

FARMERS' RELIEF AMENDMENT (DEBTS ADJUSTMENT) ACT.

Act No. 18, 1935.

George V.
No. 18, 1935.
An Act to provide for the granting of assistance to farmers to effect an adjustment of their debts; to extend the operation of the Farmers' Relief Act, 1932-1934; to amend the said Act and certain other Acts; and for purposes connected therewith. [Assented to, 28th March, 1935.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title
and
citation.

1. (1) This Act may be cited as the "Farmers' Relief Amendment (Debts Adjustment) Act, 1935."

(2).

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(2) The Farmers' Relief Act, 1932-1934, is in this Act referred to as the Principal Act.

(3) The Principal Act as amended by this Act may be cited as the Farmers' Relief Act, 1932-1935.

2. (1) The Principal Act is amended—

Amendment of
Act No. 33,
1932.

- (a) by omitting from subsection one of section eight the words " within twenty-four months after the date of commencement of this Act " and by inserting in lieu thereof the words " before the first day of April, one thousand nine hundred and thirty-six ";
- (b) by inserting in subsection three of the same section after the words " this Act " where firstly occurring the words " which notice has not been withdrawn in accordance with subsection (3c) of this section ";
- (c) by inserting next after subsection (3B) of the same section the following new subsection:—

Sec. 8.
(Stay
order.)

(3c) (a) A farmer who has filed in the office of the Board a notice disclaiming the benefits of this Act may, in writing, withdraw such notice but only with the consent of the Board.

(b) The notice of withdrawal shall be accompanied by a statement, verified by the statutory declaration of the farmer, specifying the names and addresses of all persons or firms to whom the farmer is indebted, and by the consent in writing to such withdrawal of all such persons or firms.

Such consent may be given on behalf of any person or firm by his or its agent.

(c) The Board may at its discretion grant or refuse such consent.

Where the Board proposes to grant such consent it shall give at least twenty-one days' notice of its intention so to do by notification published in the Gazette, in the Weekly Trade Report, and in one daily newspaper circulating in the district in which the farmer resides or in which the farm is situated, and within that period any person

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person to whom the farmer is indebted may lodge at the office of the Board an objection to the granting of such consent.

Any such objection may be withdrawn at any time by notice in writing filed in the office of the Board.

During the said period of twenty-one days the provisions of subsection two of section nine of this Act shall, mutatis mutandis, apply to and in respect of the farmer as if he were a farmer subject to this Act.

(d) Where any such objection is received by the Board within the period limited by paragraph (c) of this subsection, the Board shall, unless the objection is withdrawn, refuse such consent.

(e) The Board may grant such consent subject to such terms and conditions as it thinks fit.

Sec. 9.
(Form and
effect of
stay order.)

- (d) by omitting subsection ten of section nine and by inserting in lieu thereof the following subsections:—

(10) Subject to subsection eleven of this section, a stay order shall continue in operation for a period of three years from the date of the grant thereof, unless sooner removed in accordance with section ten of this Act.

(11) The Board may extend the operation of any stay order from year to year, but so that the total period for which any stay order may be extended shall not exceed three years.

(12) A stay order shall continue in operation notwithstanding the death, lunacy or unsoundness of mind of the farmer in respect of whom it was granted.

Sec. 10.
(Power of
Board to
remove stay
order.)

- (c) by inserting in subsection two of section ten immediately before the words "Any creditor" the words "Any farmer or."

(2) Paragraph (a) of subsection one of this section shall be deemed to have commenced on the seventeenth day of February, one thousand nine hundred and thirty-five.

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3. The Principal Act is further amended—

Further
amendment of
Act No. 33,
1932.

- (a) by inserting next after subsection two of section thirty-one the following new subsection:—

Sec. 31.
(Advances
and
guaran-
tees by
Board.)

(2A) (a) The Board may direct the Rural Bank of New South Wales to pay any amount for which the Board may become liable in pursuance of any guarantee given under subsection one of this section.

(b) The Rural Bank of New South Wales shall make any payment which the Board may direct under paragraph (a) of this subsection, through its Farmers Relief Agency, out of the moneys available to the bank for the purposes of that Agency.

- (b) by inserting next after section thirty-two the following new section:—

New sec.
32A.

32A. (1) Any farmer who while subject to this Act receives any moneys, whether as the proceeds of the marketing of any produce of the farm or otherwise, which moneys are receivable by the supervisor in accordance with this Act shall account to the supervisor forthwith for the same.

Farmer to
account for
moneys
received.

(2) Any farmer who neglects or refuses so to account shall be liable on summary conviction to a penalty not exceeding one hundred pounds or to imprisonment for six months.

- (c) by inserting next after section 33A the following new sections:—

New sec.
33B.

33B. The property and interest of any farmer in any moneys received by him out of moneys granted to the State of New South Wales under the Wheat Growers Relief Act (No. 2), 1934, of the Parliament of the Commonwealth of Australia, and paid by that State in accordance with that Act to him as a wheatgrower or received by him as a bounty on the production of wheat under the Wheat Bounty Act, 1934, of the said Parliament, shall be unaffected by this Act.

Payments
under
Wheat
Growers
Relief
Act (No. 2),
1934, and
Wheat
Bounty Act,
1934 (Com-
monwealth),
protected.

33C.

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Payments under Fruit-growers Relief Act, 1933, and Financial Relief Act, 1934 (Commonwealth), protected.

33c. The property and interest of any farmer in any moneys received by him out of moneys granted to the State of New South Wales under the Fruitgrowers Relief Act, 1933, of the Parliament of the Commonwealth of Australia and applied by that State in accordance with the said Act for his benefit and assistance as a necessitous fruitgrower or under Part VII of the Financial Relief Act, 1934, of the said Parliament and applied by that State in accordance with the last-mentioned Act for his benefit and assistance as a fruitgrower shall be unaffected by this Act.

Payments under Mandarin Growers Relief Act, 1934 (Commonwealth), protected.

33d. The property and interest of any farmer in any moneys received by him out of moneys granted to the State of New South Wales under the Mandarin Growers Relief Act, 1934, of the Parliament of the Commonwealth of Australia and applied by that State in accordance with the said Act for his benefit and assistance as a grower of mandarins shall be unaffected by this Act.

Further amendment of Act No. 33, 1932.

4. The Principal Act is further amended by omitting sections forty-three and forty-four.

Secs. 43 and 44.
(Extension of stay orders and duration of Act.)

Further amendment of Act No. 33, 1932.

5. (1) This section shall commence on a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Substituted Part IIa.

(2) The Principal Act is further amended—
(a) by omitting Part IIa and by inserting in lieu thereof the following new Part:—

PART IIa.

FARMERS' DEBTS ADJUSTMENT.

Application for assistance to effect composition or scheme of arrangement.

34a. (1) Any farmer to whom a stay order has been granted under this Act who proposes to effect a composition or scheme of arrangement with his creditors or any of them in satisfaction in whole or in part of his debts and/or liabilities,

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liabilities, whether secured or unsecured, may at any time and from time to time during the operation of the stay order make application to the Board for assistance to give effect to such composition or scheme.

(2) The application shall be accompanied by a statement giving particulars of the proposal for the composition or scheme and setting out the amounts which his respective creditors have informed him they are prepared to accept in discharge wholly or in part of his debts or liabilities to such creditors.

(3) The farmer shall upon a request in writing by the Board in that behalf furnish such information and such accounts, documents and writings as the Board may require for the purpose of considering such application.

34B. Upon receipt of an application under section 34A of this Act the Board shall consider the proposal for the composition or scheme and may approve of the same as submitted or may suggest such amendments to the proposal as it thinks fit and may thereafter approve of any amended proposal.

Board to
consider ap-
plications.

34c. (1) The Board may if it thinks fit call a meeting of the farmer's creditors or any of them at such time and place as it may determine for the purpose of considering any proposal for a composition or scheme.

Meetings of
creditors.

The Board may appoint a chairman to preside at such meeting. If no such appointment is made the creditors present may appoint one of their number to act as chairman.

(2) The farmer may at any time submit an amended proposal which shall be considered by the Board.

34d. (1) If any creditor of the farmer is a trustee such creditor shall not be deemed guilty of any breach of trust by reason only of his joining in any composition or scheme of arrangement for the satisfaction in whole or in part of the debts and/or liabilities of the farmer.

Creditor
trustee.

(2)

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Grant of
assistance.

(2) In this section "trustee" includes legal representative of a deceased person and any other person acting in any fiduciary capacity.

34E. (1) If the Board is satisfied that a farmer who has made an application under section 34A of this Act will have a reasonable prospect of continuing and carrying on his farming operations successfully if any composition or scheme which he is able to arrange with his creditors or any of them is concluded or put into effect, it may, for the purpose of granting the assistance applied for—

(a) direct the Rural Bank of New South Wales to make an advance to the farmer for the purpose of discharging either wholly or in part any of the debts or liabilities of the farmer;

(b) guarantee to any mortgagee the payment of interest on his mortgage at such rate as may be agreed upon and for such period as it may determine.

(2) Such assistance shall not be granted unless and until the farmer and such of his creditors as the Board may deem necessary shall have executed such deeds, agreements and other documents as the Board may require.

(3) The Rural Bank of New South Wales shall make any advance which the Board may direct under paragraph (a) of subsection one of this section.

Any such advance shall be made in the name of the Board through the Farmers Relief Agency of that Bank out of the funds to the credit of the separate account mentioned in subsection three of section 34J of this Act, and shall be of such amount, upon such securities and subject to such covenants, conditions and provisions (including provision for the payment of interest at a rate not exceeding two and one-half per centum per annum) as the Board may, in the direction, specify.

(4)

(4) (a) The Board may direct the Rural Bank of New South Wales to pay any amount for which the Board may become liable in pursuance of any guarantee given under subsection one of this section.

(b) The Rural Bank of New South Wales shall make any payment which the Board may direct under paragraph (a) of this subsection through its Farmers Relief Agency out of the funds to the credit of the separate account mentioned in subsection three of section 34J of this Act.

(5) The Board shall not direct the Rural Bank of New South Wales to make an advance for the purpose of discharging in whole or in part any of the farmer's debts and liabilities unless and until the person to whom such debt or liability is due has given to the farmer an undertaking in writing under his hand to execute a release of such debt or liability or so much thereof as is to be discharged upon receipt of the amount agreed to be paid to him.

Any such undertaking and any release executed in pursuance of the same shall be effective for all purposes notwithstanding that it is not given under seal.

(6) The Board shall not guarantee the payment of interest to any creditor unless the creditor enters into an agreement protecting the farmer from adverse action by the creditor for such period as the Board may determine and such agreement is consented to by the Board.

34F. The Board may consent to the postponement in favour of any creditor of the farmer of any security given to the Board by the farmer, or of the charge or lien created by subsection three of section thirty-one of this Act, if in the opinion of the Board such postponement is in the interests of the farmer.

Postponement of security of Board.

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Power to
write off
debts in
certain cases.

34G. For the purposes of this Part of this Act—

- (a) the Board may write off either wholly or in part any debt due or owing by a farmer to the Rural Bank of New South Wales in respect of the Farmers Relief Agency in its Government Agency Department;
- (b) the Rural Bank of New South Wales may write off, either wholly or in part, any debt due or owing by a farmer to the Rural Bank of New South Wales in respect of any other agency in its Government Agency Department:

Provided that the Rural Bank of New South Wales shall not write off either wholly or in part any debt due to such Bank in respect of the Irrigation Agency in its Government Agency Department, other than a debt incurred under or in pursuance of section 8B of the Irrigation Act, 1912, as amended by subsequent Acts.

Appoint-
ment
of agents.

34H. (1) The Board may appoint such agents to act on its behalf for the purposes of this Part of this Act as it thinks fit, and may direct the Rural Bank of New South Wales to pay through its Farmers Relief Agency to such agents by way of remuneration such sums as it considers reasonable.

Delegation.

(2) The Board may delegate to any person such of its powers and functions under this Part of this Act as it thinks fit:

Provided, however, that the power of the Board to approve of any composition or scheme of arrangement shall not be so delegated.

Board may
call up
advance
obtained by
false state-
ment.

34I. Upon proof to the satisfaction of the Board that any farmer has knowingly made any false statement or has otherwise wilfully misled the Board either before, at or after the time of
the

the Board's approval of a composition or scheme of arrangement, the Board shall be entitled to call up any advance which has been made to the farmer under this Part and to exercise its rights under any security relating thereto notwithstanding anything to the contrary contained in the Moratorium Act, 1932, or any Act amending or replacing that Act.

The notice calling up any such advance shall not be given unless or until the stay order granted to such farmer has been removed.

Where the Board calls up any advance, the moneys advanced shall become due and payable as from the date specified in the notice calling up such advance.

34J. (1) All moneys received by the State of New South Wales from the Treasurer of the Commonwealth of Australia in pursuance of any enactment of the Parliament of the Commonwealth of Australia, passed after the commencement of the Farmers' Relief Amendment (Debts Adjustment) Act, 1935, under which moneys are granted to the States to be applied by the States for purposes contemplated by this Part of this Act, shall be paid by the Colonial Treasurer to a special account in the Treasury.

Moneys
advanced by
the Common-
wealth.

(2) From such special account the Colonial Treasurer shall from time to time make available to the Rural Bank of New South Wales for the purposes of the Farmers Relief Agency such moneys as the Board may require for advances and other expenditure incurred or to be incurred pursuant to this Part of this Act.

(3) Notwithstanding anything in Part VI^B of the Government Savings Bank Act, 1906, as amended by subsequent Acts—

(a) the Rural Bank of New South Wales shall keep a separate account in respect of all moneys made available to such Bank in pursuance of subsection two of this section;

(b)

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(b) to such separate account shall be credited all moneys received by the Rural Bank of New South Wales as agent for the Board as capital repayments in respect of advances or expenditure under this Part of this Act;

(c) from such separate account shall be paid only such moneys as the Board may require the Rural Bank of New South Wales to advance or pay for any of the purposes of this Part of this Act:

Provided, however, that with the consent of the Treasurer of the Commonwealth of Australia, given either generally or in a particular case, there may be paid from such separate account moneys for any purpose that the Colonial Treasurer may determine.

Statement
to be in-
cluded in
annual
report.

34k. (1) The Board shall in its annual report furnish a statement showing the number of farmers to whom assistance has been granted and the total expenditure incurred pursuant to this Part of this Act for the period covered by the statement.

(2) Every such statement shall be accompanied by a certificate of its correctness by the Auditor-General of the State of New South Wales.

Sec. 1.
(Division
into Parts.)

(b) by omitting from subsection one of section one the matter relating to Part IIa and by inserting in lieu thereof the words and figures "PART IIa—FARMERS' DEBTS ADJUSTMENT—ss. 34A-34K."

Amendment of
Act No. 13,
1934.

6. The Farmers' Relief (Amendment) Act, 1934, is amended—

Sec. 2.
(Revision.)

(a) by omitting section two;

Sec. 4.
(Revision.)

(b) by omitting subparagraph (ii) of paragraph (d) of section four;

Sec. 7.
(Revision.)

(c) by omitting paragraph (c) of section seven;

(d)

- (d) (i) by inserting in subsection one of section eight after the words " this Act " wherever occurring the words and figures " or the Farmers' Relief Amendment (Debts Adjustment) Act, 1935 ";
- (ii) by inserting next after subsection two of the same section the following new subsection:—

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Sec. 8.

(Parties to certain bonds not to be released.)

(3) A reference in any bond executed before the commencement of the Farmers' Relief Amendment (Debts Adjustment) Act, 1935, and delivered to the Farmers' Relief Board in pursuance of section thirteen of the Principal Act, to the Farmers' Relief Act, 1932, or to the Farmers' Relief Act, 1932-1934, shall, as from such commencement be read and construed as a reference to the Farmers' Relief Act, 1932-1935.
