out against any property of the Farmer and is not paid out or discharged within 7 days; or
 - (c) if the Farmer shall become insolvent or enter into any composition with his creditors; or
 - (d) if any lease, tenancy agreement, or other instrument mentioned in the Loan Certificate shall be terminated or forfeited for any reason; or
 - (e) if any order for the compulsory acquisition of the aforesaid land or any substantial part thereof shall be made; or
 - (f) if the Farmer shall be in breach of any covenant, stipulation or agreement contained or implied in the Loan Certificate and the Lender shall demand payment; or
 - (g) if the Farmer shall abandon or cease to cultivate with the crop specified in the Loan Certificate (whether temporarily or permanently) the land described in the Loan Certificate; or
 - (h) if the Farmer shall die.

- (2) At any time the Farmer shall be entitled, subject to giving the Lender not less than 30 days' notice of his intention to do so, to repay before the due date or dates for repayment the whole or any part (being \$100 or a multiple thereof) of the capital sums owing by the Farmer to the Lender.
- (3) The Lender shall not, by reason of entry into possession of the aforesaid land or any part thereof, be liable to account on the footing of wilful default or for anything except actual receipts or be liable for any loss upon realisation or for any default or omission for which a mortgagee might be liable.
- (4) Notwithstanding any lien or mortgage existing over the crop specified in the Loan Certificate, until such time as the capital sums hereby secured become immediately payable the Farmer shall be at liberty to dispose of that crop or any part thereof in accordance with the provisions of the Sale Contract mentioned in the Loan Certificate.
- (5) Every notice given by the Lender to the Farmer may be sent by prepaid post addressed to the Farmer (or, if more than one person is included in the expression "the Farmer", addressed to the first such person named in the Loan Certificate) at his last address which is known to the Lender or may be left in an envelope addressed to the Farmer on the aforesaid land and every notice so sent or left shall be deemed to have been given to the Farmer on the third day after it was posted or left.

THIRD SCHEDULE

S. 19 .

(1) For receiving, advertising and recording notice of loan and loan certificate and all proceedings in the Registry required to be taken by the Registrar in connection therewith —	
(a) where the loan is not to exceed \$1,000:—	\$ 5.00
(b) where the loan is to exceed \$1,000:— but is not to exceed \$2,500:—	\$ 10.00
(c) where the loan is to exceed \$2,500:—	\$ 15.00
(2) For payment in respect of each registration of copies of documents in the Land Registry and in the office of the Registrar of Companies.	\$ 1.00
(3) For receiving recording and endorsing transfer of loan certificate and all proceedings as aforesaid, one-half of the fees payable under paragraph (1) of this schedule calculated on the amount owing on the date of the transfer.	
(4) For receiving recording and endorsing repayment of loan and all proceedings as aforesaid.	\$ 1.00
(5) For inspecting the Loan Book.	.50

OBJECTS AND REASONS

This Bill seeks to facilitate the raising of loans by farmers upon the security of their land or crops so as to enable them to improve their land and to carry on the cultivation of their crops.

2. Under the scheme of the Bill, the farmer is required to deliver a loan certificate to the Registrar, who, after publication of a notice of intention to record the loan certificate, makes a memorial of the loan certificate in the register kept by him for that purpose. Upon the recording of the loan certificate a lien in favour of the lender is created over the farmer's interest in the land, any building and growing crops thereon, any right of way in connection with such land, any stock and machinery belonging to the farmer and over all the farmer's rights under any contract for the sale or processing of his crops.

3. The Bill also seeks to provide for the registration and transfer of loan certificates and to exempt such certificates from the payment of any stamp duty. By prescribing penalties and other safeguards, the Bill further seeks to ensure that the proceeds of loans are expended for the purpose for which they are intended.

C. M. LLEWELLYN JOHN,
Minister of Agriculture.

(AGR: C. 116/26 III).
(Bill No. 21/1965).