

Queensland



RURAL ADJUSTMENT AUTHORITY ACT 1994

Act No. 50 of 1994

Queensland



**RURAL ADJUSTMENT AUTHORITY
ACT 1994**

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ACTS REPEALED

Queensland



Rural Adjustment Authority Act 1994

Act No. 50 of 1994

**An Act to establish an authority to give assistance to rural producers
and certain small businesses, and for related purposes**

[Assented to 14 September 1994]

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Rural Adjustment Authority Act 1994*.

Commencement

2. This Act commences on the day section 3 of the *Queensland Industry Development Corporation Act 1994* commences.

Objective of Act

3.(1) The objective of this Act is to establish a body, the Queensland Rural Adjustment Authority, to deliver financial and other assistance primarily targeted at fostering the development of a more productive rural sector.

(2) The Authority's activities are to be directed mainly at giving assistance to rural producers who have long-term viability, although the Authority will also help persons leave rural production.

(3) However, the body may also give assistance to small businesses (other than rural producers), and other elements of the State's economy, in periods when they are experiencing temporary difficulty.

Definitions

4. In this Act—

“approved assistance scheme” see section 11.

“Authority” means the Queensland Rural Adjustment Authority.

“Authority's assistance funds” means amounts held by the Authority, if the amounts have been—

- (a) advanced to the Authority by the State for giving financial assistance under approved assistance schemes; or
- (b) paid to the Authority by persons to whom financial assistance has been given, whether the assistance was given before or after the commencement of this Act; or
- (c) earned on—
 - (i) the investment by the Authority of the amounts mentioned in paragraphs (a) or (b); or
 - (ii) loans made, whether before or after the commencement of this Act, in giving financial assistance.

“board” means the Authority’s board of directors.

“chairperson” means the chairperson of the board.

“chief executive officer” means the Authority’s chief executive officer.

“director” means a director of the board, and includes the chairperson.

“government owned corporation” has the same meaning as in the *Government Owned Corporations Act 1993*.

“officer” of the Authority means any of the following—

- (a) the chief executive officer;
- (b) an Authority employee, whether or not there is a written contract of employment between the Authority and the employee;
- (c) an individual who performs services for the Authority—
 - (i) under a contract (other than a contract of employment) between the individual and the Authority; or
 - (ii) under an arrangement between the Authority and a person (other than the individual).

“public accounts” has the meaning given by section 10 of the *Financial Administration and Audit Act 1977*.

PART 2—QUEENSLAND RURAL ADJUSTMENT AUTHORITY

Division 1—Establishment of Authority

Establishment of Authority

5. The Queensland Rural Adjustment Authority is established.

Legal status of Authority

6. The Authority—

- (a) is a body corporate; and
- (b) has a seal; and
- (c) may sue and be sued in its corporate name.

Authority represents the State

7.(1) The Authority represents the State.

(2) Without limiting subsection (1), the Authority—

- (a) has all the privileges and immunities of the State; and
- (b) is an exempt public authority under the Corporations Law.

Division 2—Functions and powers of Authority

Authority's functions

8.(1) The Authority's primary function is to put approved assistance schemes into effect by—

- (a) ensuring the schemes are properly and fairly administered; and
- (b) directly giving the assistance the schemes provide for.

(2) The other functions of the Authority are—

- (a) to arrange for education, training and advice to applicants under approved assistance schemes; and
- (b) to negotiate for assistance funding with all levels of government; and
- (c) to carry out research into, and develop policies on, issues affecting persons likely to receive assistance under this Act; and
- (d) to review, and give advice to the Minister on—
 - (i) proposed assistance schemes; and
 - (ii) the implementation of approved assistance schemes; and
 - (iii) economic and other conditions in the rural sector; and
- (e) to consult, and liaise with—
 - (i) commercial lenders and financial advisers; and
 - (ii) units of the public sector with the function of helping the rural and small business sectors of the economy, and equivalent entities of other States or the Commonwealth; and
 - (iii) organisations representing the interests of persons likely to receive assistance under this Act; and
- (f) to perform functions incidental to a function under another paragraph of this subsection; and
- (g) to perform other functions given to the Authority under this Act or another Act; and
- (h) other functions prescribed by regulation.

Authority's powers

9.(1) The Authority has all the powers of an individual, and may, for example—

- (a) enter into contracts; and
- (b) acquire, hold, deal with and dispose of property; and
- (c) appoint agents and attorneys; and
- (d) charge for, and fix conditions for the supply of, the goods,

services and information it supplies; and

- (e) engage consultants; and
- (f) do anything else necessary or convenient to be done for, or in connection with, the performance of its functions.

(2) Without limiting subsection (1), the Authority has the powers given to it under this or another Act.

Specific limitations about borrowing and investing

10.(1) This section states some limitations on the way the Authority may borrow and invest.

(2) The Authority may borrow an amount only if the Minister has first agreed to the borrowing.

(3) The Authority may invest an amount it does not immediately need for performing its functions.

(4) However, the Authority cannot invest an amount for more than 3 years.

(5) The Authority may invest an amount only—

- (a) in securities issued or guaranteed by a State or the Commonwealth; or
- (b) with a bank, including on deposit with a bank; or
- (c) in securities issued, guaranteed or accepted by a bank; or
- (d) with an authorised dealer in the short-term money market, if the dealer has established lines of credit with the Reserve Bank of Australia as lender of last resort; or
- (e) in a way approved by the Minister.

(6) The Authority must not, without the Minister's agreement, delegate to a person the Authority's power to invest.

PART 3—FINANCIAL ASSISTANCE

Approved assistance schemes

11.(1) An “**approved assistance scheme**” is a scheme that—

- (a) states the purpose and nature of financial assistance that may be given; and
- (b) identifies the categories of persons eligible to receive the assistance; and
- (c) is approved by the Governor in Council.

(2) An approved assistance scheme—

- (a) may include conditions on which financial assistance must be given; and
- (b) may provide for—
 - (i) payments into the public accounts of amounts of the Authority’s assistance funds associated with the scheme; and
 - (ii) write-offs to loan balances.

(3) As soon as practicable after an approved assistance scheme is created, a document explaining the scheme must be open to inspection at the Authority’s office.

(4) The Authority may give financial assistance only under an approved assistance scheme.

Administering approved assistance schemes

12.(1) In administering an approved assistance scheme, the Authority may—

- (a) assess and decide applications for assistance under the scheme; and
- (b) cancel the provision of assistance; and
- (c) put conditions on the giving of assistance; and

- (d) change the arrangements for the repayment of debts to the Authority; and
- (e) decline to deal with applications made by persons previously refused assistance under the scheme; and
- (f) decide its own procedures; and
- (g) keep operational accounts with banks within Australia.

(2) However, in administering an approved assistance scheme, the Authority must comply with—

- (a) the contents of the scheme; and
- (b) agreements entered into between the Authority and persons receiving assistance under the scheme.

Funding of approved assistance schemes

13. Amounts of financial assistance given by the Authority under an approved assistance scheme are to be drawn from the Authority's assistance funds.

PART 4—OTHER PROVISIONS ABOUT THE AUTHORITY

Division 1—The board

The board

14. The Authority has a board of directors.

Role of the board

15.(1) The board is responsible for the way the Authority performs its functions and exercises its powers.

(2) Without limiting subsection (1), it is the board's role to ensure the

Authority performs its functions in an appropriate, effective and efficient way.

Composition of board

16.(1) The board consists of—

- (a) the chairperson; and
- (b) at least 5, but not more than 7, other directors.

(2) The Governor in Council—

- (a) decides the actual number of other directors; and
- (b) appoints the chairperson and other directors.

Duration of appointment

17.(1) The appointment of a director is for the term (not longer than 3 years) stated in the director's instrument of appointment.

(2) The office of a director becomes vacant if—

- (a) the director resigns by signed notice to the Minister; or
- (b) the director is found guilty of an indictable offence or an offence against this Act; or
- (c) the director becomes employed by, or becomes a contractor of, the Authority; or
- (d) the director's appointment is ended by the Governor in Council under subsection (3).

(3) The Governor in Council may, at any time, end the appointment of a director for any reason or none.

Conditions of appointment

18.(1) A director is appointed on a part-time basis.

(2) A director is entitled to be paid the remuneration and allowances fixed by the Governor in Council.

Division 2—Proceedings of the board**Time and place of meetings**

19.(1) The board may hold its meetings when and where it decides.

(2) However, the board must meet at least once every 3 months.

(3) The chairperson—

- (a) may at any time call a meeting of the board; and
- (b) must call a meeting if asked by one quarter or more of the other directors.

Conduct of proceedings

20.(1) The chairperson presides at all meetings of the board at which the chairperson is present.

(2) If the chairperson is absent, the director chosen by the directors present presides.

(3) At a meeting of the board—

- (a) a quorum is at least half the directors appointed; and
- (b) a question is decided by a majority of the votes of the directors present and voting; and
- (c) each director present has a vote on each question to be decided and, if the votes are equal, the director presiding has a casting vote.

(4) The board may conduct its proceedings (including its meetings) as it considers appropriate.

(5) The board may hold meetings, or permit directors to take part in meetings, by telephone, closed-circuit television or another form of communication.

(6) A director who takes part in a meeting of the board under subsection (5) is taken to be present at the meeting.

(7) A resolution is a valid resolution of the board, even though it is not passed at a meeting of the board, if—

- (a) at least half the directors give written agreement to the resolution; and
- (b) notice of the resolution is given under procedures approved by the board.

Disclosure of interests

21.(1) A director must disclose to a meeting of the board a direct or indirect financial interest in an issue being considered or about to be considered by the board if—

- (a) the director, or a person who, under the regulations, is related to the director, has the interest; and
- (b) the interest could conflict with the appropriate performance of the director's duties about the consideration of the issue.

(2) The disclosure must be recorded in the board's minutes and, unless the board otherwise directs, the director must not be present when the board considers the issue, or take part in a decision of the board on the issue.

(3) Another director who also has, or who is, under the regulations, related to a person who also has, a direct or indirect financial interest in the issue must not—

- (a) be present when the board is considering its decision under subsection (2); or
- (b) take part in making the decision.

(4) If, because of this section, a director is not present at a meeting of the board for the deliberation of the board about an issue, but there would be a quorum if the director were present, the remaining directors present are a quorum for the board's deliberation or decision about the issue at the meeting.

Minutes

22. The board must keep minutes of its proceedings.

Division 3—Financial matters**Application of Financial Administration and Audit Act**

23.(1) The Authority is a statutory body within the meaning of the *Financial Administration and Audit Act 1977*.

(2) This section is enacted to avoid doubt.

Administration budget

24.(1) For each financial year, the Authority must develop, adopt and submit to the Minister an administration budget not later than the day the Minister directs.

(2) An administration budget has no effect until approved by the Minister.

(3) During a financial year the Authority may develop, adopt and submit to the Minister amendments to its administration budget.

(4) An amendment has no effect until approved by the Minister.

Division 4—Other things about the Authority**Seal**

25. Judicial notice must be taken of the imprint of the Authority's seal appearing on a document, and the document must be presumed to have been properly sealed unless the contrary is proved.

Application of certain Acts

26. The Authority is—

- (a)** a unit of public administration under the *Criminal Justice Act 1989*; and
- (b)** an agency under the *Equal Opportunity in Public Employment Act 1992*.

Delegation

27. The Authority may delegate its powers to a director or an officer of the Authority.

PART 5—STAFF OF THE AUTHORITY*Division 1—Chief executive officer***Chief executive officer**

28.(1) The Authority must have a chief executive officer (however called).

(2) The chief executive officer is responsible for ensuring the Authority is managed as required by the policies of the board.

Appointment

29. The chief executive officer is appointed by the Governor in Council.

Restriction on appointment

30. A director must not be appointed as chief executive officer.

Public Service Management and Employment Act not to apply

31. The *Public Service Management and Employment Act 1988* does not apply to the appointment of the chief executive officer.

Term of appointment

32. The chief executive officer holds office for the term (not longer than 5 years) stated by the Governor in Council in the instrument of appointment.

Chief executive officer not to engage in other paid employment

33. The chief executive officer must not, without the approval of the board—

- (a) engage in paid employment outside the duties of the office of chief executive officer; or
- (b) actively take part in the activities of a business, or in the management of a corporation carrying on business.

Conditions of appointment

34. The chief executive officer holds office on the conditions (including conditions for remuneration, allowances and remuneration when the appointment ends) fixed by the Authority.

Acting chief executive officer

35. The Governor in Council may appoint a person, who is eligible for appointment as chief executive officer, to act in the office of chief executive officer during—

- (a) any vacancy, or all vacancies, in the office; or
- (b) any period, or all periods, when the chief executive officer is absent from duty, or cannot, for another reason, perform the duties of the office.

Division 2—Staffing the Authority**Authority staff**

36.(1) The Authority may engage the employees it considers necessary to perform its functions.

(2) The Authority may decide its employees' conditions of employment.

(3) However, subsection (2) has effect subject to any relevant award, industrial agreement, certified agreement or enterprise flexibility agreement.

(4) The *Public Service Management and Employment Act 1988* and the

Public Sector Management Commission Act 1990 do not apply to the Authority or to persons engaged under this section.

(5) In subsection (2)—

“**conditions of employment**” includes conditions about duration of the employment and ending the employment.

Alternative staffing arrangements

37. The Authority may arrange with the chief executive of a department, an authority of the State or a government owned corporation, for the services of officers or employees of the department, authority or corporation to be made available to the Authority.

Division 3—Conflict of interest

Disclosure of interests

38.(1) This section applies to an officer of the Authority if—

- (a) the officer, or a person who, under the regulations, is related to the officer, has a direct or indirect financial interest in an issue being decided, or about to be decided by the Authority (whether or not under a delegation from the Authority); and
- (b) the interest could conflict with the proper performance of the officer’s duties about the decision.

(2) As soon as practicable after the officer becomes aware of the facts causing this section to apply to the officer, the officer must disclose the nature of the interest to the Authority.

PART 6—MISCELLANEOUS

Duty to act honestly

39.(1) This section applies to a person who is a director or an officer of the Authority.

(2) A person to whom this section applies must at all times act honestly in the exercise of the person's powers and the discharge of the person's duties.

Maximum penalty—200 penalty units.

Disclosure of information

40. A person must not disclose information obtained in the administration of this Act (or another Act giving functions to the Authority) unless the disclosure is made—

- (a) with the agreement of the person from whom the information was obtained; or
- (b) for the administration of this Act (or another Act giving functions to the Authority); or
- (c) in legal proceedings; or
- (d) under the *Criminal Justice Act 1989* or the *Parliamentary Commissioner Act 1974*; or
- (e) with another lawful excuse.

Maximum penalty—100 penalty units.

False or misleading information

41.(1) A person must not for the purposes of this Act, including for the purpose of an application for financial assistance under this Act—

- (a) state anything the person knows is false or misleading in a material particular; or
- (b) omit from a statement anything without which the statement is, to the person's knowledge, misleading in a material particular.

Maximum penalty—200 penalty units.

(2) It is enough for a complaint against a person for an offence against subsection (1)(a) or (b) to state that the statement made was false or misleading to the person's knowledge.

False or misleading documents

42.(1) A person must not, for the purposes of this Act, including for the purpose of an application for financial assistance under this Act, give to the Authority a document containing information the person knows is false, misleading or incomplete in a material particular.

Maximum penalty—200 penalty units.

(2) Subsection (1) does not apply to a person who, when giving the document—

- (a) informs the Authority, to the best of the person's ability, how it is false, misleading or incomplete; and
- (b) if the person has, or can reasonably obtain, the correct information—gives the correct information to the Authority.

(3) It is enough for a complaint against a person for an offence against subsection (1) to state that the document was false, misleading or incomplete to the person's knowledge.

Calling up financial assistance obtained by false statement

43.(1) This section applies to financial assistance given under this Act to a person who—

- (a) in applying for the financial assistance contravened section 41 (False or misleading information) or 42 (False or misleading documents); and
- (b) would not otherwise have been given the financial assistance.

(2) The Authority may, by notice given to a person who has received financial assistance to which this section applies—

- (a) call up a loan or other amount given as the financial assistance; and

(b) exercise the Authority's rights under a security for the loan or other amount.

(3) If the Authority calls up a loan or other amount under this section, the amount is payable from the day the notice is given, or from a later day stated in the notice.

Regulations

44. The Governor in Council may make regulations under this Act.

PART 7—SAVINGS, TRANSITIONAL AND VALIDATION PROVISIONS

Division 1—Interpretation

Definitions

45.(1) In this Part (other than Division 2)—

“**commencement**” means the commencement of this Part.

“**former assistance provider**” means QIDC, but only in its capacity as—

- (a) the body administering a former QIDC Act scheme; or
- (b) the Corporation under section 7 (Transfer of assets and liabilities) of the former QIDC Act, to the extent of the responsibilities of GSD immediately before the commencement.

“**former QIDC Act**” means the *Queensland Industry Development Corporation Act 1985*.

“**former QIDC Act scheme**” means a scheme of structural adjustment, debt reconstruction or other financial assistance—

- (a) under section 42(3) (Corporation to act on prudent commercial principles) of the former QIDC Act; or
- (b) validated under section 56 (Validation of certain schemes) of this

Act.

“**GSD**” means the unit of QIDC that was known as the Government Schemes Division.

“**GSD assets and liabilities**” means the assets and liabilities of QIDC immediately before the commencement, if they became the assets and liabilities of QIDC through—

- (a) the operation of section 7 (Transfer of assets and liabilities) of the former QIDC Act, if, immediately before the commencement, the assets and liabilities were the administrative responsibility of GSD; or
- (b) the administration of former QIDC Act schemes.

“**QIDC**” means the Queensland Industry Development Corporation.

(2) This section expires 1 year after it commences.

Division 2—Transitional references

Application of Division

46. This Division applies to references in Acts in existence at its commencement.

References to Acts

47. A reference to any of the following Acts is taken to be a reference to this Act—

- *Agricultural Bank (Loans) Act 1959*
- *Co-ordination of Rural Advances and Agricultural Bank Act 1938*
- *Farmers’ Assistance (Debts Adjustment) Act 1967*
- *Primary Producers’ Assistance Act 1972.*

Division 3—Provisions expiring in 1 year or more

Vesting of assets and liabilities

48.(1) On the commencement, the GSD assets and liabilities vest in the Authority.

(2) The other provisions of this Part do not limit subsection (1).

(3) Subsection (1) is a law to which section 20A of the *Acts Interpretation Act 1954* applies.

(4) This section expires 1 year after it commences.

Pending legal proceedings

49.(1) A legal proceeding by or against the former assistance provider that has not been finished before the commencement may be continued and finished by or against the Authority.

(2) Subsection (1) is a law to which section 20A of the *Acts Interpretation Act 1954* applies.

(3) This section expires 1 year after it commences.

Duty to assist transfer of property

50.(1) The Registrar of Titles and all other persons who keep registers about dealings in property must, if asked by the Authority, make in the register all entries necessary to record the vesting of property in the Authority by section 48 (Vesting of assets and liabilities).

(2) A request under this section is not liable to fees or stamp duty.

(3) This section expires 3 years after it commences.

Interest rates for certain existing Young Farmers Establishment Scheme loans

51.(1) In this section—

“**advance**” means an advance that was the subject of an order in council under section 12 (Interest) of the repealed Act prescribing the rate of

interest payable for the advance.

“long-term bond rate”, for a financial year, means the average of the monthly rates for 10 year Treasury bonds, as published in the Reserve Bank Bulletin, from the June immediately before the financial year to the May of the financial year.

“prescribed proportion” means, for an advance in its—

- (a) first or second year—60%; and
- (b) third or fourth year—70%; and
- (c) fifth or sixth year—80%; and
- (d) seventh or eighth year—90%; and
- (e) ninth or later year—100%.

“repealed Act” means the *Agricultural Bank (Loans) Act 1959*.

(2) The rate of interest payable on amounts for the time being owing or remaining unpaid for an advance is the prescribed proportion of the long-term bond rate for the financial year previous to the financial year in which the rate of interest is calculated.

(3) This section has effect from 1 July 1987.

(4) This section has effect despite anything to the contrary in the repealed Act, including in an order in council made under section 12 of the repealed Act.

(5) This section expires 10 years after it commences.

Transitional regulations

52.(1) A regulation may make provision about a matter for which—

- (a) it is necessary or convenient to help the transition to the performance by the Authority of functions previously performed by QIDC; and
- (b) this Act does not make enough provision.

(2) A regulation made for the purpose this Part may be given retrospective operation to a day not earlier than the commencement.

(3) This section expires 1 year after it commences.

Division 4—Provisions expiring in 6 months**Expiry of this Division**

53. This Division expires 6 months after it commences.

Documents

54.(1) A document (other than an Act) in existence immediately before the commencement and applying to the former assistance provider applies to the Authority in place of the former assistance provider.

(2) Without limiting subsection (1), a document—

- (a) to which, immediately before the commencement, the former assistance provider was a party, is taken to be a document to which the Authority is a party in the way the former assistance provider was a party; and
- (b) given to, by or in favour of the former assistance provider is taken to be a document given to, by or in favour of the Authority in the way it was given to, by or in favour of the former assistance provider; and
- (c) in which a reference is made to the former assistance provider (including, for example, a document to which the former assistance provider was a party) is taken to be a document in which the reference is made to the Authority in the way the reference is made to the former assistance provider; and
- (d) under which an amount was or might become payable to or by the former assistance provider is taken to be a document under which the amount is or may become payable to or by the Authority in the way the amount was or might become payable to or by the former assistance provider; and
- (e) under which other property was to be, or might become liable to be, transferred, conveyed or assigned to or by the former assistance provider is taken to be a document under which the property is to be, or may become liable to be, transferred, conveyed or assigned to or by the Authority in the way the property was to be, or might become liable to be, transferred,

conveyed or assigned to or by the former assistance provider.

(3) The continuing application of a document to QIDC, to the extent that immediately before the commencement it applied to QIDC in a capacity other than as the former assistance provider, is not affected by subsections (1) and (2).

Former QIDC Act schemes still being administered

55. A former QIDC Act scheme that, immediately before the commencement, was being administered by QIDC, is taken to be an approved assistance scheme.

Validation of certain schemes

56.(1) This section applies to a scheme of structural adjustment, debt reconstruction or other financial assistance (the “**scheme**”)—

- (a) administered by QIDC before the commencement; but
- (b) not approved under section 42(3) of the former QIDC Act.

(2) QIDC’s administration of the scheme at any time is taken to have been as valid and effective as it would have been if the scheme had been approved under the former QIDC Act.

(3) Without limiting subsection (2)—

- (a) the terms and conditions on which QIDC administered the scheme are taken to have been approved under the former QIDC Act; and
- (b) all amounts paid to QIDC to compensate it for the financial risks involved in administering the scheme, and its administrative costs associated with the scheme, are taken to have been paid under the former QIDC Act; and
- (c) QIDC’s acting as principal or agent for the scheme is taken to have been done under a decision given under the former QIDC Act.

PART 8—REPEALS

Repeals

57. The Acts mentioned in the Schedule are repealed.

SCHEDULE**ACTS REPEALED**

section 57

Agricultural Bank (Loans) Act 1959 8 Eliz 2 No. 26

Co-ordination of Rural Advances and Agricultural Bank Act 1938 14 Geo 5 No. 41, *previously* Rural Development Co-ordination of Advances Act 1938, *previously* Agricultural Bank Act 1923

Co-ordination of Rural Advances and Agricultural Bank Acts and Other Acts Amendment Act 1945 9 Geo 6 No. 18

Drought Relief to Primary Producers Act 1940 4 Geo 6 No. 9

Drought Relief to Primary Producers Act Amendment Act 1961 10 Eliz 2 No. 22

Farmers' Assistance (Debts Adjustment) Act 1967 No. 17

Financial Arrangements and Development Aid Acts Repeal Act 1978 No. 16

Primary Producers' Assistance Act 1972 No. 29

Primary Producers' Assistance Act Amendment Act 1976 No. 11

Primary Producers' Organisation and Marketing Act and Another Act Amendment Act 1985 No. 18