



New South Wales

Farm Debt Mediation Amendment (Water Access Licences) Bill 2005

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The *Farm Debt Mediation Act 1994* (the *Principal Act*) makes provision for mediation concerning farm debts to take place before a creditor under a farm mortgage may take enforcement action against a farmer who is in default under the farm mortgage. The object of this Bill is to amend the Principal Act so that the provisions of that Act apply in respect of a farm debt secured by an interest in a water access licence (the provisions currently apply in respect of a farm debt secured by an interest in a farm or farm machinery). The amendments reflect recent changes to the *Water Management Act 2000* that provided for the creation of security interests over water access licences.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Clause 3 is a formal provision that gives effect to the amendments to the Principal Act set out in Schedule 1.

Schedule 1 Amendments

Schedule 1 [1] extends the definition of *farm property* in the Principal Act to include an access licence (within the meaning of the *Water Management Act 2000*) so that the provisions of the Principal Act apply in respect of a farm debt secured by an interest in a water access licence held by a farmer in connection with a farming operation. The provisions currently apply only to a farm debt secured by an interest in a farm or farm machinery used by a farmer in connection with a farming operation.

Schedule 1 [2] contains a consequential amendment.

Schedule 1 [3] and [4] contain provisions of a savings and transitional nature.

First print



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No. , 2005

A Bill for

An Act to amend the *Farm Debt Mediation Act 1994* so that the provisions of that Act apply in respect of a farm debt secured by an interest in a water access licence.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Farm Debt Mediation Amendment (Water Access Licences) Act 2005</i> .	3 4
2 Commencement	5
This Act commences on the date of assent to this Act.	6
3 Amendment of Farm Debt Mediation Act 1994 No 91	7
The <i>Farm Debt Mediation Act 1994</i> is amended as set out in Schedule 1.	8

Schedule 1	Amendments	1
	(Section 3)	2
[1]	Section 4 Definitions	3
	Insert at the end of paragraph (b) of the definition of <i>farm property</i> in section 4 (1):	4
		5
	, or	6
	(c) an access licence (within the meaning of the <i>Water Management Act 2000</i>) held by a farmer in connection with a farming operation.	7
		8
		9
[2]	Section 4 (1), definition of “statutory enforcement notice”	10
	Insert after paragraph (b):	11
	(b1) a notice under section 71X (1) (b) of the <i>Water Management Act 2000</i> , or	12
		13
[3]	Schedule 1 Savings and transitional provisions	14
	Insert at the end of clause 1 (1):	15
	the <i>Farm Debt Mediation Amendment (Water Access Licences) Act 2005</i>	16
		17
[4]	Schedule 1, clause 9	18
	Insert after clause 8:	19
	9 Application of 2005 amending Act	20
	(1) In this clause, <i>the 2005 amending Act</i> means the <i>Farm Debt Mediation Amendment (Water Access Licences) Act 2005</i> .	21
		22
	(2) The amendments made by the 2005 amending Act extend to a farm mortgage involving an interest in, or power over, an access licence (within the meaning of the <i>Water Management Act 2000</i>) that was entered into before the commencement of the 2005 amending Act, even if the farmer is in default under the farm mortgage before the commencement of the 2005 amending Act.	23
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Schedule 1 Amendments

- (3) However, the amendments made by the 2005 amending Act do not affect any enforcement action commenced before the commencement of the 2005 amending Act. 1
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