



Agricultural Credits (Scotland) Act 1929

1929 CHAPTER 13

PART II

AGRICULTURAL SHORT-TERM CREDITS

5 Agricultural charges.

- (1) It shall be lawful for a society to which this Part of this Act applies to create by instrument in writing in favour of a bank a charge (hereinafter referred to as an agricultural charge) on all or any of the property hereinafter specified as security for sums advanced or to be advanced to it or paid or to be paid on its behalf under any guarantee by the bank and interest, commission and charges thereon.
- (2) The property which may be affected by such a charge shall be the stocks of merchandise from time to time belonging to and in the possession of the society in pursuance of the objects which it has been formed to carry out.
- (3) The principal sum secured by an agricultural charge may be either a specified amount, or a fluctuating amount advanced on current account not exceeding at any one time such amount (if any) as may be specified in the charge, and in the latter case the charge shall not be deemed to be redeemed by reason only of the current account having ceased to be in debit.
- (4) An agricultural charge may be in such form and made upon such conditions as the parties thereto may agree, and cautioners may be made parties thereto.

6 Effect of agricultural charge.

- (1) An agricultural charge shall, so long as the charge continues in force, confer on the bank a right of security over the property affected by the charge which, subject as hereinafter provided, may, on the happening of any event specified in the instrument creating the charge as an event authorising such enforcement, be enforced by sequestration and sale of such property in like manner in all respects as in the case of the hypothec of a landlord.

Status: This is the original version (as it was originally enacted).

- (2) The right of security conferred by the foregoing subsection shall rank after any right of hypothec competent to the landlord of the society or to the superior of the lands occupied by the society, and on any sequestration and sale at the instance of the bank, the bank shall be bound to pay out of the proceeds of such sequestration and sale to such landlord or superior any sums then due in name of rent or feuduty.
- (3) An agricultural charge shall be no protection in respect of the property affected by it against any process, execution, or diligences for recovery of taxes or rates.
- (4) An agricultural charge shall, so long as the charge continues in force, impose on the society an obligation whenever the society sells any of the property affected by the charge forthwith to pay to the bank the amount of the proceeds of the sale, except to such extent as the charge otherwise provides or the bank otherwise allows; the sums so paid to be applied, except so far as otherwise agreed, by the bank in or towards the discharge of moneys and liabilities secured by the charge.
- (5) Subject to compliance with the obligation so imposed, an agricultural charge shall not prevent the society from selling any of the property subject to the charge, and the purchaser shall not be concerned to see that such obligation is complied with notwithstanding that he may be aware of the existence of the charge.
- (6) Where any proceeds of sale which in pursuance of such obligation as aforesaid ought to be paid to the bank are paid to some other person, nothing in this Act shall confer on the bank a right to recover such proceeds from that other person, unless the bank proves that such other person knew that the proceeds were paid to him in breach of such obligation as aforesaid.

7 Supplemental provisions

- (1) Agricultural charges shall, in relation to one another, have priority in accordance with the times at which they are respectively registered under this Part of this Act.
- (2) An instrument creating an agricultural charge shall be exempt from stamp duty.
- (3) The Court of Session may make rules prescribing the nature of the documents with which the bank may require to be furnished for identifying the property of the society, on which the agricultural charge rests, and establishing the title of the society thereto.

8 Registration of agricultural charges.

- (1) Every agricultural charge shall be registered under this Act within seven clear days after the execution thereof, and, if not so registered, shall be void as against any person other than the society:

Provided that the Court of Session on proof that omission to register within such time as aforesaid was accidental or due to inadvertence may extend the time for registration on such terms as the Court thinks fit.

- (2) The Assistant Registrar of Friendly Societies for Scotland (hereinafter called the Registrar) shall keep a register of agricultural charges in such form and containing such particulars as may be prescribed.
- (3) Where it is desired to register an agricultural charge, a memorandum of the instrument creating the charge, and such particulars of the charge as may be prescribed shall, together with the prescribed fee, be sent by post or delivered to the Registrar at his

office, and the Registrar shall forthwith enter the particulars in the register and shall file the memorandum.

- (4) The register kept and the memoranda filed under this section shall at all reasonable times be open to inspection by any person on payment (except where the inspection is made by or on behalf of a bank) of the prescribed fee, and any person inspecting the register or any such filed memorandum on payment (except as aforesaid) of the prescribed fee may make copies or extracts therefrom.
- (5) Any person may on payment of the prescribed fee require to be furnished with a copy of any entry in the register or of a filed memorandum or any part thereof certified to be a true copy by the Registrar.
- (6) Registration of an agricultural charge may be proved by the production of a certified copy of the entry in the register relating to the charge, and a copy of any entry purporting to be certified as a true copy by the Registrar shall in all legal proceedings be evidence of the matters stated therein without proof of the signature or authority of the person signing it.
- (7) The Chief Registrar of Friendly Societies may, subject to the approval of the Treasury, make regulations prescribing anything which under this section is to be prescribed, and generally as to the keeping of the register and the filing of memoranda, the removal of entries from the register on proof of discharge, and the rectification of the register.

9 Interpretation.

- (1) This Part of this Act shall apply to a society registered in Scotland under the Industrial and Provident Societies Acts, 1893 to 1928, and having for its principal object the provision and sale of agricultural requisites to its members or the sale, either after a process of manufacture or otherwise, of agricultural produce purchased from its members.
- (2) In this Part of this Act—
 - " Bank " means any bank having power for the time being to issue bank notes;
 - " Agricultural requisites " means seeds, manures and feeding stuffs, agricultural vehicles, machinery and other plant;
 - " Agricultural produce " means crops or horticultural produce, live stock and the produce of any kind of animal husbandry, including the carcasses, hides, wool and fur of animals, eggs, bacon, cheese, butter and other dairy produce.

10 This Short title, commencement and extent.

- (1) This Act may be cited as the Agricultural Credits (Scotland) Act, 1929.
- (2) This Act shall come into operation on the first day of April, nineteen hundred and twenty-nine.
- (3) This Act, save as otherwise expressly provided, shall apply to Scotland only.