

REPRINTED BILL

No. 15 of 1936 (Second Session).

An Act to Provide for the Reduction and Settlement of
Certain Indebtedness.

(Assented to _____, 1936.)

HIS MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Alberta,
enacts as follows:

1. This Act may be cited as "*The Reduction and Settlement of Debts Act.*"

2. In this Act, unless the context otherwise requires—

- (a) "Debt" means any sum in the nature of a liquidated demand for the payment of which any person is liable by virtue of any contract, agreement, covenant or stipulation, whether in writing or oral, and whether express or implied, but does not include—
- (i) any debt due to or by the Crown in the right of Canada;
 - (ii) any debt due to or by the Crown in the right of the Province;
 - (iii) any debt due to the Canadian Farm Loan Board or the Soldier Settlement Board;
 - (iv) any indebtedness for assessments, rates or taxes payable pursuant to any statute or pursuant to the terms of any agreement providing for the consolidation and payment of taxes, rates or assessments;
 - (v) any debt due to or by a city, town or village, municipal district, improvement district, school district, irrigation district, drainage district or municipal hospital district;
 - (vi) any indebtedness guaranteed by the Crown in the right of the Province;
 - (vii) any debt in respect of which a proposal has been agreed to and approved by the Court or confirmed by the Board of Review under the provisions of *The Farmers' Creditors Arrangement Act, 1934*, being chapter 53 of the Statutes of Canada, 1934;
 - (viii) any debt which has been reduced or compromised pursuant to the provisions of sections 15 and 16 of *The Debt Adjustment Act, 1936*; and
 - (ix) any other kind or description of debt which is declared by the Lieutenant Governor in Council to be a debt to which this Act does not apply.

- (b) "Debt Adjustment Board" means the Debt Adjustment Board constituted pursuant to *The Debt Adjustment Act, 1936*; and
- (c) "Old debt" means any debt the whole of the consideration for which arose before the first day of July, 1932, and includes any debt of any person under any guarantee for the payment of any old debt whether the guarantee was given prior to the first day of July, 1932, or at any time thereafter.

3. Notwithstanding any covenant, agreement or stipulation, whether express or implied and howsoever created, by virtue of which any old debt is made payable, the amount which shall be recoverable on account of any old debt shall be the following amount and no more, namely: the amount of the balance of the old debt outstanding and payable as at the first day of July, 1932, including any advances made under and by virtue of the agreement or other instrument, creating or securing the debt, together with any further advances so made since that date, reduced by any payments made since that date whether on account of principal, interest or otherwise; and as and from the first day of July, 1932, no interest shall be payable on any part of the said amount.

4. Notwithstanding any covenant, agreement or stipulation, whether express or implied and howsoever created, by virtue of which any debt other than an old debt is made payable, the amount which shall be recoverable on account of such debt shall be the following amount and no more, namely, the amount of the original debt together with any subsequent advances made in respect thereof together with simple interest thereon at the rate, if any, stipulated for the payment thereof or at the rate of five per centum per annum, whichever rate is the less, less all sums paid on account of the debt whether in respect of principal or interest since the time when the debt was originally created.

5. In case any judgment has been entered in any court in any action for the recovery of any old debt which has not been satisfied at the time when this Act comes into force, the amount payable under such judgment shall be the amount of the old debt to the extent that the same is recoverable pursuant to section 3 hereof together with the taxed costs.

6. For the purpose of computing the amount of any indebtedness recoverable under this Act, no account shall be taken of any contract, agreement, covenant or stipulation whereby any interest accruing from and after the first day of July, 1936, is to be added to and form part of any principal sum and for the purpose of such computation every such contract, agreement, covenant and stipulation shall as and from the first day of July, 1936, be null, void and of no effect.

7.—(1) Unless it is otherwise ordered pursuant to subsection (3) hereof, the amount recoverable in respect of any old debt shall be payable by ten annual instalments on the fifteenth day of November in the year 1936 and in each ensuing year in the following amounts, namely: the amount of the first, second and third instalments shall be five per centum of the amount recoverable; the amount of the fourth, fifth, sixth and seventh instalments shall be ten per centum of the amount recoverable; the amount of the eighth, ninth and tenth instalments shall be fifteen per centum of the amount recoverable.

(2) Notwithstanding subsection (1) hereof the person liable for the payment of any such old debt shall be entitled to pay the same either wholly or in part at any time before the days prescribed by this Act as the days upon which the instalments thereof are to become due and payable and the person entitled to payment shall accept any such payment.

(3) Any necessitous creditor may apply to the Debt Adjustment Board for an order fixing the amount of any instalment or instalments to be paid by the debtor in respect of the recoverable indebtedness at an amount greater than the amount fixed by this section or fixing as the date or dates upon which any instalment or instalments shall be paid a date or date other than the date or dates prescribed by this section, but no such order shall be made except—

- (a) upon five days' notice of the application to the debtor;
- (b) a full enquiry has been made by the Board into the necessitous circumstances of the creditor and the circumstances of the debtor; and
- (c) the Board is satisfied, having regard to the necessity of the creditor and the ability of the debtor to pay, that it is convenient and proper that the debt should be made payable otherwise than in the instalments and, at the times hereinbefore specified.

8.—(1) From and after the coming into force of this Act no action of any kind shall be maintainable and no proceeding by way of distress or seizure for the recovery of any old debt shall be taken nor shall any such action or proceeding be continued unless the person liable for the payment thereof has made default in the payment of any of the instalments prescribed by section 7, and a permit has been issued pursuant to this Act authorizing the taking of such action or proceeding.

(2) For the purposes of this section "proceeding" includes the exercise of any right to seize or take possession of any crop created by any crop lease given in respect of any old debt or by virtue of any attornment by a debtor to a creditor in respect of any old debt.

9.—(1) In case any instalment of an old debt is not paid on the day fixed by this Act for the payment thereof the person entitled to enforce payment of the old debt may apply to The Debt Adjustment Board for a permit to take such action or other proceedings as he may be entitled to take.

(2) If after due inquiry the Board is satisfied that the non-payment of the instalment was due to circumstances over which the debtor had no control such as drought, hail, frost or any other act of nature or due to the fact that the debtor was unable to make the payment because of his inability to obtain payment of debts due to him from others by reason of the existence of any similar circumstances, the Board shall not issue the permit applied for.

(3) Upon the refusal of any application for a permit pursuant to subsection (2), the time for payment of the instalment in respect of which the application is made, shall be the fifteenth day of November of the year following the year in which the application is made; the time of payment for every subsequent instalment shall be postponed by the same number of years as the number of years of the postponement of the time for payment of the instalment in respect of which the application is made; and in case an application is made for a permit in respect of more than one instalment the earliest of such instalments shall for the purposes of this subsection be deemed to be the instalment in respect of which the application is made.

10. The provisions of sections 8 and 9 shall not apply when the debtor is a person against whom a Writ of Attachment may be issued, pursuant to the Rules of Court relating to absconding debtors.

11.—(1) The period during which proceedings by a creditor are prohibited under this Act shall not be included in the time within which an action or other proceeding is to be commenced under *The Limitation of Actions Act, 1935*, or under any other statute or law for the time being in force in the Province limiting or prescribing the time within which actions or proceedings are to be commenced; and any party to an action or other proceeding which has been prohibited by this Act shall have the same time for continuing such action or proceeding after the expiry of the said period as he would have had if the action or proceeding had not been prohibited, and shall not be prejudiced by reason of the delay.

(2) For the purpose of this section the proceedings mentioned and described in sections 8 and 9 of this Act shall, whether or not such creditor has applied or hereafter applies to the Board for the issue of a permit pursuant to the said section, be deemed to have been prohibited so long as this Act remains in force, subject to the provisions contained in subsection (3).

(3) Upon the issue of the permit or written authority of the Board, the period subsequent to the issue thereof shall be included in the time within which the action or other proceeding affected thereby is to be commenced under *The Limitation of Actions Act, 1935*, or under any other statute or law for the time being in force in the Province limiting or prescribing the time within which actions or proceedings are to be commenced.

12. The Lieutenant Governor in Council may from time to time declare that any kind or description of debt is a debt to which this Act does not apply and every such order shall take effect upon publication in *The Alberta Gazette* either upon publication or upon any later date thereby fixed for the purpose, and upon such publication shall have the same force and effect as if it had been enacted as a part of this Act.

13.—(1) The provisions of this Act shall not apply to any debt or old debt, which by any contract, agreement or settlement between the parties has been reduced to an amount which is less than the amount of the indebtedness which would otherwise be recoverable under this Act.

(2) Except as provided in this section, it shall not be competent for a debtor to waive or to forego any of the benefits to which he may become entitled under this Act, and every contract, agreement or arrangement whatsoever to that end shall be absolutely void.

14. The provisions of *The Debt Adjustment Act, 1936*, as to any matters of procedure in relation to the issuance of permits shall, *mutatis mutandis*, apply to the issuance of permits under this Act.

15. This Act and *The Debt Adjustment Act, 1936*, shall be read and construed together, and in the case of any conflict between any of the provisions of this Act and any of the provisions of *The Debt Adjustment Act, 1936*, the provisions of this Act shall prevail.

16. The provisions of this Act shall not be so construed as to authorize the doing of any act or thing which is not within the legislative competence of the Legislative Assembly.

17. This Act shall come into force on the day upon which it is assented to.

No. 15.

SECOND SESSION
EIGHTH LEGISLATURE
1 EDWARD VIII
1936

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Received and read the

First time.....

Second time.....

Third time.....

HON. MR. HUGILL.

EDMONTON:
A. Shmitka, King's Printer
1936