

## FARMERS' DEBTS ADJUSTMENT.

No. 49 of 1930.

(As amended by No. 4 of 1931,\* No. 43 of 1932,† No. 45 of 1933,‡  
No. 46 of 1934,§ and No. 17 of 1935.¶¶)

**AN ACT for the Adjustment of the Debts of Farmers and other Persons engaged in Rural Pursuits and for other relative purposes.**

[Assented to 30th December, 1930.]

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the *Farmers' Debts Adjustment Act, 1930-1934.*

Short title.  
As amended  
by 46 of  
1934, s. 9.

2. In this Act, subject to the context—

“Director” includes (except in section four) any Deputy Director.

Interpretation.  
Amended by  
s. 2 of No.  
4 of 1931.

“Farmer” means any individual person who is a resident of this State, and who is engaged in farming or agricultural or horticultural or grazing operations in this State, and includes—

(i) any executor carrying on the farming business of a deceased farmer under the

As amended  
by No. 45 of  
1933, s. 2.

\* Assented to 10-7-31 to take effect as from commencement of the principal Act. † The original Act was limited in operation until the end of March, 1932; by Act No. 4 of 1931 its operation was extended until the end of March, 1933; further extended by No. 43 of 1932 till the end of March, 1934; further extended by No. 45 of 1933 till the end of March, 1935; further extended by Act No. 46 of 1934 till the end of March, 1938. ‡ Assented to 4th January, 1934. § Assented to 5th January, 1935. ¶¶ Assented to 12th November, 1935.

*Farmers' Debts Adjustment.*

authority of the will of the deceased or by virtue of an order of the Supreme Court;

- (ii) or any trustee within the meaning of the Trustees Act, 1900, who is carrying on a farming business under the terms of any will, deed of trust, or settlement, or under the authority of any order of the Supreme Court.

“Farm” means the land on which such operations as aforesaid are carried on.

“Receiver” means a receiver appointed by the Director under this Act.

“Machinery” means machinery, implements, and vehicles used in connection with the business of a farmer.

“Stay order” means an order directing a stay of proceedings granted under section five of this Act.

**Construction of Act.**

3. (1.) This Act shall be construed subject to the Commonwealth of Australia Constitution Act, and so as not to exceed the legislative power of the Parliament of the State, to the intent that any portion thereof which may be held were in excess of that power shall (to the extent to which it is so in excess) be deemed to be severable from the other portion of the Act, and not to affect the validity or operation thereof.

(2.) This Act shall be construed so as to bind the Crown.

**Director.**

4. (1.) It shall be lawful for the Governor to appoint a Director for the purpose of this Act, and also to appoint any person or persons to be the deputy or deputies of the Director.

(2.) The Director may appoint officers whom he may deem necessary to enable the powers of the Director under this Act to be effectively exercised.

**As amended by s. 3 of No. 4 of 1931.**

(3.) The Director and other officers (except Deputy Directors) shall receive such remuneration as shall be determined by the Governor, which remuneration shall

be payable out of such moneys as may be appropriated by Parliament for the purpose.

(4.) Deputy Directors and persons appointed to act as receivers shall be remunerated only by payment of the prescribed fees for the work performed in respect of each estate, which fees shall be borne and paid out of the estate and property of the farmer concerned:

Amended by  
s. 3 of No. 4  
of 1931.

Provided that the receiver shall in each year during which the receivership continues be entitled to retain by way of emolument out of the proceeds of the farmer's business—

(a) an amount of ten pounds ten shillings (and in proportion for any part of a year); or

As amended  
by No. 45 of  
1933, s. 3.

(b) when the receiver has carried on the business of the farmer, three per centum of such proceeds derived in any such year (and in proportion for any part of a year),

whichever shall be the greater, but in no case shall the emoluments retained under this section exceed the sum of thirty pounds for any one year.

And provided further, that if the Deputy Director or receiver is a public servant in receipt of a salary, such fees and emoluments shall be paid into consolidated revenue.

This section shall apply as from the first day of April, one thousand nine hundred and thirty-four, to the proceeds of all produce of a farmer's business produced since that date, and it is hereby declared that, notwithstanding any resolution of creditors or agreement or consent of the farmer, it shall be unlawful for any Deputy Director or receiver to ask, demand, or receive, or to retain from the proceeds of the produce of any farmer's business produced after the first day of April, one thousand nine hundred and thirty-four, any fees or emoluments in respect of any services rendered in connection with a receivership, other than such as are expressly sanctioned by this Act, and if any fees or emoluments are received or retained in contravention of this provision the same may be recovered from the recipient or person retaining by action at law.

(5.) The Director may allow the Deputy Director or receiver to charge against the estate of a farmer any

As amended  
by No. 45 of  
1933, s. 3.

legitimate out-of-pocket expenses *bona fide* incurred by the Deputy Director or receiver in connection with some special service rendered for the protection of the assets of the farmer or in connection with the farmer's business, and which expense does not in his opinion come within the category of an ordinary office expense.

*Ibid.*

(6.) All moneys receivable by or payable to Directors or receivers, and expenses and liabilities properly chargeable under subsections (4) and (5) of this section, shall by virtue of this Act be a first charge on all the proceeds of the farmer's business.

Inserted by  
s. 3, ss. 7 of  
No. 4 of 1931.

(7.) No Deputy Director shall exercise any power or perform any act which the Director has by general or special order forbidden him to exercise or perform.

Application to  
Director to  
call meeting  
of farmer's  
creditors.  
Amended by  
s. 4, ss. 1 of  
No. 4 of 1931.

5. (1.) Any farmer, or the creditor of any farmer, may by writing under his hand in the prescribed form, make application to the Director to call a meeting of the farmer's creditors under this Act: Provided that before acceding to a creditor's application the Director may require him to pay the prescribed application fee; but such fee shall be repayable to the creditor out of the estate and property of the farmer in accordance with the provisions of section four.

Amended by  
s. 4, ss. 2 of  
No. 4 of 1931.  
As amended  
by No. 46 of  
1934, s. 2.

(2.) The Director shall thereupon grant the farmer a stay order in the prescribed form, and shall, subject to the provisions of subsection (9) of section eleven, by order in writing, appoint some fit and proper person to be the receiver of the rents, profits, and produce of the farmer's farm, and of all chattels, effects, and property used in connection with the business of the farmer or derived from such business: Provided that the Director may, in his discretion, reject an application made by any creditor under this section.

As amended  
by No. 45 of  
1933, s. 4.

(3.) The receiver shall forthwith, after his appointment, take possession of all the assets of the farmer and retain possession thereof, and receive all the proceeds of the farmer's business as long as the farmer is subject to this Act.

Inserted by  
s. 4, ss. 3 of  
No. 4 of 1931.

(4.) If in the books of any bank or branch of a bank, or of any firm, person, or company, any sum of money is standing to the credit of the farmer, then the receiver

may, by notice in writing, require the manager of such bank or branch, or such firm, person, or company, to transfer such sum to the credit of the receiver, and the manager, firm, person or company shall forthwith so transfer it accordingly.

(5.) Notwithstanding the appointment of a receiver under this section, any payment of money or delivery of any security or negotiable instrument made to or by the order or direction of the farmer by his banker (whether at the principal or any branch establishment of the banker), in good faith and without negligence on the part of the banker, or notice of the appointment of the receiver on the part of the manager of the establishment concerned, shall be as valid and effectual as if no such appointment had been made.

Inserted by  
s. 4, ss. 3 of  
No. 4 of 1931.

(6.) On a stay order being granted to a farmer under this section he shall be deemed to become subject to this Act.

Inserted by  
s. 4, ss. 3 of  
No. 4 of 1931.

6. (1.) A meeting of creditors under this Act shall be called forthwith by the Director by circulars delivered at or posted to the address of each of the creditors not less than five and not more than fourteen days, or such further time as the Director may determine before the day on which the meeting is to be held, and by advertisement as prescribed.

Meetings of  
creditors, how  
called.

As amended  
by No. 46 of  
1934, s. 3.

(2.) The omission to give notice to any creditor shall not invalidate the meeting or any proceeding following thereon.

(3.) If at any time before the holding of the meeting it shall appear to the Director that no good purpose will be served by the holding of such meeting he may, by notice published or given as prescribed, cancel the notice calling the meeting and discharge the stay order and the appointment of the receiver, and the farmer shall thereupon cease to be subject to this Act.

Inserted by  
s. 5 of No. 4  
of 1931.

7. (1.) A stay order shall direct that no action, execution, distress for rent, proceedings on default for breach of covenant under any mortgage or other security for money, or under an agreement for sale and purchase of land, or other process or proceedings, shall be com-

Stay of proceedings.  
Amended by  
s. 6, ss. 1 of  
No. 4 of 1931.  
As amended  
by No. 45 of  
1933, s. 5.

menced or proceeded with or put in force against the farmer or any of the farmer's assets, whether utilised in connection with or forming portion of the assets comprised in his farming business or not during the operation of such stay order: Provided that by leave of a judge any action may, notwithstanding the stay order, be instituted and/or carried on against the farmer, but not beyond judgment:

Inserted by  
No. 46 of  
1934, s. 4.

Provided further, that the creditors may by resolution passed at a meeting of which at least seven days' notice in writing has been given specifying the purpose of the meeting, resolve that any particular asset which does not come within the category of a farming asset, and which is not needed for the purpose of carrying on the farmer's business, may be excluded as from the date of the resolution from the operation of the stay order:

Amended by  
s. 6, ss. 1 of  
No. 4 of 1931.

(2.) Provided every such order or short particulars thereof shall be published in the *Gazette*, and shall be further advertised as prescribed, and shall have effect according to its tenor, and shall remain in force until cancelled by the Director under subsection (3) of section six, or until rescinded by resolution passed at a meeting of the creditors of the farmer, in which latter case the stay order shall lapse twenty-one days after the passing of the resolution, or on such later date as the creditors may determine at the time of the passing of the resolution.

As amended  
by No. 46 of  
1934, s. 4.

Inserted by  
s. 6, ss. 2 of  
No. 4 of 1931.

(3.) In this section the expression "proceedings" shall, in relation to any mortgage, and agreement for sale and purchase of land, be deemed to extend to the exercise of any power of sale the obtaining or keeping of possession of the property comprised in the mortgage or agreement; the levying of any distress; the taking of any measures to obtain foreclosure, and the exercise of any power to cancel or terminate any rights of the farmer in respect of such property: Provided that a stay order shall not affect the right of any person to continue in possession of any such property if he had taken possession thereof at least one month before the date of the stay order, or if the Director consents to him continuing in possession.

As amended  
by No. 45 of  
1933, s. 5.

As amended  
by No. 45 of  
1933, s. 5.

(4.) In the event of any creditor having taken any such proceedings as are mentioned in this section, and

having seized or attached any property of the farmer, the receiver shall, on the making of the stay order, be entitled to possession of or to receive such property, and, subject to this Act and to any resolution of the creditors under this Act, to utilise and dispose of the same in connection with the farmer's business.

8. (1.) An order appointing a receiver under this Act shall remain in force as long as the stay order granted in connection with the affairs of the same farmer and no longer: Provided that the Director may at any time remove a receiver from his office and appoint another person in his place.

Powers and duties of receiver.

(2.) The receiver shall be deemed to be the agent of the farmer, but so that the farmer shall have no power to revoke or abrogate the receiver's authority.

Amended by s. 7, ss. 1 of No. 4 of 1931.

(2a.) The receiver may realise and convert into money all property or produce derived from the farmer's business, and he shall have power (between the date of the stay order and the date fixed for the meeting of the farmer's creditors), with the approval of the Director, to make such disbursements (not exceeding altogether thirty pounds) out of the moneys of the farmer in his hands, or moneys derived from the realisation of such property or produce, as may be necessary to provide and pay for stores needed by the farmer or his family, or to enable the business of the farmer to be carried on and continued, or to pay the farmer's personal expenses in connection with attending the meeting of his creditors, and any disbursements authorised by this subsection may be made out of the proceeds of any such property or produce, notwithstanding that such proceeds may be subject to any lien or charge in favour of any person.

Inserted by s. 7, ss. 2 of No. 4 of 1931. As amended by No. 45 of 1933, s. 6.

*Ibid.*

*Ibid.*

(3.) A receiver shall, whenever called upon by the Director, and on the termination of his receivership, furnish the Director with full and accurate accounts verified by his statutory declaration of all moneys and other property received by virtue of or in connection with his office:

Amended by s. 7, ss. 3 of No. 4 of 1931.

Provided that the Director may at any time employ a Government officer as an auditor to make an audit of and make a report to him on all the accounts and transactions of the receiver, and the receiver shall at all times

Audit. As amended by No. 45 of 1933, s. 6.

render every assistance and furnish all information required by an auditor in making such audit.

(4.) The Supreme Court or a judge may, on application by a receiver, make such orders as may be necessary to facilitate and ensure the exercise of any of the powers of the receiver, and may also at any time, on application by the Director, or any person interested, make such orders for the taking of the accounts of a receiver as may be deemed to be expedient.

Inserted by  
No. 45 of  
1933, s. 6.

(4a.) Where a stay order lapses through effluxion of time or from any other cause, the receiver's authority shall continue for the purpose of enabling him to carry into effect any resolution of the creditors and to wind up his receivership.

(5.) The Director may at any time require a receiver to deliver to him any moneys or other property in his hands as such receiver, and the Supreme Court or a judge may, on the application of the Director, make such order as shall be necessary to compel compliance with the requisition.

(6.) Any application under this section may be made by motion or summons.

Continuation  
of proceedings  
when order  
ceases to  
operate.

9. (1.) When a stay order has ceased to operate, any proceeding or process pending, or in course of being put into operation against the farmer or his estate or effects at the time when the stay order was made, may be continued and proceeded with, and in computing the time for taking any further step in connection therewith, no account shall be taken of the period which has elapsed since the making of the order.

(2.) Such period as aforesaid shall not be taken into account in connection with any claim affected by the order, for the purposes of any Statute of Limitation.

Provision  
in case of  
farmer's death.

Inserted by  
No. 45 of  
1933, s. 7.

9A. (1.) Where a farmer dies during the currency of a stay order, the receiver's authority shall continue for the purpose of enabling him to carry into effect any resolution of the creditors and to wind-up his receivership; provided that the Director shall—

(a) as soon as possible after receiving notice of the death, call the creditors together and inform

them whether or not in his opinion satisfactory arrangements can be made to carry on the business of the farmer;

- (b) if the creditors pass a resolution authorising the business to be carried on, the same may be carried on accordingly until the expiration of the stay order;
- (c) if the creditors resolve that it is inadvisable that the business should be carried on any further, the stay order shall lapse as from the date of such resolution, or such other date either prior or subsequent to the expiration in the ordinary course of the stay order under subsection (2) of section seven, as the creditors may decide.

(2.) The provisions of this section shall apply in any case where a receiver is receiver in respect of a business carried on by two or more farmers in co-partnership and one of the farmers dies during the currency of the stay order.

10. (1.) At any meeting of creditors the Director, or his nominee, shall preside, and a quorum shall consist of three creditors, or all the creditors of the farmer where the creditors are less than three in number. Such creditors may be present and vote at the meeting either personally or by his representative.

Meetings of creditors.  
Amended by s. 8, ss. 1 of No. 4 of 1931.  
As amended by No. 45 of 1933, s. 8, and further amended by 46 of 1934, s. 5.

(1a.) Whenever at any meeting a quorum of the creditors is not present, the Director may, if he considers it advisable, adjourn the meeting to some convenient date with a view to getting the attendance of a quorum.

Inserted by No. 46 of 1934, s. 5.

(2.) For the purpose of voting, any two or more joint creditors shall be treated as a single creditor, and in calculating a majority of creditors, for the purposes of any provision of this Act, creditors whose debts amount to sums not exceeding ten pounds shall be reckoned in the majority in value, but not in the majority in number.

Amended by s. 8, ss. 2 of No. 4 of 1931.

(3.) If any dispute shall arise as to the right to vote, it shall be settled by the chairman, whose decision shall be final.

Amended by s. 8, ss. 3.

(4.) Subject to the express provisions of subsection (7) of section eleven, for the purposes of any provision

Inserted by s. 8, ss. 4 of No. 4 of 1931.  
As amended by No. 46 of 1934, s. 5.

of this Act, every question at a meeting of creditors shall, subject to this section, be decided by the majority in value and number of those present, or represented and voting at the meeting, and every resolution carried by such majority shall be deemed to be a resolution of the creditors.

Farmers may apply for writing-down or suspension. As amended by No. 46 of 1934, s. 6. Amended by No. 17 of 1935, ss. (7) of s. 6.

11. (1.) A farmer or a creditor of a farmer may at the time of making application under section five to call a meeting of the creditors of the farmer, or at any time thereafter, submit a scheme for the writing-down or suspension, or for both the writing-down and suspension, of the debts and liabilities of the farmer.

Director may modify scheme. Amended by No. 17 of 1935, ss. (7) of s. 6.

(2.) If in the opinion of the Director the scheme as submitted by the farmer or the creditor of the farmer is impracticable or inequitable in the circumstances, the Director may, with the consent of the farmer or the creditor of the farmer, modify its provisions in such manner as will be calculated in the opinion of the Director to meet with the approval of all parties concerned.

Commissioners of Agricultural Bank may request Director to frame scheme.

(3.) Whenever the Commissioners of the Agricultural Bank of Western Australia, in exercise of the powers vested in the Commissioners under the Agricultural Bank Act, 1934, have agreed (whether conditionally or otherwise) to a writing-down or suspension of the debts of any farmer due to the Commissioners, the Commissioners may request the Director to draw up a scheme for the writing-down or suspension, or both the writing-down and suspension, of the debts of the farmer other than the debts due by the farmer to the Commissioners. On such request being made the Director shall issue a stay order under the provisions of this Act.

The basis of scheme to be productive capacity of farm. Amended by No. 17 of 1935, ss. (7) of s. 6.

(4.) The scheme submitted by the farmer or the creditor of the farmer shall be considered by the Director in the light of the productive capacity of the farmer's farm and his ability to pay his debts and liabilities as based thereon, and any scheme drawn up by the Director at the request of the Commissioners shall be based on similar considerations.

Director to have access to files, etc. Amended by No. 17 of 1935, ss. (7) of s. 6.

(5.) In examining any scheme submitted by a farmer or the creditor of the farmer, or in formulating any scheme at the request of the Commissioners, the Director shall have access to any files and records of the Commis-

sioners or any Government files and records relating to the farmer's business, and may also, with the approval of the said Commissioners, or of the Minister controlling any Government department, make use of the services of any officer of the Commissioners or in any Government department, as the case may be.

(6.) The Director shall submit the scheme of the farmer or the creditor of the farmer (subject to any modification made by the Director, with the consent of the farmer), or the scheme formulated by the Director (as the case may be), to a meeting of the farmer's creditors under this Act.

Director submits scheme to meeting.

Amended by No. 17 of 1935, ss. (7) of s. 6.

(7.) The creditors may by resolution passed by a majority of at least four-fifths of the creditors in value (but not necessarily in number) sanction the said scheme, or an amendment or modification thereof, but no amendment or modification shall be made to the same by the creditors without the consent of the Director, and no resolution affecting the security of any first mortgagee shall be of any effect unless and until the consent of such first mortgagee is obtained: Provided, however, that subject to the aforesaid majority a resolution suspending the liability of the farmer on a personal covenant or contract in relation to any security, or whereby the farmer is released wholly or partly from his liability on a personal covenant or contract in relation to any security, may be passed by the creditors, and shall be valid and effective, notwithstanding that the first mortgagee does not consent thereto.

Majority of four-fifths in value for writing-down scheme.

Rights of first mortgagee.

(8.) The Director may of his own motion, if he considers that the meeting is not representative of the majority of creditors, or that through inadvertence the majority of creditors have not had an opportunity of being present or represented at the meeting, adjourn the meeting to such convenient date as the Director may think fit, or the Director may adjourn the meeting with a view to giving the Director an opportunity to communicate with any absent creditor or creditors not so represented, and to obtain their consents in writing to the scheme within a stipulated time, in which event consents obtained and forwarded to the Director within that time shall be as valid and effectual as if the creditors concerned had personally attended and voted at the meet-

Director may adjourn meeting in certain cases and endeavour to get consent of absent creditors.

ing. If at such adjourned date the creditors, subject to the provisions of this and the preceding subsection, agree to the scheme, either by attending and voting in person or by their representatives, or by filing their consents as hereinbefore provided, then the scheme shall become effective.

Receiver not necessary except where seasonal credit provided.

Amended by No. 17 of 1935, ss. (7) of s. 6.

(9.) In any case where a farmer or the creditor of the farmer makes application under the foregoing provisions of this section for the writing-down or suspension, or both the writing-down and suspension, of the debts and liabilities of the farmer, it shall not be necessary for the Director to appoint a receiver pursuant to subsection (2) of section five of this Act, unless he considers it advisable to do so: Provided, however, that a receiver shall be appointed by the Director immediately upon the sanctioning of any scheme which provides for the furnishing of seasonal credits by the creditors, or any of them.

General provisions applicable to all meetings.

(10.) Subject to the foregoing provisions of subsections (1) to (8) of this section, as soon as practicable after the opening of any meeting, the chairman shall invite the creditors to ascertain by consultation amongst themselves whether it is possible to arrange the affairs of the farmer to advantage, and the creditors may by a majority in value and number of those present or represented and voting at the meeting, or any adjournment thereof, pass any resolution for the adjustment and arrangement of the farmer's affairs which may appear to them to be expedient, and the creditors may further determine that the meeting shall stand adjourned to some date to be specified, with a view to further consideration of the farmer's affairs.

Aggrieved creditor may apply to a judge to set aside scheme or resolution.

(11.) Subject to the provisions of subsections (1) to (8) of this section, any resolution so passed shall be binding on the farmer and his creditors, and may be given effect to: Provided that its provisions are such as the farmer and his creditors might lawfully have embodied in an agreement made between themselves: Provided, however, that the Supreme Court, or a Judge thereof, may on an application being made by the Director, or any other person interested, within four weeks after the passing of the resolution, rescind the resolution on the ground that it is manifestly unjust to the farmer or any creditor, and order another meeting of the farmer's

creditors to be convened by the Director and held at such time and place as the Director shall determine.

(12) Sections three to thirteen, both inclusive, of Act No. 13 of 1906, shall not apply to any security given pursuant to any such resolution as aforesaid.

No notice of intention to register bill of sale necessary, etc.

(13.) If for any reason it shall appear to the Director that it is expedient for the creditors to meet at a date earlier than that to which any meeting has been adjourned, pursuant to any resolution of the creditors, he may, by circulars delivered or posted in manner specified in section six, summon the creditors to meet at an earlier date.

Director may call creditors together at any time.

(14.) Where any moneys secured by any mortgage are also secured by guarantee, the liability of the guarantor on his personal covenant or contract under the guarantee shall in any case where the mortgage debt is written down, be also written down proportionately. The creditors may also determine by resolution that the personal liability of any guarantor under a guarantee shall be suspended during such time as the debts of the farmer are suspended pursuant to any resolution passed under this section.

Liability of guarantors.

(15.) The period during which payment of any debt or liability is suspended under this section shall not be taken into account for the purpose of any Statute of Limitation.

Statute of Limitation.

(16.) In this section the term "mortgage" means any mortgage, charge, lien, or other security over property for the payment of money, and includes an equitable charge by deposit of title deeds; and the term "mortgagee" has a corresponding meaning.

12. (1.) After the appointment of a receiver and during the continuance of the receivership no farmer shall mortgage, charge, pledge, or create any lien upon or otherwise encumber or transfer, assign, or part with the possession or control of any part of his real or personal property, credits, or effects subject to the receivership without the consent of the receiver.

Farmer not to encumber or part with his property.

Amended by No. 17 of 1935, s. 7.

Penalty: One hundred pounds or six months imprisonment.

*Farmers' Debts Adjustment.*

(2.) Any mortgage, charge, pledge, lien, encumbrance, transfer, assignment or delivery given, executed or made contrary to this section shall be void and of no effect.

Inserted by  
s. 10 of No. 4  
of 1931.

(3.) Nothing in this section or in any resolution of the creditors shall prevent the holder of any mortgage or other security from making to or on account of a farmer any advance or payment which it is necessary to make for the preservation of the security or any property comprised therein, or which, in the opinion of the Director, is warranted in order to render the security more productive for the purpose of the farmer's business, and is calculated to be of benefit to the farmer and his creditors in general.

Added by No.  
45 of 1933,  
s. 9.

(4.) Where any creditor has supplied a farmer who at the time of supply has been granted a stay order under the Act with any wire netting for the purpose of rendering the farmer's farm or holding more productive, then the Director may, with the consent of a majority of creditors given in writing, or of a resolution of a meeting of creditors held in accordance with section ten of this Act, declare that such creditor shall have a charge against the proceeds of the farmer's business in each season during which the stay order is in operation to secure repayment of the price of such wire netting by such instalments, and at such rate of interest as may be agreed upon between the farmer and the creditor supplying such wire netting and approved by the Director.

Inserted by  
No. 17 of  
1935, ss. (8)  
of s. 6.

(5.) Notwithstanding anything contained in this section the farmer shall be at liberty, until a receiver is appointed, to continue to operate upon his account at any bank, whether such account is in credit or not, and a mortgagee holding at the date of the stay order a mortgage or other security over the real or personal estate of the farmer to secure advances and/or further advances shall be at liberty, until a receiver is appointed, to continue to make advances to the farmer, on current account or otherwise, on the security of such mortgage or security, up to the maximum amount covered thereby to the same extent and in all respects as if no such stay order had been made.

**12A.** The property and interest of any farmer in any policy effected on his own life shall, to the extent to which it is protected against legal process under section two of the Life Assurance Companies Amendment Act, 1905, be unaffected by any stay order or resolution of creditors under this Act.

Policies of insurance protected. Inserted by s. 11 of No. 4 of 1931.

**13.** (1.) The owner of any machinery which is in possession of the farmer under hire-purchase agreement shall not during the operation of a stay order, except with the consent of the Director, take any steps to terminate the agreement, or to take the machinery out of the possession of the farmer.

Hire-purchase agreements. Amended by s. 12 of No. 4 of 1931.

(2.) The owner of the machinery may, subject as hereinafter provided, at any time and from time to time, make application to the Director for such consent, and the Director shall accede to the application unless in his opinion it will be necessary to use the machinery for the purpose of taking off or putting in a crop on the farm during the current or next ensuing season, in which case he may refuse the application, and the owner shall thereupon become entitled to the rights hereinafter defined.

Inserted by s. 12 of No. 4 of 1931.

(3.) The said owner shall, in such case as aforesaid, have the right to prove against the proceeds of the said crop when received for an amount equal to the whole balance unpaid and due or to become due under the hire-purchase agreement (including interest accrued due under the agreement on any overdue instalment at the date of the application) if such amount does not exceed the sum of fifteen pounds, but if it does exceed that sum, he shall be entitled to prove for fifteen pounds, or a sum equal to one quarter of the said balance (including interest as aforesaid) whichever is the greater sum: Provided that in no case shall the said owner be entitled to prove for more than seventy-five pounds.

Inserted by s. 12 of No. 4 of 1931.

(4.) No claim (not being a claim for fertilisers or bags or twine supplied, or for money advanced to pay the price thereof, or to pay for the insurance of the farmer's crops, or advanced pursuant to any resolution of the creditors with or without interest on any sum so advanced at a rate not exceeding current bank rate) shall be payable out of the said crop proceeds in priority to the claim of the owner of the said machinery.

Inserted by s. 12 of No. 4 of 1931.

Inserted by  
s. 12 of No.  
4 of 1931.

(5.) In case an application is so refused as aforesaid, no further similar application shall be made, except at the instance of the Director, or pursuant to a resolution of the creditors, until the relative crop has been taken off or put in, as the case may be.

Certain bills  
of sale and  
orders invali-  
dated.

Inserted by  
No. 45 of  
1933, s. 10.

**13A.** (1.) Subject to the powers of the receiver under section eight, every creditor who holds any security at the date of the stay order over the produce of any farmer's farm shall, notwithstanding any resolution of the creditors, be entitled to the full benefit thereof, subject, however, to the payment thereof of the following:—

Subject to re-  
ceivers' fees,  
etc.,

(i) the fees, emoluments, or percentage payable to Deputy Directors and receivers under subsection (6) of section four;

necessary dis-  
bursements  
under s. 8  
(2a).

(ii) any moneys necessary for disbursements for the purposes set out in subsection 2 (a) of section eight.

Provisos and  
exceptions:

Provided, however, in regard to any such security—

unregistered  
bills of sale  
void.

(a) that if any transaction or document which requires registration as a bill of sale under the provisions of the Bills of Sale Act, 1899, and its amendments does not comply with the formalities prescribed by or is not duly registered within the time limited therefor by the said Acts, the same shall be void as against the receiver and the other creditors of the farmer;

bill of sale  
for past debts  
void if given  
within six  
months;

(b) any bill of sale by way of security within the meaning of the Bills of Sale Act, 1899, and its amendments made within six months prior to the granting of a stay order to a farmer under this Act, shall be void as against the receiver and the creditors as to any sum secured which is other than a contemporaneous advance within the meaning of the said Acts or a future advance or liability (together with interest thereon, according to the terms of the said bill of sale) made or undertaken by the grantee after the making thereof

on the security of the said bill of sale and within the maximum amounts covered thereby;

- (c) any security given or granted by a farmer within six months prior to the granting to the farmer of a stay order under this Act, shall be void as against the receiver and the creditors, unless the same was given in the ordinary course of business in good faith and for valuable consideration; or if not given in ordinary course of business and in good faith;
- (d) any order, authority, or writing given at any time by a farmer which assigns or purports to assign the produce of his business, or the proceeds of the produce of his business shall— wheat orders.
  - (i) if the same requires registration under the Bills of Sale Act, 1899, and its amendments, and does not comply with the formalities prescribed, or is not duly registered under the said Acts; or
  - (ii) in any case where the same does not require such registration, if the produce or the actual proceeds of the produce the subject thereof have not been received by the creditor in whose favour such order, authority, or writing is given before the date of the stay order,

be absolutely void as against the receiver and the other creditors of the farmer.

(2.) Nothing in this section shall affect any statutory lien or security. Statutory liens unaffected.

**13B.** If by reason of any creditor of a farmer (whether such farmer be under the operation of this Act or not) lodging any caveat against the registration of a bill of sale, given to any person for the purpose of securing advances agreed to be made to such farmer for the purpose of sowing or harvesting a crop on such farmer's land, or for the maintenance of the farmer and his family, or the purchase of necessaries in connection with the working of the farm, the person proposing to advance such moneys be unable to register such bill of sale, such person may apply to the Director for an order directing Sections 3 to 13 of Act 13 of 1906 not to apply to certain bills of sale.

that the provisions of sections three to thirteen (both inclusive) of Act 13 of 1906 shall not apply to any such security. The Director shall thereupon have discretionary power either to grant such order or refuse the same. If the Director shall grant any such order, he shall cause the same to be served upon the Registrar of the Supreme Court, and the Registrar shall thereupon register the bill of sale in respect whereof such order has been granted, and the said provisions of the said Act shall be deemed not to have been applicable to such bill of sale.

Added by No. 45 of 1923, s. 11.

Where the Director grants any order under this section, the time for registration of the bill of sale as prescribed by the Bills of Sale Act, 1899, and its amendments shall, in respect of such bill of sale, be extended for a further period of seven days from the granting of such order, or seven days from the expiration of the time prescribed by the said Act and its amendments, whichever is the longer.

Bank account.

14. The receiver shall open a bank account in connection with the farmer's property or estate in respect of which he has been appointed, and shall pay and deposit at the bank all such moneys and securities of the farmer as may be received by him.

Exemption from stamp duty. Inserted by s. 14 of No. 4 of 1931.

14A. Any power of attorney given by a farmer to a receiver or any other person for the purposes of this Act or to facilitate the carrying into effect of any resolution of creditors, shall be exempt from stamp duty.

Power to refer to judge questions arising under this Act.

15. (1.) If any question shall arise in the course of the administration of this Act, touching the right of any creditor or alleged creditor, or as to the validity of any proceeding or act which has been taken or done, or purports to have been taken or done under this Act, or as to the extent of the powers of the Director, such question may be referred by the Director or any person interested, to a judge for decision; the decision of the judge on the question shall be final and conclusive.

(2.) In any proceedings before a judge (whether under this or any other section of this Act) he may make such order as to costs as shall be just and reasonable.

Costs and enforcement of orders.

(3.) Any order made by a judge under any section of this Act may be enforced as an order of the Supreme Court.

16. Neither the Director nor any officer appointed by the Governor under this Act, nor the Crown, shall be under any liability to any farmer whose affairs are being, or have been arranged or adjusted under this Act, or to any creditor of such farmer, for or in respect of any act or omission of any receiver, or for or in respect of any debt or obligation incurred by any receiver.

Exemption from liability for acts or omissions of receivers.

16A. (1.) Any farmer who wilfully makes any false statement or furnishes any false information for the submission to his creditors for the purpose of this Act—

Penalty for false statements. Inserted by No. 46 of 1934, s. 7.

(a) in connection with any application under this Act; or

(b) as to the amount or nature of any assets belonging to him or in regard to any debt due by him, or any claim against him or his estate, commits an offence.

(2.) Any person who is knowingly concerned in the preparation of any such false statement, or in the furnishing of such false information, commits an offence.

(3.) Any person who commits an offence under either of the last two preceding subsections shall be liable to a penalty not exceeding fifty pounds, or to imprisonment with hard labour for six months.

17. Any person who infringes or contravenes any provision of this Act by act or omission shall be guilty of an offence and punishable on summary conviction by a fine not exceeding ten pounds or imprisonment for not exceeding one month, or any greater penalty provided by this Act for the offence.

Offences.

18. The Governor may make regulations for the ordering and regulation of such acts, matters, or things as it may be necessary or convenient to order or regulate for the purpose of ensuring the effective operation of this Act and carrying out of the objects thereof.

Regulations.

19. This Act shall continue in operation till the end of March, nineteen hundred and thirty eight, and no longer.

Duration of Act. Amended by No. 46 of 1934, s. 8.