

I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

W. R. McCOURT,
Clerk of the Legislative Assembly.
Legislative Assembly Chamber,
Sydney, 21 August, 1934.

New South Wales.



ANNO VICESIMO QUINTO

GEORGII V REGIS.

Act No. 13, 1934.

An Act to extend the period within which applications may be made for the grant of stay orders; to make further provisions relating to disbursements; to extend the class of property and income of farmers which shall be received by supervisors; to provide for the consideration of proposals for compositions and schemes of arrangement in respect of farmers; to grant indemnities to supervisors in certain circumstances; for these and other purposes to amend the Farmers' Relief Act, 1932-1933; to repeal the Farmers' Relief (Amendment) Act, 1933; and for purposes connected therewith. [Assented to, 24th August, 1934.]

BE

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

W. W. HEDGES,
Chairman of Committees of the Legislative Assembly.

Farmers' Relief (Amendment).

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) Act, 1934," and shall be read and construed with the Farmers' Relief Act, 1932-1933, which Act is in this Act referred to as the Principal Act.

(2) The Principal Act, as amended by this Act, may be cited as the Farmers' Relief Act, 1932-1934.

Amendment
of Act No.
33, 1932, s. 8
(Stay
orders.)

2. (1) The Principal Act is amended by omitting from subsection one of section eight the word "fifteen" and by inserting in lieu thereof the word "twenty-four."

(2) This section shall be deemed to have commenced on the seventeenth day of May, one thousand nine hundred and thirty-four.

Revision.

(3) The Farmers' Relief (Amendment) Act, 1933, is repealed.

Further
amendment of
Act No. 33,
1932.
New ss. 28,
29, 29A.

3. (1) The Principal Act is further amended by omitting sections twenty-eight and twenty-nine and by inserting in lieu thereof the following sections :—

Disburse-
ments for
season
in which
stay order
is granted.

28. (1) The supervisor shall out of the moneys received by him under section seventeen of this Act, as the proceeds of the marketing of the produce of the farm in or in respect of the season in which the stay order was granted make the following disbursements :—

- (a) out of moneys received from the marketing of produce derived from or being stock subject to a valid first mortgage, in payment to the mortgagee of interest on such mortgage for the season in which the stay order was granted and out of any balance of such moneys in payment of all advances made to the farmer by such mortgagee prior to the date of the grant of the stay order during the period in which

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which the produce was grown for any of the following purposes:—

- (i) payment of interest, rent, agistment, rates, taxes, Crown instalments, Crown dues and insurance premiums;
- (ii) purchase of fodder, salt licks and other necessary commodities for the management of the stock the subject of the mortgage;
- (iii) expenses of the general management of the said stock (including shearing) and expenses of growing and marketing the said produce;
- (iv) repairs to or upkeep of improvements on the farmer's lands;
- (v) living expenses of the farmer and his family;
- (vi) any other purpose which, in the opinion of the Director, was to enable the farmer to efficiently manage and maintain the said stock:

Provided that, where any wool forming part of the produce referred to in this paragraph is subject to a valid wool lien made and given with the consent in writing of the mortgagee under such first mortgage to any person other than such mortgagee, the disbursement, in accordance with this paragraph, of moneys received from the marketing of such wool shall be subject to satisfaction of such lien to the extent that the moneys secured thereby were advanced by the lienee for any of the purposes specified in sub-paragraphs (i) to (vi) of this paragraph during the period in which the wool was grown, and the supervisor may, out of such last-mentioned moneys, make disbursements to satisfy the said lien;

- (b) out of any balance remaining after the disbursements in accordance with paragraph (a) of this subsection have been made and out of

any

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any moneys being proceeds of the marketing of any other produce of the farm:—

- (i) firstly in payment of any expenses of harvesting, shearing or other gathering and marketing of any produce of the farm incurred prior to the date of the stay order, and in payment of premiums of fire and/or hail insurance on such produce effected prior to the date of the stay order or moneys advanced for any such purposes so far as the respective net proceeds of the produce to which such expenses and premiums relate will extend;
- (ii) secondly, in the discharge of the existing liens on the farmer's crops or wool to the extent that the moneys secured thereby were advanced to enable the farmer to carry on during the period in which the crops or wool were grown so far as the respective net proceeds of the crops or wool to which such liens relate will extend.

Where any creditor holding a lien over the crops or wool of the farmer has agreed to pay out of the proceeds of sale of the crops or wool subject to such lien any moneys advanced or the price of goods supplied by any person to enable the farmer to carry on or has otherwise incurred any liability for the benefit of the farmer on the basis that such liability was to be discharged out of the proceeds of sale of such crops or wool, the whole of the moneys so advanced or the price of the goods so supplied or of the liability so incurred or such part thereof as the Director shall direct, shall be treated as money secured by such lien and repaid, paid or discharged accordingly.

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(2) The supervisor shall, out of any balance remaining after the disbursements in accordance with subsection one of this section have been made, and out of any other moneys received by him under section seventeen of this Act in or in respect of the season in which the stay order was granted, make the following disbursements:—

- (a) firstly, in payment of the expenses of harvesting, shearing or other gathering and marketing of the produce of the farm incurred after the date of the stay order and in payment of premiums of fire and/or hail insurance effected with the approval of the Board and moneys advanced for any such purposes after the date of the stay order together with interest on such advances at the rate of four per centum per annum;
- (b) secondly, in payment to the farmer for the purpose of clothing and paying the medical expenses of himself and family and otherwise for his personal use and benefit an amount equal to ten per centum of so much of the gross proceeds of the marketing of the produce of the farm grown in the season or other income of the farmer as does not exceed five hundred pounds, five per centum of so much of such proceeds or income as exceeds five hundred pounds, but does not exceed one thousand pounds, and two and one-half per centum of the balance of such proceeds or income;
- (c) thirdly, in payment of all moneys due and payable on all liens on crops or wool or stock mortgages granted with the consent of the Board by the farmer or the supervisor;
- (d) fourthly, in payment of all debts incurred by the farmer or the supervisor and guaranteed by the Board and of any advance made by the Board to the farmer;
- (e) fifthly, in payment, *pari passu*, of the moneys specified in subsection three of section thirty
and

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and in section 30A of this Act, rent of any farm leased by the farmer, interest on any debt of the farmer secured by a first mortgage, charge or lien over the farm, stock, machinery or other property or assets of the farmer, rates and taxes payable by the farmer and payments due to the Crown upon the farm of the farmer.

For the purposes of this paragraph "first mortgage, charge or lien" means any one or more mortgages, charges or liens given by and to the same person and which are entitled to priority over any puisne mortgage, charge or lien;

- (f) sixthly, in payment of interest on each debt of the farmer secured by any subsequent mortgage, charge or lien over the farm, stock, machinery or other property or assets of the farmer. In the application of moneys under this paragraph regard shall so far as practicable be given to the priorities of securities and to the relative values of the property subject to the securities.

Payments under paragraphs (e) and (f) of this subsection shall be for the whole of the season in which the stay order is granted, and for the purposes of such paragraphs an annuity charged on the farm, stock, machinery, or other property or assets of the farmer shall be deemed interest on a debt secured by a mortgage thereon.

(3) On any payment being made under subsection one or subsection two of this section other than a payment of the moneys specified in subsection three of section thirty and in section 30A of this Act in respect of a secured liability existing at the date of the grant of the stay order such payment shall first be credited to the suspended liabilities account and any balance to the credit of that account shall be carried to the credit of the account of liabilities not suspended.

(4)

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(4) After making the payments in accordance with subsection one and subsection two and the credits provided for in subsection three of this section and retaining such amount as the Board may consider necessary to meet the payments required to maintain the farmer and carry on the farm until the end of the next succeeding season or to repay any advances made for that purpose, the supervisor shall distribute the balance, if any, in or towards the satisfaction, *pari passu*, of the conditioned liabilities of the farmer or if there are no conditioned liabilities or none such remaining unsatisfied, then in or towards the satisfaction, *pari passu*, of the unsecured liabilities of the farmer.

(5) The provision as to the payment of interest in this section contained in respect of any period subsequent to the date of the grant of the stay order shall as to the amount thereof be subject to the provisions of subsections four, five and six of section twenty-six of this Act.

(6) In the event of the moneys received by the supervisor being insufficient to meet all the payments specified in subsection one and subsection two of this section in respect of liabilities accruing after the date of the stay order any such amount unpaid shall be a charge on the income of the farmer for the succeeding seasons and shall be paid thereout in the order of priority specified in subsection one or subsection two of this section after satisfying the payments for each such season specified in subsection one of section twenty-nine of this Act.

29. (1) The supervisor shall in respect of each season after the season in which the stay order was granted out of the moneys received by him under section seventeen of this Act in respect of such season as proceeds of the marketing of the produce of the farm, and in such season as debts and other moneys due and payable to the farmer, make the following disbursements:—

Disbursements—
subsequent
seasons.

(a) firstly, in payment of the expenses of harvesting, shearing or other gathering and marketing of the produce of the farm, and in
payment

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- payment of premiums of fire and/or hail insurance effected with the approval of the Board, and moneys advanced for any such purposes, together with interest on such advances at the rate of four per centum per annum;
- (b) secondly, in payment to the farmer for the purpose of clothing and paying the medical expenses of himself and family and otherwise for his personal use and benefit an amount equal to ten per centum of the gross proceeds of the marketing of the produce of the farm or other income of the farmer as does not exceed five hundred pounds, five per centum of so much of such proceeds or income as exceeds five hundred pounds but does not exceed one thousand pounds, and two and one-half per centum of the balance of such proceeds or income;
 - (c) thirdly, in payment of all moneys due and payable on all liens on crops or wool or stock mortgages granted with the consent of the Board by the farmer or the supervisor;
 - (d) fourthly, in payment of all debts incurred by the farmer or supervisor and guaranteed by the Board and of any advance made by the Board to the farmer;
 - (e) fifthly, in payment, *pari passu*, of the moneys specified in subsection three of section thirty and in section 30A of this Act, rent of any farm leased by the farmer, interest on any debt of the farmer secured by a first mortgage, charge or lien over the farm, stock, machinery or other property or assets of the farmer, rates and taxes payable by the farmer and payments due to the Crown upon the farm of the farmer.

For the purposes of this paragraph "first mortgage, charge or lien" means any one or more mortgages, charges or liens given by and to the same person and which are entitled to priority over any puisne mortgage, charge or lien;

(f)

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(f) sixthly, in payment of interest on each debt of the farmer secured by a subsequent mortgage, charge or lien over the farm, stock, machinery or other property or assets of the farmer. In the application of moneys under this paragraph regard shall so far as practicable be given to the priorities of securities and to the relative amounts of the several debts not placed in the suspended liabilities account of the farmer.

Payments under paragraphs (e) and (f) of this subsection shall be for the whole of the season in respect of which the disbursement is made, and for the purposes of such paragraphs an annuity charged on the farm, stock, machinery, or other property or assets of the farmer shall be deemed interest on a debt secured by a mortgage thereon.

(2) After making the payments in accordance with subsection one of this section and retaining such amount as the Board may consider necessary to meet the payments required to maintain the farmer and carry on the farm until the end of the next succeeding season or to repay any advances made for that purpose, the supervisor shall distribute the balance, if any, in or towards the satisfaction, *pari passu*, of the conditioned liabilities of the farmer, or if there are no conditioned liabilities or none such remaining unsatisfied then in or towards the satisfaction, *pari passu*, of the unsecured liabilities of the farmer.

(3) In the event of the moneys received by the supervisor as aforesaid being insufficient to meet the payments specified in subsection one of this section, the amount so unpaid shall be a charge on the income of the farmer for the succeeding seasons and shall be paid thereout in the order of priority specified in subsection one of this section after satisfying the payments for each such season specified in such subsection.

(4) The provision as to the payment of interest in this section contained shall as to the amount

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Notice of
claims to be
lodged with
supervisor.

amount of such payment be subject to the provisions of subsections four, five and six of section twenty-six of this Act.

29A. (1) The supervisor shall make the disbursements in accordance with sections twenty-eight and twenty-nine of this Act in respect only of such claims as are notified to him by the creditors concerned or their agents.

(2) Where the supervisor is first notified by a creditor or his agent of any claim under either of such sections after the supervisor has made any disbursement under either of such sections to creditors of the class to which the first-mentioned creditor belongs, such claim shall, to the extent of the amount of the payment to which such creditor would have been entitled if his claim had been notified before the disbursement was made, be paid out of any moneys remaining available or becoming available to meet the payments provided for in respect of the season to which the claim relates, before any further disbursements are made for such season, but so as not to disturb any disbursements already made, and if no such moneys remain or become available shall be paid out of the income of the farmer for succeeding seasons prior to any disbursement out of the income of any such succeeding season in or towards satisfaction of the conditioned or unsecured liabilities of the farmer.

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

(3) Where any disbursement has been made under section twenty-eight or section twenty-nine of the Principal Act before the date upon which the assent of His Majesty to this Act is signified, such disbursement shall not be disturbed or in any way affected by any alteration of the law made by this section.

(4) Where, in the case of any farmer, the season in which the stay order was granted had terminated before the date upon which the assent of His Majesty to
this

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this Act is signified, the provisions of section twenty-eight of the Farmers' Relief Act, 1932-1934 (as inserted by subsection one of this section) shall apply to and in respect of the making of disbursements in respect of that season, with the following modifications and alterations:

- (a) subsection one of that section shall apply only to and in respect of the proceeds of the produce marketed by the farmer and received by the supervisor under section seventeen of the Principal Act;
- (b) from subsection two of the said section twenty-eight—
 - (i) paragraph (b) shall be omitted and the following paragraph inserted in lieu thereof—
 - (b) secondly, in payment to the farmer for the purpose of clothing and paying the medical expenses of himself and family and otherwise for his personal use and benefit an amount equal to seven and one-half per centum of the gross proceeds of the marketing of his produce or the sum of seventy-five pounds whichever is the less;
 - (ii) the words “ and in section 30A ” appearing in paragraph (e) of that subsection shall be omitted;
- (c) from subsection three of the said section twenty-eight the words “ and in section 30A ” shall be omitted;
- (d) “ season ” shall be deemed to mean the period determined and notified in the case of each farmer, pursuant to subsection seven of section twenty-nine of the Principal Act.

4. The Principal Act is further amended—

- (a) by inserting in section three after the definition of “Produce” the following new definition—
 - “Season” means in the case of each farmer the season determined and notified in the

Further amendment of Act No. 33, 1932.

Sec. 3.
(Definitions.)

Gazette

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Gazette pursuant to this Act or deemed to have been so determined and notified;

Sec. 7.
(Farmers'
Relief
Board.)

- (b) by omitting from subsection two of section seven the words "the term of one year" and by inserting in lieu thereof the words "such term not exceeding two years as may be specified in the instrument of appointment";

Sec. 8.
(Stay
orders.)

- (c) (i) by inserting in subsection three of section eight after the word "filed" the words "within the time specified in this subsection";

- (ii) by inserting at the end of the same subsection the words—

"Any notice disclaiming the benefits of this Act, executed after the commencement of the Farmers' Relief (Amendment) Act, 1934, shall be accompanied by a statutory declaration in or to the effect of the prescribed form verifying the date of execution of such notice and the statements contained therein.

Any such notice shall be filed in the office of the Board within twenty-one days after the date of execution thereof."

- (iii) by inserting next after the same subsection the following new subsections:—

(3A) Where a notice in the prescribed form disclaiming the benefits of this Act was executed before the commencement of the Farmers' Relief (Amendment) Act, 1934, and was filed in the office of the Board before the eighteenth day of May, one thousand nine hundred and thirty-four, or within twenty-one days after the execution of such notice whichever is the later date, it shall have the effect of a notice filed pursuant to subsection three of this section; but any such notice which is not filed in the office of the Board within the time specified in this subsection shall not have that effect.

(3B)

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(3B) As soon as practicable after the grant of a stay order the Director shall determine and notify in the Gazette the season applicable in respect of the farmer.

The season first determined shall be an annual period terminating not later than twelve months after the date of the grant of the stay order, and each succeeding season shall commence immediately after the termination of the next preceding season and shall be an annual period.

Any period determined and notified pursuant to subsection seven of section twenty-nine of the Farmers' Relief Act, 1932-1933, before the date upon which the assent of His Majesty to the Farmers' Relief (Amendment) Act, 1934, was signified, shall be deemed to be a season determined and notified under this Act.

- (d) (i) by inserting at the end of subsection two of section nine the following proviso:—

Provided that the grant of a stay order shall not prevent and shall be deemed never to have prevented any person—

- (a) from instituting and proceeding to judgment in any action suit or other proceeding against the farmer (but so that judgment shall not be entered nor any further proceeding taken thereon) for the purpose of determining his liability—

- (i) for any tort committed by him; or
- (ii) for any injury suffered by a worker in his employ; or
- (iii) under Part XVIII of the Matrimonial Causes Act, 1899, or under the Deserted Wives and Children Act, 1901-1931, for the support of his wife or children; or

(iv)

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

- (iv) under Part X of the Child Welfare Act, 1923; or
- (v) in respect of any unliquidated demand other than a demand arising out of default or for or upon breach of covenant under any mortgage or other security for money or under an agreement for sale and purchase or lease of any real or personal property or under a hire-purchase agreement; or
- (b) from prosecuting any suit or other proceeding against the farmer for the administration of the trusts of any will, deed or other instrument, or for any breach of such trust, or for the removal of the farmer from the position of executor or administrator or trustee.

- (ii) by inserting next after subsection nine of section nine the following new subsection:—
(10) Subject to section forty-three of this Act 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 until removed in accordance with section ten of this Act.

Sec. 10.

- (dd) by inserting next after subsection two of section ten the following new subsection:—
(2A) Where an application by a creditor for the removal of a stay order has been refused by the Board the person entitled to the benefit of the security of any mortgage over the farmer's land or where there is more than one such mortgage the person entitled in priority to any puisne mortgagee thereof may by writing under his hand (or in the case of a corporate body under the hand of its agent) apply to the Board to hold an inquiry pursuant to the powers conferred upon the Board by paragraph fourteen of the Schedule

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Schedule to this Act as to whether or not such stay order should be removed and upon receipt of any such application the Board may require the applicant to file affidavits as to the facts in support of his application and thereafter shall hold the inquiry.

Such inquiry shall be held in open court and the mortgagee and any creditor of the farmer shall be entitled to be heard thereat in person or by an agent appointed in that behalf or by any counsel or solicitor.

In considering any such application the Board shall take into consideration whether the continuance of the stay order would impose any undue hardship on the applicant. No costs shall be allowed to either party on any such application.

- (e) (i) by omitting from subsection three of section thirteen the word "year" and by inserting in lieu thereof the word "season"; Sec. 13.
(Super-
visors.)
- (ii) by omitting from the same subsection the words "marketed produce" and by inserting in lieu thereof the words "marketing of the produce of the farm and of any other income";
- (iii) by inserting at the end of subsection four of the same section the words "and such other expenses as having in view the circumstances of the case, the Director shall direct";
- (iv) by inserting in subsection five of the same section after the word "emolument" the words "and expenses";
- (v) by inserting next after the same subsection the following new subsection:—

(5A) Where the moneys of the farmer received by the supervisor in respect of any season are insufficient to meet the supervisor's said emolument and expenses any deficiency shall be added to and form part of the emoluments and expenses in respect of which a first charge on the income of the farmer

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farmer received by the supervisor for the succeeding seasons is created by subsection five of this section.

The Board may pay the amount of such deficiency or any part thereof to the supervisor and shall thereupon be entitled to the benefit of such first charge to the extent of the amount so paid.

Sec. 14.
(Supervisor
to manage
and
administer
the farmer's
affairs.)

(f) (i) by omitting from section fourteen the words "to perform or observe the obligations of the farmer under any covenant or statute to repair, insure or destroy or keep down any noxious growths or animals" and by inserting in lieu thereof the words—

"(a) to perform or observe the obligations of the farmer under any covenant or statute to repair, insure or destroy or keep down any noxious growths or animals; or

(b) to maintain as far as practicable and consistent with prudent management the number and class of adult stock subject to any existing stock mortgage executed prior to the date of the grant of the stay order, losses by drought, fire, tempest and other natural causes always excepted, and due regard being had to any payments made to the mortgagee of such stock under section 30A of this Act or of the proceeds of any capital realisation of the subject matter of the security.

The Board may make available moneys to remedy any failure of the nature referred to in paragraph (a) and shall make available moneys to remedy any failure of the nature referred to in paragraph (b) of this subsection, and moneys so made available shall be deemed advances to the farmer to enable him to carry on for the season in which they are made.

The

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The supervisor shall notify the holder of such stock mortgage of the number and class of any stock which shall have been purchased by or on behalf of the farmer pursuant to this subsection, and from the date of such notification such stock shall be deemed to be included in and to be subject to the provisions of such stock mortgage."

(ii) by inserting at the end of the same section the following new subsections:—

(2) Where a stay order has been granted in respect of any farmer, the estate of such farmer shall, during the operation of such order, remain subject to this Act, notwithstanding the death, lunacy or unsoundness of mind of such farmer.

(3) The fact that a stay order has been granted in respect of a farmer shall not prevent and shall be deemed never to have prevented any person—

(a) from obtaining a grant of probate of the will or letters of administration of the estate of any such farmer who has died; or

(b) from initiating or continuing and completing any proceedings under the Lunacy Act of 1898 or otherwise in respect of the person or estate of any such farmer consequent upon the lunacy or unsoundness of mind of such farmer.

The Board may make an advance to meet—

(i) the expenses of any such application for a grant of probate or letters of administration (including death duty and estate duty) and funeral expenses; or

(ii)

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- (ii) the expenses of any such proceedings consequent upon the lunacy or unsoundness of mind of the farmer;

and any such advance shall be deemed to be an advance to the farmer.

(4) Where probate of the will or letters of administration of the estate of any such farmer has been granted, or when any committee, manager or other person has been appointed in respect of the person or estate of any such farmer the personal representative or the person so appointed shall be subject to the obligations and shall have and may exercise and perform the powers, authorities, duties and functions conferred or imposed upon a farmer by this Act.

(5) Any amount which may be paid to a farmer pursuant to section twenty-eight or section twenty-nine of this Act may, where the farmer is dead, be paid to the personal representative of the farmer for the benefit of the family of the farmer or where there is no personal representative may be paid to the widow or widower (if any) for the benefit of herself or himself, as the case may be, and other members of the family of the farmer.

(6) The supervisor as the agent of the farmer may, with the consent of the Board, appoint some fit and proper person to represent, for the purposes of this Act, any farmer in respect of whom a stay order has been granted, in any of the following cases, namely—

- (a) where the farmer is dead and probate of his will or letters of administration of his estate have not been granted; or

(b)

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(b) where the farmer, owing to illness or absence from the farm or to any other cause whatsoever is, in the opinion of the Board, unfit or incapable to carry on business as a farmer.

Where any person is so appointed he shall be paid such remuneration as the Board may determine, and any such remuneration shall be deemed to be an advance made to the farmer.

(7) The supervisor with the consent of the Board may, where necessary, institute or defend legal proceedings on behalf of the farmer and may with the consent of the Board employ any solicitor or counsel in that behalf.

(g) by inserting at the end of subsection three of section fifteen the words "nor shall such authority be or be deemed ever to have been revoked by the death, lunacy or unsoundness of mind of the farmer"; Sec. 15.
(Powers of supervisor.)

(h) (i) by omitting from paragraph (b) of subsection one of section seventeen the words "all produce marketed by the farmer" and by inserting in lieu thereof the words "the marketing of the produce of the farm or, where the farm is being cultivated under a share-farming agreement, such proportion of such proceeds as the farmer of whose estate he is supervisor, is by the terms of the agreement entitled to"; Sec. 17.
(Further powers of supervisor.)

(ii) by inserting in paragraph (c) of the same subsection after the word "farmer" the words "and the proceeds of the marketing of the produce of the farm";

(iii) by inserting next after the same subsection the following new subsection:—

(1A) Subject to subsection seven of section nine of this Act, the supervisor shall have power to receive the proceeds of the marketing

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marketing of the produce of the farm or the proportion of such proceeds as the case may be, and to make the disbursements referred to in paragraph (c) of subsection one of this section whether or not any other person would, but for this section, have been entitled, by reason of any stock mortgage or any lien on crops or wool or other mortgage, charge or lien on or any agreement relating to the produce of the farm, to receive the the whole or any part of such proceeds.

- (iv) by inserting in subsection two of the same section after the words " wool or crops " the words " and any other mortgage, charge or lien on the produce of the farm and, to the extent provided in paragraphs (b) and (c) of subsection one and in subsection (1A) of this section, any stock mortgage ";
- (v) by inserting at the end of section seventeen the following new section:—

New s. 17▲

Saving in
respect of
certain
produce of
stock.

17A. Nothing in section fifteen or section seventeen of this Act contained shall prejudice or affect—

- (a) the right of any holder of a stock mortgage to the proceeds of the marketing before the commencement of the Farmers' Relief (Amendment) Act, 1934, of any produce derived from or being stock subject to such stock mortgage, nor
- (b) the security constituted by such stock mortgage over any wool stored before such commencement which was derived from stock comprised in any such stock mortgage.

Sec. 21.
(Saving of
certain
payments.)

- (i) by inserting at the end of subsection one of section twenty-one the words "save and except to the extent provided in subsection two of section twenty-two of this Act, as inserted by paragraph

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paragraph (j) of section four of the Farmers' Relief (Amendment) Act, 1934'';

- (j) by inserting at the end of section twenty-two the following new subsection:—

Sec. 22.
(Supervisor
to open
account).

(2) Notwithstanding anything in this Act contained a supervisor with the approval of the Director may open a bank account in a bank in the name of any farmer in respect of whose estate he has been appointed supervisor and the supervisor, but no other person, may deposit moneys to the credit of such account and the banker may pay any cheque drawn by the farmer on such account and any promissory note or bill of exchange made or accepted by the farmer and payable at such bank, and the usual relation of banker and customer shall be deemed to exist between the bank and the farmer in respect of such moneys which shall for all purposes be deemed the property of the farmer free from any control or interference by the supervisor, the Director or the Board.

The bank shall not be bound to enquire whether the approval of the Director has been obtained as herein provided to the opening of any such account.

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

New s. 30A.

30A. From and after the commencement of the Farmers' Relief (Amendment) Act, 1934, in each season during which a stay order is in operation the person entitled to the benefit of any first mortgage over the farmer's stock shall in accordance with the provisions of sections twenty-eight and twenty-nine of this Act be entitled to be paid by the supervisor such of the moneys owing to him by the farmer and secured by such mortgage, as shall not exceed in amount one-fifth part of the value of such stock as assessed by the Board at the date of the stay order or of the amount owing on the security thereof whichever is the less.

Special
provisions
in respect
of stock
mortgages.

Farmers' Relief (Amendment).

Further amendment of Act No. 33, 1932.

Sec. 30.
(Special provisions in respect of chattels under a hire-purchase agreement.)

5. The Principal Act is further amended—

- (a) by omitting from subsection three of section thirty the words "the assessed value thereof" and by inserting in lieu thereof the words "on the balance remaining unpaid of such assessed value";
- (b) by inserting at the end of the same section the following new subsection:—

(5) In this section—

"hire-purchase agreement" includes a letting of a chattel with an option to purchase, whether or not such option to purchase is contained in an agreement in writing, and an agreement for the payment of the price of a chattel by instalments whether such agreement describes such instalments as rent or hire or otherwise and an agreement for sale where a bill of sale is given to the vendor to secure the payment of the whole or part of the purchase money; and

"owner" means a person who has disposed of chattels under a hire-purchase agreement whether such person is described therein as vendor, owner, lessor, or otherwise.

Further amendment of Act No. 33, 1932.

Sec. 31.
(Advances and guarantees by the Board.)

6. (1) The Principal Act is further amended—

- (a) by omitting paragraphs (a) and (b) of subsection one of section thirty-one and by inserting in lieu thereof the following paragraphs:—

(a) out of the moneys to be provided by Parliament (or out of any moneys whatsoever to the credit of the Relief to Necessitous Farmers and Graziers Working Capital Account in Special Deposits Account) advance to the farmer such moneys as it may think fit—

(i) for the purpose of maintaining the farmer and the members of his family;

(ii).

Farmers' Relief (Amendment).

- (ii) for the purchase of machinery and live stock and the carrying out of permanent improvements on the farm;
 - (iii) for the due performance of such commitments, covenants or obligations of the farmer as the Board thinks fit;
 - (iv) for the payment of any solicitor or barrister employed by the supervisor with the consent of the Board on behalf of the farmer and of any other legal expenses of the farmer;
 - (v) for the purpose of discharging any mortgage, charge or lien over the property or assets of the farmer or any part thereof or for any other purpose necessary or convenient for the due carrying on of the farmer's business and affairs and the due carrying out of the provisions of this Act;
- (b) guarantee to the Crown or to any Minister of the Crown as such or to any statutory body representing the Crown or to any person, firm or corporate body the payment of the price of any live stock, chattel, commodity or thing whatsoever purchased by or on behalf of the farmer, with the consent of the Board or the payment for any act, service or work done, rendered or performed for or on behalf of the farmer with the consent of the Board or the repayment of moneys advanced for any such purpose or otherwise to or for the benefit of the farmer.

In making any advance of money or in giving any guarantee the Board may provide for repayment in such instalments
and

Farmers' Relief (Amendment).

and upon such terms and conditions as the Board thinks fit, including provision for the payment of interest at a rate not exceeding four per centum per annum, but so as not to prejudice or affect any mortgage, charge or lien to which any property of the farmer may be subject.

- (b) by omitting subsection three of the same section and by inserting in lieu thereof the following subsection:—

(3) When a stay order is removed any sum of money that has been advanced by the Board to the farmer or has been paid or agreed to be paid by the Board in respect of any guarantee given in pursuance of this Act shall, to the extent that such sum has not been repaid at the date of the removal, be a charge on the property and assets of the farmer; and the Board shall be deemed to have a preferential lien for the amount of such charge over the produce of the farm for the season then current.

Such lien shall be in addition to and not in substitution for such charge.

Any such charge or lien shall be subject to any mortgage, charge or lien to which any property of the farmer may be subject at the date of such removal.

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

Further amend-
ment of Act
No. 33, 1932.

Sec. 32.
(Application
of proceeds
of sale.)

7. The Principal Act is further amended—

- (a) by inserting at the end of section thirty-two the following new subsection:—

(2) The farmer with the consent of the Board may sell any part of his personal property and the supervisor may apply the proceeds of such sale but so as not to prejudice or affect any mortgage, charge or lien over such property for

Farmers' Relief (Amendment).

for any purpose deemed by the Board necessary or convenient for the proper working and management of the farm.

- (b) by inserting next after section thirty-three the following new section:— New s. 33A.

33A. 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, 1933, of the Parliament of the Commonwealth of Australia and applied by that State to provide for his needs as a wheatgrower shall be unaffected by this Act. Payments under Wheat Growers Relief Act, 1933 (Commonwealth) protected.

- (c) (i) by inserting next after section thirty-four the following new Part:— New Part IIA.

PART IIA.

AGREEMENTS BY CREDITORS.

34A. Upon the application of any creditor of a farmer subject to this Act, the Board may, if in the circumstances it thinks fit, by notice in the prescribed manner convene a meeting of the farmer's creditors at a time and place to be appointed by the Board, for the purpose of considering a proposal for a composition or scheme of arrangement in satisfaction in whole or part of the debts of the farmer. Composition or arrangement.

The Board shall appoint some fit and proper person to act as chairman of the meeting and shall cause minutes to be taken of the proceedings had at that meeting.

If at the meeting the creditors formulate a composition or scheme in satisfaction in whole or in part of the debts of the farmer, the Board may, if it considers that the composition or scheme is fair and equitable, is agreed to by the farmer, and full legal effect can be given thereto, remove the stay order.

(ii)

Farmers' Relief (Amendment).

- (ii) by inserting in subsection one of section one after the matter relating to Part II the following words:—

PART II.A. AGREEMENTS BY CREDITORS—
s. 34A.

Schedule.

- (d) by inserting at the end of paragraph thirteen of the Schedule the following new subparagraph:—

(2) The supervisor is hereby indemnified against any personal liability arising out of any act or thing done or omitted to be done by him pursuant to a general or special direction or order of the Director or the Board.

Any moneys payable in pursuance of any such indemnity shall be paid by the Board and shall be deemed an expense arising in the course of the administration of this Act.

Parties to
certain
bonds not
to be
released.

8. (1) Neither this Act nor any amendment of the Principal Act made by the Farmers' Relief (Amendment) Act, 1933, or by this Act shall be held to operate or to have operated so as to release any party or surety to any bond executed and delivered to the Farmers' Relief Board in pursuance of section thirteen of the Principal Act.

(2) A reference in any such bond executed before the commencement of this Act to the Farmers' Relief Act, 1932, shall as from such commencement be read and construed as a reference to the Farmers' Relief Act, 1932-1934.

In the name and on behalf of His Majesty I assent to this Act.

P. W. STREET,
Lieutenant-Governor.

*Government House,
Sydney, 24th August, 1934.*

FARMERS' RELIEF (AMENDMENT) BILL.

SCHEDULE of the Amendments referred to in Message of 8th August, 1934.

- No. 1.—Page 6, clause 3, lines 17 and 18. *Omit* “and in payment of any annuity secured by a charge”
- No. 2.—Page 6, clause 3, line 27. *After* “granted” *insert* “and for the purposes of such paragraphs an annuity charged on the farm, stock, machinery, or other property or assets of the farmer shall be deemed interest on a debt secured by a mortgage thereon.”
- No. 3.—Page 9, clause 3, lines 3 and 4. *Omit* “and in payment of any annuity secured by a charge”
- No. 4.—Page 9, clause 3, line 14. *After* “made” *insert* “and for the purposes of such paragraphs an annuity charged on the farm, stock, machinery, or other property or assets of the farmer shall be deemed interest on a debt secured by a mortgage thereon.”
- No. 5.—Page 13, clause 4. *After* line 15 *insert*—

“(d) (i) by inserting at the end of subsection two of section nine the following proviso:—

Provided that the grant of a stay order shall not prevent and shall be deemed never to have prevented any person—

- (a) from instituting and proceeding to judgment in any action, suit or other proceeding against the farmer (but so that judgment shall not be entered nor any further proceeding taken thereon) for the purpose of determining his liability—
- (i) for any tort committed by him; or
 - (ii) for any injury suffered by a worker in his employ; or
 - (iii) under Part XVIII of the Matrimonial Causes Act, 1899, or under the Deserted Wives and Children Act, 1901-1931, for the support of his wife or children; or
 - (iv) under Part X of the Child Welfare Act, 1923; or
 - (v) in respect of any unliquidated demand other than a demand arising out of default or for or upon breach of covenant under any mortgage or other security for money or under an agreement for sale and purchase or lease of any real or personal property or under a hire purchase agreement; or
- (b) from prosecuting any suit or other proceeding against the farmer for the administration of the trusts of any will, deed or other instrument, or for any breach of such trust, or for the removal of the farmer from the position of executor or administrator or trustee.”

No. 6.—Page 14, clause 4. *After line 18 insert—*

“(dd) by inserting next after subsection two of section ten the following new subsection:—

(2A) Where an application by a creditor for the removal of a stay order has been refused by the Board the person entitled to the benefit of the security of any mortgage over the farmer's land or where there is more than one such mortgage the person entitled in priority to any puisne mortgagee thereof may by writing under his hand (or in the case of a corporate body under the hand of its agent) apply to the Board to hold an inquiry pursuant to the powers conferred upon the Board by paragraph fourteen of the Schedule to this Act as to whether or not such stay order should be removed and upon receipt of any such application the Board may require the applicant to file affidavits as to the facts in support of his application and thereafter shall hold the inquiry.

Such inquiry shall be held in open court and the mortgagee and any creditor of the farmer shall be entitled to be heard thereat in person or by an agent appointed in that behalf or by any counsel or solicitor.

In considering any such application the Board shall take into consideration whether the continuance of the stay order would impose any undue hardship on the applicant. No costs shall be allowed to either party on any such application.”

No. 7.—Pages 21 and 22. *Omit—*

“(5) For the purposes of this Act a chattel in respect of which an application by the owner for repossession has been made and refused shall be deemed to be part of the property and assets of the farmer, subject to a lien in favour of the owner for the amount owing on such chattel.”

No. 8.—Page 26. *After clause 7 add new clause, to stand as clause 8.*

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

W. R. McCOURT,
Clerk of the Legislative Assembly.
Legislative Assembly Chamber,
Sydney, 25 July, 1934.

The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.

C. H. H. CALVERT,
Clerk of the Parliaments.
Legislative Council Chamber,
Sydney, 8 August, 1934.

New South Wales.



ANNO VICESIMO QUINTO

GEORGII. V REGIS.

Act No. , 1934.

An Act to extend the period within which applications may be made for the grant of stay orders; to make further provisions relating to disbursements; to extend the class of property and income of farmers which shall be received by supervisors; to provide for the consideration of proposals for compositions and schemes of arrangement in respect of farmers; to grant indemnities to supervisors in certain circumstances; for these and other purposes to amend the Farmers' Relief Act, 1932-1933; to repeal the Farmers' Relief (Amendment) Act, 1933; and for purposes connected therewith.

34665

72—A

BE

NOTE.—The words to be omitted are ruled through; those to be inserted are printed in black letter.

Farmers' Relief (Amendment).

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

1. (1) This Act may be cited as the "Farmers' Relief (Amendment) Act, 1934," and shall be read and construed with the Farmers' Relief Act, 1932-1933, which Act is in this Act referred to as the Principal Act.

Short title
and citation.

(2) The Principal Act, as amended by this Act, may be cited as the Farmers' Relief Act, 1932-1934.

2. (1) The Principal Act is amended by omitting from subsection one of section eight the word "fifteen" and by inserting in lieu thereof the word "twenty-four."

Amendment
of Act No.
33, 1932, s. 8
(Stay
orders.)

(2) This section shall be deemed to have commenced on the seventeenth day of May, one thousand nine hundred and thirty-four.

(3) The Farmers' Relief (Amendment) Act, 1933, is repealed.

Revision.

3. (1) The Principal Act is further amended by omitting sections twenty-eight and twenty-nine and by inserting in lieu thereof the following sections :—

Further
amendment of
Act No. 33,
1932.
New ss. 28,
29, 29A.

28. (1) The supervisor shall out of the moneys received by him under section seventeen of this Act, as the proceeds of the marketing of the produce of the farm in or in respect of the season in which the stay order was granted make the following disbursements :—

Disburse-
ments for
season
in which
stay order
is granted.

(a) out of moneys received from the marketing of produce derived from or being stock subject to a valid first mortgage, in payment to the mortgagee of interest on such mortgage for the season in which the stay order was granted and out of any balance of such moneys in payment of all advances made to the farmer by such mortgagee prior to the date of the grant of the stay order during the period in which

which

Farmers' Relief (Amendment).

which the produce was grown for any of the following purposes:—

- 5 (i) payment of interest, rent, agistment, rates, taxes, Crown instalments, Crown dues and insurance premiums;
- (ii) purchase of fodder, salt licks and other necessary commodities for the management of the stock the subject of the mortgage;
- 10 (iii) expenses of the general management of the said stock (including shearing) and expenses of growing and marketing the said produce;
- 15 (iv) repairs to or upkeep of improvements on the farmer's lands;
- (v) living expenses of the farmer and his family;
- 20 (vi) any other purpose which, in the opinion of the Director, was to enable the farmer to efficiently manage and maintain the said stock:

25 Provided that, where any wool forming part of the produce referred to in this paragraph is subject to a valid wool lien made and given with the consent in writing of the mortgagee under such first mortgage to any person other than such mortgagee, the disbursement, in accordance with this paragraph, of moneys received from the marketing of such wool shall be subject to satisfaction of such lien to the extent that the moneys secured thereby were advanced by the lienee for any of the purposes specified in sub-paragraphs (i) to 30 (vi) of this paragraph during the period in which the wool was grown, and the supervisor may, out of such last-mentioned moneys, make disbursements to satisfy the said lien;

- 35 (b) out of any balance remaining after the disbursements in accordance with paragraph (a)
- 40 of this subsection have been made and out of any

Farmers' Relief (Amendment).

any moneys being proceeds of the marketing of any other produce of the farm:—

5 (i) firstly in payment of any expenses of harvesting, shearing or other gathering and marketing of any produce of the farm incurred prior to the date of the stay order, and in payment of premiums of fire and/or hail insurance on such produce effected prior to the date of the stay order or moneys advanced for any such purposes so far as the respective net proceeds of the produce to which such expenses and premiums relate will extend;

10
15 (ii) secondly, in the discharge of the existing liens on the farmer's crops or wool to the extent that the moneys secured thereby were advanced to enable the farmer to carry on during the period in which the crops or wool were grown so far as the respective net proceeds of the crops or wool to which such liens relate will extend.

20
25 Where any creditor holding a lien over the crops or wool of the farmer has agreed to pay out of the proceeds of sale of the crops or wool subject to such lien any moneys advanced or the price of goods supplied by any person to enable the farmer to carry on or has otherwise incurred any liability for the benefit of the farmer on the basis that such liability was to be discharged out of the proceeds of sale of such crops or wool, the whole of the moneys so advanced or the price of the goods so supplied or of the liability so incurred or such part thereof as the Director shall direct, shall be treated as money secured by such lien and repaid, paid or discharged accordingly.

(2)

Farmers' Relief (Amendment).

(2) The supervisor shall, out of any balance remaining after the disbursements in accordance with subsection one of this section have been made, and out of any other moneys received by him under section seventeen of this Act in or in respect of the season in which the stay order was granted, make the following disbursements:—

- 5
- 10
- 15
- 20
- 25
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- 35
- 40
- (a) firstly, in payment of the expenses of harvesting, shearing or other gathering and marketing of the produce of the farm incurred after the date of the stay order and in payment of premiums of fire and/or hail insurance effected with the approval of the Board and moneys advanced for any such purposes after the date of the stay order together with interest on such advances at the rate of four per centum per annum;
 - (b) secondly, in payment to the farmer for the purpose of clothing and paying the medical expenses of himself and family and otherwise for his personal use and benefit an amount equal to ten per centum of so much of the gross proceeds of the marketing of the produce of the farm grown in the season or other income of the farmer as does not exceed five hundred pounds, five per centum of so much of such proceeds or income as exceeds five hundred pounds, but does not exceed one thousand pounds, and two and one-half per centum of the balance of such proceeds or income;
 - (c) thirdly, in payment of all moneys due and payable on all liens on crops or wool or stock mortgages granted with the consent of the Board by the farmer or the supervisor;
 - (d) fourthly, in payment of all debts incurred by the farmer or the supervisor and guaranteed by the Board and of any advance made by the Board to the farmer;
 - (e) fifthly, in payment, *pari passu*, of the moneys specified in subsection three of section thirty and

Farmers' Relief (Amendment).

and in section 30A of this Act, rent of any farm leased by the farmer, interest on any debt of the farmer secured by a first mortgage, charge or lien over the farm, stock, machinery or other property or assets of the farmer, rates and taxes payable by the farmer and payments due to the Crown upon the farm of the farmer.

For the purposes of this paragraph "first mortgage, charge or lien" means any one or more mortgages, charges or liens given by and to the same person and which are entitled to priority over any puisne mortgage, charge or lien;

(f) sixthly, in payment of interest on each debt of the farmer secured by any subsequent mortgage, charge or lien ~~and in payment of any annuity secured by a charge~~ over the farm, stock, machinery or other property or assets of the farmer. In the application of moneys under this paragraph regard shall so far as practicable be given to the priorities of securities and to the relative values of the property subject to the securities.

Payments under paragraphs (e) and (f) of this subsection shall be for the whole of the season in which the stay order is granted, **and for the purposes of such paragraphs an annuity charged on the farm, stock, machinery, or other property or assets of the farmer shall be deemed interest on a debt secured by a mortgage thereon.**

(3) On any payment being made under subsection one or subsection two of this section other than a payment of the moneys specified in subsection three of section thirty and in section 30A of this Act in respect of a secured liability existing at the date of the grant of the stay order such payment shall first be credited to the suspended liabilities account and any balance to the credit of that account shall be carried to the credit of the account of liabilities not suspended.

(4)

Farmers' Relief (Amendment).

(4) After making the payments in accordance with subsection one and subsection two and the credits provided for in subsection three of this section and retaining such amount as the Board may consider necessary to meet the payments required to maintain the farmer and carry on the farm until the end of the next succeeding season or to repay any advances made for that purpose, the supervisor shall distribute the balance, if any, in or towards the satisfaction, *pari passu*, of the conditioned liabilities of the farmer or if there are no conditioned liabilities or none such remaining unsatisfied, then in or towards the satisfaction, *pari passu*, of the unsecured liabilities of the farmer.

(5) The provision as to the payment of interest in this section contained in respect of any period subsequent to the date of the grant of the stay order shall as to the amount thereof be subject to the provisions of subsections four, five and six of section twenty-six of this Act.

(6) In the event of the moneys received by the supervisor being insufficient to meet all the payments specified in subsection one and subsection two of this section in respect of liabilities accruing after the date of the stay order any such amount unpaid shall be a charge on the income of the farmer for the succeeding seasons and shall be paid thereout in the order of priority specified in subsection one or subsection two of this section after satisfying the payments for each such season specified in subsection one of section twenty-nine of this Act.

29. (1) The supervisor shall in respect of each season after the season in which the stay order was granted out of the moneys received by him under section seventeen of this Act in respect of such season as proceeds of the marketing of the produce of the farm, and in such season as debts and other moneys due and payable to the farmer, make the following disbursements:—

(a) firstly, in payment of the expenses of harvesting, shearing or other gathering and marketing of the produce of the farm, and in payment

Disburse-
ments—
subsequent
seasons.

Farmers' Relief (Amendment).

- 5 payment of premiums of fire and/or hail insurance effected with the approval of the Board, and moneys advanced for any such purposes, together with interest on such advances at the rate of four per centum per annum;
- 10 (b) secondly, in payment to the farmer for the purpose of clothing and paying the medical expenses of himself and family and otherwise for his personal use and benefit an amount equal to ten per centum of the gross proceeds of the marketing of the produce of the farm or other income of the farmer as does not exceed five hundred pounds, five per centum
- 15 of so much of such proceeds or income as exceeds five hundred pounds but does not exceed one thousand pounds, and two and one-half per centum of the balance of such proceeds or income;
- 20 (c) thirdly, in payment of all moneys due and payable on all liens on crops or wool or stock mortgages granted with the consent of the Board by the farmer or the supervisor;
- 25 (d) fourthly, in payment of all debts incurred by the farmer or supervisor and guaranteed by the Board and of any advance made by the Board to the farmer;
- 30 (e) fifthly, in payment, *pari passu*, of the moneys specified in subsection three of section thirty and in section 30A of this Act, rent of any farm leased by the farmer, interest on any debt of the farmer secured by a first mortgage, charge or lien over the farm, stock, machinery or other property or assets of the farmer,
- 35 rates and taxes payable by the farmer and payments due to the Crown upon the farm of the farmer.
- 40 For the purposes of this paragraph "first mortgage, charge or lien" means any one or more mortgages, charges or liens given by and to the same person and which are entitled to priority over any puisne mortgage, charge or lien;
- (f)

Farmers' Relief (Amendment).

5 (f) sixthly, in payment of interest on each debt of
the farmer secured by a subsequent mortgage,
charge or lien ~~and in payment of any annuity~~
~~secured by a charge~~ over the farm, stock,
machinery or other property or assets of the
farmer. In the application of moneys under
this paragraph regard shall so far as practic-
10 able be given to the priorities of securities
and to the relative amounts of the several
debts not placed in the suspended liabilities
account of the farmer.

15 Payments under paragraphs (e) and (f) of this
subsection shall be for the whole of the season in
respect of which the disbursement is made, **and for
the purposes of such paragraphs an annuity charged on
the farm, stock, machinery, or other property or assets of
the farmer shall be deemed interest on a debt secured by
a mortgage thereon.**

20 (2) After making the payments in accordance
with subsection one of this section and retaining
such amount as the Board may consider necessary to
meet the payments required to maintain the farmer
and carry on the farm until the end of the next
succeeding season or to repay any advances made
25 for that purpose, the supervisor shall distribute the
balance, if any, in or towards the satisfaction, *pari*
passu, of the conditioned liabilities of the farmer,
or if there are no conditioned liabilities or none such
remaining unsatisfied then in or towards the
30 satisfaction, *pari passu*, of the unsecured liabilities
of the farmer.

35 (3) In the event of the moneys received by
the supervisor as aforesaid being insufficient to
meet the payments specified in subsection one of
this section, the amount so unpaid shall be a charge
on the income of the farmer for the succeeding
seasons and shall be paid thereout in the order of
priority specified in subsection one of this section
after satisfying the payments for each such season
40 specified in such subsection.

(4)

Farmers' Relief (Amendment).

5 (4) The provision as to the payment of interest in this section contained shall as to the amount of such payment be subject to the provisions of subsections four, five and six of section twenty-six of this Act.

29A. (1) The supervisor shall make the disbursements in accordance with sections twenty-eight and twenty-nine of this Act in respect only of such claims as are notified to him by the creditors concerned or their agents. Notice of claims to be lodged with supervisor.

10 (2) Where the supervisor is first notified by a creditor or his agent of any claim under either of such sections after the supervisor has made any disbursement under either of such sections to creditors of the class to which the first-mentioned creditor belongs, such claim shall, to the extent of the amount of the payment to which such creditor would have been entitled if his claim had been notified before the disbursement was made, be paid out of any moneys remaining available or becoming available to meet the payments provided for in respect of the season to which the claim relates, before any further disbursements are made for such season, but so as not to disturb any disbursements already made, and if no such moneys remain or become available shall be paid out of the income of the farmer for succeeding seasons prior to any disbursement out of the income of any such succeeding season in or towards satisfaction of the conditioned or unsecured liabilities of the farmer.

30 (2) Subsection one of this section shall be deemed to have commenced on the seventeenth day of February, one thousand nine hundred and thirty-three.

35 (3) Where any disbursement has been made under section twenty-eight or section twenty-nine of the Principal Act before the date upon which the assent of His Majesty to this Act is signified, such disbursement shall not be disturbed or in any way affected by any alteration of the law made by this section.

40 (4) Where, in the case of any farmer, the season in which the stay order was granted had terminated before the date upon which the assent of His Majesty to this

Farmers' Relief (Amendment).

this Act is signified, the provisions of section twenty-eight of the Farmers' Relief Act, 1932-1934 (as inserted by subsection one of this section) shall apply to and in respect of the making of disbursements in respect of that season, with the following modifications and alterations:

- (a) subsection one of that section shall apply only to and in respect of the proceeds of the produce marketed by the farmer and received by the supervisor under section seventeen of the Principal Act;
- (b) from subsection two of the said section twenty-eight—
 - (i) paragraph (b) shall be omitted and the following paragraph inserted in lieu thereof—
 - (b) secondly, in payment to the farmer for the purpose of clothing and paying the medical expenses of himself and family and otherwise for his personal use and benefit an amount equal to seven and one-half per centum of the gross proceeds of the marketing of his produce or the sum of seventy-five pounds whichever is the less;
 - (ii) the words "and in section 30A" appearing in paragraph (e) of that subsection shall be omitted;
- (c) from subsection three of the said section twenty-eight the words "and in section 30A" shall be omitted;
- (d) "season" shall be deemed to mean the period determined and notified in the case of each farmer, pursuant to subsection seven of section twenty-nine of the Principal Act.

4. The Principal Act is further amended—

- (a) by inserting in section three after the definition of "Produce" the following new definition—
 - "Season" means in the case of each farmer the season determined and notified in the Gazette pursuant to this Act or deemed to have been so determined and notified;

(b)

Further amendment of Act No. 33, 1932.

Sec. 3.
(Definitions.)

Farmers' Relief (Amendment).

- (b) by omitting from subsection two of section seven the words "the term of one year" and by inserting in lieu thereof the words "such term not exceeding two years as may be specified in the instrument of appointment";
- (c) (i) by inserting in subsection three of section eight after the word "filed" the words "within the time specified in this subsection";
- (ii) by inserting at the end of the same subsection the words—
- "Any notice disclaiming the benefits of this Act, executed after the commencement of the Farmers' Relief (Amendment) Act, 1934, shall be accompanied by a statutory declaration in or to the effect of the prescribed form verifying the date of execution of such notice and the statements contained therein.
- Any such notice shall be filed in the office of the Board within twenty-one days after the date of execution thereof."
- (iii) by inserting next after the same subsection the following new subsections:—
- (3A) Where a notice in the prescribed form disclaiming the benefits of this Act was executed before the commencement of the Farmers' Relief (Amendment) Act, 1934, and was filed in the office of the Board before the eighteenth day of May, one thousand nine hundred and thirty-four, or within twenty-one days after the execution of such notice whichever is the later date, it shall have the effect of a notice filed pursuant to subsection three of this section; but any such notice which is not filed in the office of the Board within the time specified in this subsection shall not have that effect.
- (3B) As soon as practicable after the grant of a stay order the Director shall determine and notify in the Gazette the season applicable in respect of the farmer.
- The

Farmers' Relief (Amendment).

5 The season first determined shall be an annual period terminating not later than twelve months after the date of the grant of the stay order, and each succeeding season shall commence immediately after the termination of the next preceding season and shall be an annual period.

10 Any period determined and notified pursuant to subsection seven of section twenty-nine of the Farmers' Relief Act, 1932-1933, before the date upon which the assent of His Majesty to the Farmers' Relief (Amendment) Act, 1934, was signified, shall be deemed to be a season determined and notified under this Act.

15 (d) (i) by inserting at the end of subsection two of section nine the following proviso:—

20 Provided that the grant of a stay order shall not prevent and shall be deemed never to have prevented any person—

25 (a) from instituting and proceeding to judgment in any action suit or other proceeding against the farmer (but so that judgment shall not be entered nor any further proceeding taken thereon) for the purpose of determining his liability—

- 30 (i) for any tort committed by him; or
 (ii) for any injury suffered by a worker in his employ; or
 (iii) under Part XVIII of the Matrimonial Causes Act, 1899, or under the Deserted Wives and Children Act, 1901-1931, for the support of his wife or children; or
35 (iv) under Part X of the Child Welfare Act, 1923; or
 (v) in respect of any unliquidated demand other than a demand arising out of default or for or upon breach of
40 covenant under any mortgage or other security

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- security for money or under an agreement for sale and purchase or lease of any real or personal property or under a hire-purchase agreement; or
- 5 (b) from prosecuting any suit or other proceeding against the farmer for the administration of the trusts of any will, deed or other instrument, or for any breach of such trust, or for the removal of the farmer from the position of executor or
- 10 administrator or trustee.
- (d) (ii) by inserting next after subsection nine of section nine the following new subsection:—
- 15 (10) Subject to section forty-three of this Act 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 until removed in accordance with section ten of this Act.
- 20 (dd) by inserting next after subsection two of section ten the following new subsection:—
- 25 (2A) Where an application by a creditor for the removal of a stay order has been refused by the Board the person entitled to the benefit of the security of any mortgage over the farmer's land or where there is more than one such mortgage the person entitled in priority to any puisne mortgagee thereof may by writing under his hand (or in the case of a corporate body under the hand of its agent) apply to the Board to hold an inquiry pursuant to the powers conferred upon the Board by paragraph fourteen of the Schedule to this Act as to whether or not such stay order should be removed and upon receipt of any such application the Board may require the applicant to file affidavits as to the facts in support of his application and
- 30 thereafter shall hold the inquiry.
- 35 Such inquiry shall be held in open court and the mortgagee and any creditor of the farmer shall be entitled to be heard thereat in person or by an agent appointed in that behalf or by any counsel or solicitor.

In

Farmers' Relief (Amendment).

In considering any such application the Board shall take into consideration whether the continuance of the stay order would impose any undue hardship on the applicant. No costs shall be allowed to either party on any such application.

- (e) (i) by omitting from subsection three of section thirteen the word "year" and by inserting in lieu thereof the word "season";

Sec. 13.
(Super-
visors.)

- (ii) by omitting from the same subsection the words "marketed produce" and by inserting in lieu thereof the words "marketing of the produce of the farm and of any other income";

- (iii) by inserting at the end of subsection four of the same section the words "and such other expenses as having in view the circumstances of the case, the Director shall direct";

- (iv) by inserting in subsection five of the same section after the word "emolument" the words "and expenses";

- (v) by inserting next after the same subsection the following new subsection:—

(5A) Where the moneys of the farmer received by the supervisor in respect of any season are insufficient to meet the supervisor's said emolument and expenses any deficiency shall be added to and form part of the emoluments and expenses in respect of which a first charge on the income of the farmer received by the supervisor for the succeeding seasons is created by subsection five of this section.

The Board may pay the amount of such deficiency or any part thereof to the supervisor and shall thereupon be entitled to the benefit of such first charge to the extent of the amount so paid.

(f)

by omitting from section fourteen the words "to perform or observe the obligations of the farmer under any covenant or statute to repair, insure or destroy or keep down any noxious growths or animals" and by inserting in lieu thereof the words—

Sec. 14.
(Supervisor to manage and administer the farmer's affairs.)

Sec. 14.
(Supervisor
to manage
and
administer
the farmer's
affairs.)

- 35 The supervisor shall notify the holder of
such stock mortgage of the number and
class of any stock which shall have been
purchased by or on behalf of the farmer
pursuant to this subsection, and from the
10 date of such notification such stock shall be
deemed to be included in and to be subject
to the provisions of such stock mortgage.”

(ii)

Farmers' Relief (Amendment).

(ii) by inserting at the end of the same section the following new subsections:—

5

(2) Where a stay order has been granted in respect of any farmer, the estate of such farmer shall, during the operation of such order, remain subject to this Act, notwithstanding the death, lunacy or unsoundness of mind of such farmer.

10

(3) The fact that a stay order has been granted in respect of a farmer shall not prevent and shall be deemed never to have prevented any person—

15

(a) from obtaining a grant of probate of the will or letters of administration of the estate of any such farmer who has died; or

20

(b) from initiating or continuing and completing any proceedings under the Lunacy Act of 1898 or otherwise in respect of the person or estate of any such farmer consequent upon the lunacy or unsoundness of mind of such farmer.

25

The Board may make an advance to meet—

30

(i) the expenses of any such application for a grant of probate or letters of administration (including death duty and estate duty) and funeral expenses; or

35

(ii) the expenses of any such proceedings consequent upon the lunacy or unsoundness of mind of the farmer; and any such advance shall be deemed to be an advance to the farmer.

40

(4) Where probate of the will or letters of administration of the estate of any such farmer has been granted, or when any committee, manager or other person has been appointed in respect of the person or estate

Farmers' Relief (Amendment).

5 estate of any such farmer the personal
representative or the person so appointed
shall be subject to the obligations and shall
have and may exercise and perform the
powers, authorities, duties and functions
conferred or imposed upon a farmer by this
Act.

10 (5) Any amount which may be paid to a
farmer pursuant to section twenty-eight or
section twenty-nine of this Act may, where
the farmer is dead, be paid to the personal
representative of the farmer for the benefit
of the family of the farmer or where there
is no personal representative may be paid
15 to the widow or widower (if any) for the
benefit of herself or himself, as the case
may be, and other members of the family
of the farmer.

20 (6) The supervisor as the agent of the
farmer may, with the consent of the
Board, appoint some fit and proper person
to represent, for the purposes of this Act,
any farmer in respect of whom a stay order
has been granted, in any of the following
cases, namely—

25 (a) where the farmer is dead and
probate of his will or letters of
administration of his estate have not
been granted; or

30 (b) where the farmer, owing to illness
or absence from the farm or to any
other cause whatsoever is, in the
opinion of the Board, unfit or incap-
able to carry on business as a farmer.

35 Where any person is so appointed he
shall be paid such remuneration as the
Board may determine, and any such remun-
eration shall be deemed to be an advance
made to the farmer.

(7)

Farmers' Relief (Amendment).

5 (7) The supervisor with the consent of the Board may, where necessary, institute or defend legal proceedings on behalf of the farmer and may with the consent of the Board employ any solicitor or counsel in that behalf.

10 (g) by inserting at the end of subsection three of section fifteen the words "nor shall such authority be or be deemed ever to have been revoked by the death, lunacy or unsoundness of mind of the farmer";

Sec. 15.
(Powers of supervisor.)

15 (h) (i) by omitting from paragraph (b) of subsection one of section seventeen the words "all produce marketed by the farmer" and by inserting in lieu thereof the words "the marketing of the produce of the farm or, where the farm is being cultivated under a share-farming agreement, such proportion of such proceeds as the farmer of whose estate he is supervisor, is by the terms of the agreement entitled to";

Sec. 17.
(Further powers of supervisor.)

20 (ii) by inserting in paragraph (c) of the same subsection after the word "farmer" the words "and the proceeds of the marketing of the produce of the farm";

25 (iii) by inserting next after the same subsection the following new subsection:—

30 (1A) Subject to subsection seven of section nine of this Act, the supervisor shall have power to receive the proceeds of the marketing of the produce of the farm or the proportion of such proceeds as the case may be, and to make the disbursements referred to in paragraph (c) of subsection one of this section whether or not any other person would, but for this section, have been entitled, by reason of any stock mortgage or any lien on crops or wool or other mortgage, charge or lien on or any agreement relating to the produce of the farm, to receive the the whole or any part of such proceeds.

(iv)

Farmers' Relief (Amendment).

- (iv) by inserting in subsection two of the same section after the words "wool or crops" the words "and any other mortgage, charge or lien on the produce of the farm and, to the extent provided in paragraphs (b) and (c) of subsection one and in subsection (1A) of this section, any stock mortgage";
- (v) by inserting at the end of section seventeen New s. 17A the following new section:—
- 17A. Nothing in section fifteen or section seventeen of this Act contained shall prejudice or affect—
- (a) the right of any holder of a stock mortgage to the proceeds of the marketing before the commencement of the Farmers' Relief (Amendment) Act, 1934, of any produce derived from or being stock subject to such stock mortgage, nor
- (b) the security constituted by such stock mortgage over any wool stored before such commencement which was derived from stock comprised in any such stock mortgage.
- (i) by inserting at the end of subsection one of section twenty-one the words "save and except to the extent provided in subsection two of section twenty-two of this Act, as inserted by paragraph (j) of section four of the Farmers' Relief (Amendment) Act, 1934";
- (j) by inserting at the end of section twenty-two the following new subsection:—
- (2) Notwithstanding anything in this Act contained a supervisor with the approval of the Director may open a bank account in a bank in the name of any farmer in respect of whose estate he has been appointed supervisor and the supervisor, but no other person, may deposit moneys to the credit of such account and the banker

Saving in respect of certain produce of stock.

Sec. 21.
(Saving of certain payments.)

Sec. 22.
(Supervisor to open account).

Farmers' Relief (Amendment).

5 banker may pay any cheque drawn by the farmer
on such account and any promissory note or bill
of exchange made or accepted by the farmer
and payable at such bank, and the usual relation
of banker and customer shall be deemed to exist
between the bank and the farmer in respect of
such moneys which shall for all purposes be
deemed the property of the farmer free from
any control or interference by the supervisor,
10 the Director or the Board.

The bank shall not be bound to enquire
whether the approval of the Director has been
obtained as herein provided to the opening of
any such account.

15 (k) by inserting next after section thirty the follow- New s. 30A.
ing new section:—

30A. From and after the commencement of Special
the Farmers' Relief (Amendment) Act, 1934, provisions
in each season during which a stay order is in respect
20 in operation the person entitled to the benefit of stock
of any first mortgage over the farmer's stock mortgages.
shall in accordance with the provisions of sec-
tions twenty-eight and twenty-nine of this Act
be entitled to be paid by the supervisor such of
25 the moneys owing to him by the farmer and
secured by such mortgage, as shall not exceed in
amount one-fifth part of the value of such stock
as assessed by the Board at the date of the stay
order or of the amount owing on the security
30 thereof whichever is the less.

5. The Principal Act is further amended—

- Further amendment of Act No. 33, 1932.
- (a) by omitting from subsection three of section
thirty the words "the assessed value thereof"
and by inserting in lieu thereof the words "on
35 the balance remaining unpaid of such assessed
value";
- (b) by inserting at the end of the same section
the following new subsection:—
- (5) For the purposes of this Act a chattel
40 in respect of which an application by the owner
for
- (Special provisions in respect of chattels under a hire-purchase agreement.)

Farmers' Relief (Amendment).

~~for repossession has been made and refused shall be deemed to be part of the property and assets of the farmer, subject to a lien in favour of the owner for the amount owing on such chattel.~~

5 (6 5) In this section—

“hire-purchase agreement” includes a letting of a chattel with an option to purchase, whether or not such option to purchase is contained in an agreement in writing, and an agreement for the payment of the price of a chattel by instalments whether such agreement describes such instalments as rent or hire or otherwise and an agreement for sale where a bill of sale is given to the vendor to secure the payment of the whole or part of the purchase money; and

“owner” means a person who has disposed of chattels under a hire-purchase agreement whether such person is described therein as vendor, owner, lessor, or otherwise.

6. (1) The Principal Act is further amended—

(a) by omitting paragraphs (a) and (b) of subsection one of section thirty-one and by inserting in lieu thereof the following paragraphs:—

25 (a) out of the moneys to be provided by Parliament (or out of any moneys whatsoever to the credit of the Relief to Necessitous Farmers and Graziers Working Capital Account in Special Deposits Account) advance to the farmer such

30 moneys as it may think fit—

(i) for the purpose of maintaining the farmer and the members of his family;

35 (ii) for the purchase of machinery and live stock and the carrying out of permanent improvements on the farm;

(iii)

Further amendment of Act No. 33, 1932.

Sec. 31.
(Advances and guarantees by the Board.)

Farmers' Relief (Amendment).

- (iii) for the due performance of such commitments, covenants or obligations of the farmer as the Board thinks fit;
- 5 (iv) for the payment of any solicitor or barrister employed by the supervisor with the consent of the Board on behalf of the farmer and of any other legal expenses of the farmer;
- 10 (v) for the purpose of discharging any mortgage, charge or lien over the property or assets of the farmer or any part thereof or for any other purpose necessary or convenient for the due carrying on of the farmer's business and affairs and the due carrying out of the provisions of this Act;
- 15
- 20 (b) guarantee to the Crown or to any Minister of the Crown as such or to any statutory body representing the Crown or to any person, firm or corporate body the payment of the price of any live stock, chattel, commodity or thing whatsoever
- 25 purchased by or on behalf of the farmer, with the consent of the Board or the payment for any act, service or work done, rendered or performed for or on behalf of the farmer with the consent of the Board or the repayment of moneys
- 30 advanced for any such purpose or otherwise to or for the benefit of the farmer.
- 35 In making any advance of money or in giving any guarantee the Board may provide for repayment in such instalments and upon such terms and conditions as the Board thinks fit, including provision for the payment of interest at a rate not exceeding four per centum per annum, but so as not to prejudice or affect any
- 40 mortgage, charge or lien to which any property of the farmer may be subject.
- (b),

Farmers' Relief (Amendment).

(b) by omitting subsection three of the same section and by inserting in lieu thereof the following subsection:—

5 (3) When a stay order is removed any sum of money that has been advanced by the Board to the farmer or has been paid or agreed to be paid by the Board in respect of any guarantee given in pursuance of this Act shall, to the extent that such sum has not been repaid at the date of the removal, be a charge on the property and assets of the farmer; and the Board shall be deemed to have a preferential lien for the amount of such charge over the produce of the farm for the season then current.

10 Such lien shall be in addition to and not in substitution for such charge.

15 Any such charge or lien shall be subject to any mortgage, charge or lien to which any property of the farmer may be subject at the date of such removal.

20 (2) Subsection one of this section shall be deemed to have commenced on the seventeenth day of February, one thousand nine hundred and thirty-three.

7. The Principal Act is further amended—

25 (a) by inserting at the end of section thirty-two the following new subsection:—

30 (2) The farmer with the consent of the Board may sell any part of his personal property and the supervisor may apply the proceeds of such sale but so as not to prejudice or affect any mortgage, charge or lien over such property for any purpose deemed by the Board necessary or convenient for the proper working and management of the farm.

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

40 33A. 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, 1933, of the Parliament of the Commonwealth of Australia and protected.

Further amend-
ment of Act
No. 33, 1932.

Sec. 32.
(Application
of proceeds
of sale.)

New s. 33A.

Payments
under Wheat
Growers
Relief Act,
1933
(Common-
wealth)
and protected.

Farmers' Relief (Amendment).

and applied by that State to provide for his needs as a wheatgrower shall be unaffected by this Act.

- (c) (i) by inserting next after section thirty-four the following new Part:—

New Part
IIA.

PART IIA.

AGREEMENTS BY CREDITORS.

34A. Upon the application of any creditor of a farmer subject to this Act, the Board may, if in the circumstances it thinks fit, by notice in the prescribed manner convene a meeting of the farmer's creditors at a time and place to be appointed by the Board, for the purpose of considering a proposal for a composition or scheme of arrangement in satisfaction in whole or part of the debts of the farmer.

Composition
or arrange-
ment.

The Board shall appoint some fit and proper person to act as chairman of the meeting and shall cause minutes to be taken of the proceedings had at that meeting.

If at the meeting the creditors formulate a composition or scheme in satisfaction in whole or in part of the debts of the farmer, the Board may, if it considers that the composition or scheme is fair and equitable, is agreed to by the farmer, and full legal effect can be given thereto, remove the stay order.

- (ii) by inserting in subsection one of section one after the matter relating to Part II the following words:—

PART IIA. AGREEMENTS BY CREDITORS—
s. 34A.

- (d) by inserting at the end of paragraph thirteen of the Schedule the following new subparagraph:—

Schedule.

(2) The supervisor is hereby indemnified against any personal liability arising out of any

Farmers' Relief (Amendment).

act or thing done or omitted to be done by him pursuant to a general or special direction or order of the Director or the Board.

5 Any moneys payable in pursuance of any such indemnity shall be paid by the Board and shall be deemed an expense arising in the course of the administration of this Act.

10 **8. (1) Neither this Act nor any amendment of the Principal Act made by the Farmers' Relief (Amendment) Act, 1933, or by this Act shall be held to operate or to have operated so as to release any party or surety to any bond executed and delivered to the Farmers' Relief Board in pursuance of section thirteen of the Principal Act.**

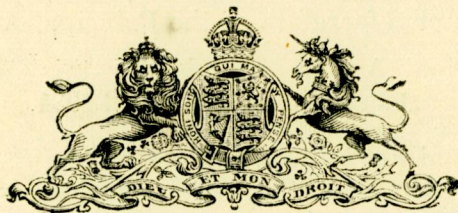
Parties to certain bonds not to be released.

15 **(2) A reference in any such bond executed before the commencement of this Act to the Farmers' Relief Act, 1932, shall as from such commencement be read and construed as a reference to the Farmers' Relief Act, 1932-1934.**

*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY,
and, having this day passed, is now ready for presentation to the
LEGISLATIVE COUNCIL for its concurrence.*

W. R. McCOURT,
Clerk of the Legislative Assembly.
Legislative Assembly Chamber,
Sydney, 25 July, 1934.

New South Wales.



ANNO VICESIMO QUINTO

GEORGII V REGIS.

Act No. , 1934.

An Act to extend the period within which applications may be made for the grant of stay orders; to make further provisions relating to disbursements; to extend the class of property and income of farmers which shall be received by supervisors; to provide for the consideration of proposals for compositions and schemes of arrangement in respect of farmers; to grant indemnities to supervisors in certain circumstances; for these and other purposes to amend the Farmers' Relief Act, 1932-1933; to repeal the Farmers' Relief (Amendment) Act, 1933; and for purposes connected therewith;

Farmers' Relief (Amendment).

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

1. (1) This Act may be cited as the "Farmers' Relief (Amendment) Act, 1934," and shall be read and construed with the Farmers' Relief Act, 1932-1933, which Act is in this Act referred to as the Principal Act.

Short title
and citation.

10 (2) The Principal Act, as amended by this Act, may be cited as the Farmers' Relief Act, 1932-1934.

2. (1) The Principal Act is amended by omitting from subsection one of section eight the word "fifteen" and by inserting in lieu thereof the word "twenty-four."

Amendment
of Act No.
33, 1932, s. 8.

15 (2) This section shall be deemed to have commenced on the seventeenth day of May, one thousand nine hundred and thirty-four.

(Stay
orders.)

(3) The Farmers' Relief (Amendment) Act, 1933, is repealed.

Revision.

20 3. (1) The Principal Act is further amended by omitting sections twenty-eight and twenty-nine and by inserting in lieu thereof the following sections :—

Further
amendment of
Act No. 33,
1932.
New ss. 28,
29, 29A.

25 28. (1) The supervisor shall out of the moneys received by him under section seventeen of this Act, as the proceeds of the marketing of the produce of the farm in or in respect of the season in which the stay order was granted make the following disbursements :—

Disburse-
ments for
season
in which
stay order
is granted.

30 (a) out of moneys received from the marketing of produce derived from or being stock subject to a valid first mortgage, in payment to the mortgagee of interest on such mortgage for the season in which the stay order was granted and out of any balance of such moneys in payment of all advances made to the farmer by such mortgagee prior to the date of the grant of the stay order during the period in
35 which

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which the produce was grown for any of the following purposes:—

- 5 (i) payment of interest, rent, agistment, rates, taxes, Crown instalments, Crown dues and insurance premiums;
- (ii) purchase of fodder, salt licks and other necessary commodities for the management of the stock the subject of the mortgage;
- 10 (iii) expenses of the general management of the said stock (including shearing) and expenses of growing and marketing the said produce;
- 15 (iv) repairs to or upkeep of improvements on the farmer's lands;
- (v) living expenses of the farmer and his family;
- 20 (vi) any other purpose which, in the opinion of the Director, was to enable the farmer to efficiently manage and maintain the said stock:

25 Provided that, where any wool forming part of the produce referred to in this paragraph is subject to a valid wool lien made and given with the consent in writing of the mortgagee under such first mortgage to any person other than such mortgagee, the disbursement, in accordance with this paragraph, of moneys received from the marketing of such wool

30 shall be subject to satisfaction of such lien to the extent that the moneys secured thereby were advanced by the lienee for any of the purposes specified in sub-paragraphs (i) to (vi) of this paragraph during the period in

35 which the wool was grown, and the supervisor may, out of such last-mentioned moneys, make disbursements to satisfy the said lien;

- 40 (b) out of any balance remaining after the disbursements in accordance with paragraph (a) of this subsection have been made and out of any

Farmers' Relief (Amendment).

any moneys being proceeds of the marketing
of any other produce of the farm:—

5 (i) firstly in payment of any expenses of
harvesting, shearing or other gathering
and marketing of any produce of the
farm incurred prior to the date of the
stay order, and in payment of pre-
miums of fire and/or hail insurance on
such produce effected prior to the date
10 of the stay order or moneys advanced
for any such purposes so far as the
respective net proceeds of the produce
to which such expenses and premiums
relate will extend;

15 (ii) secondly, in the discharge of the exist-
ing liens on the farmer's crops or wool
to the extent that the moneys secured
thereby were advanced to enable the
farmer to carry on during the period in
20 which the crops or wool were grown so
far as the respective net proceeds of
the crops or wool to which such liens
relate will extend.

25 Where any creditor holding a lien
over the crops or wool of the farmer
has agreed to pay out of the proceeds
of sale of the crops or wool subject to
such lien any moneys advanced or the
price of goods supplied by any person
30 to enable the farmer to carry on or has
otherwise incurred any liability for the
benefit of the farmer on the basis that
such liability was to be discharged out
of the proceeds of sale of such crops
or wool, the whole of the moneys so
35 advanced or the price of the goods so
supplied or of the liability so incurred
or such part thereof as the Director
shall direct, shall be treated as money
40 secured by such lien and repaid, paid
or discharged accordingly.

(2)

Farmers' Relief (Amendment).

(2) The supervisor shall, out of any balance remaining after the disbursements in accordance with subsection one of this section have been made, and out of any other moneys received by him under section seventeen of this Act in or in respect of the season in which the stay order was granted, make the following disbursements:—

- 5
- 10
- 15
- 20
- 25
- 30
- 35
- 40
- (a) firstly, in payment of the expenses of harvesting, shearing or other gathering and marketing of the produce of the farm incurred after the date of the stay order and in payment of premiums of fire and/or hail insurance effected with the approval of the Board and moneys advanced for any such purposes after the date of the stay order together with interest on such advances at the rate of four per centum per annum;
 - (b) secondly, in payment to the farmer for the purpose of clothing and paying the medical expenses of himself and family and otherwise for his personal use and benefit an amount equal to ten per centum of so much of the gross proceeds of the marketing of the produce of the farm grown in the season or other income of the farmer as does not exceed five hundred pounds, five per centum of so much of such proceeds or income as exceeds five hundred pounds, but does not exceed one thousand pounds, and two and one-half per centum of the balance of such proceeds or income;
 - (c) thirdly, in payment of all moneys due and payable on all liens on crops or wool or stock mortgages granted with the consent of the Board by the farmer or the supervisor;
 - (d) fourthly, in payment of all debts incurred by the farmer or the supervisor and guaranteed by the Board and of any advance made by the Board to the farmer;
 - (e) fifthly, in payment, *pari passu*, of the moneys specified in subsection three of section thirty and

Farmers' Relief (Amendment).

5 and in section 30A of this Act, rent of any farm leased by the farmer, interest on any debt of the farmer secured by a first mortgage, charge or lien over the farm, stock, machinery or other property or assets of the farmer, rates and taxes payable by the farmer and payments due to the Crown upon the farm of the farmer.

10 For the purposes of this paragraph "first mortgage, charge or lien" means any one or more mortgages, charges or liens given by and to the same person and which are entitled to priority over any puisne mortgage, charge or lien;

15 (f) sixthly, in payment of interest on each debt of the farmer secured by any subsequent mortgage, charge or lien and in payment of any annuity secured by a charge over the farm, stock, machinery or other property or assets of the farmer. In the application of
20 moneys under this paragraph regard shall so far as practicable be given to the priorities of securities and to the relative values of the property subject to the securities.

25 Payments under paragraphs (e) and (f) of this subsection shall be for the whole of the season in which the stay order is granted.

30 (3) On any payment being made under subsection one or subsection two of this section other than a payment of the moneys specified in subsection three of section thirty and in section 30A of this Act in respect of a secured liability existing at the date of the grant of the stay order such payment shall first be credited to the suspended liabilities
35 account and any balance to the credit of that account shall be carried to the credit of the account of liabilities not suspended.

40 (4) After making the payments in accordance with subsection one and subsection two and the credits provided for in subsection three of this section and retaining such amount as the Board may consider

Farmers' Relief (Amendment).

consider necessary to meet the payments required to maintain the farmer and carry on the farm until the end of the next succeeding season or to repay any advances made for that purpose, the supervisor shall
5 distribute the balance, if any, in or towards the satisfaction, *pari passu*, of the conditioned liabilities of the farmer or if there are no conditioned liabilities or none such remaining unsatisfied, then in or towards the satisfaction, *pari passu*, of the unsecured
10 liabilities of the farmer.

(5) The provision as to the payment of interest in this section contained in respect of any period subsequent to the date of the grant of the stay order shall as to the amount thereof be subject to the provisions of subsections four, five and six of section
15 twenty-six of this Act.

(6) In the event of the moneys received by the supervisor being insufficient to meet all the payments specified in subsection one and subsection two of this section in respect of liabilities accruing after
20 the date of the stay order any such amount unpaid shall be a charge on the income of the farmer for the succeeding seasons and shall be paid thereout in the order of priority specified in subsection one or subsection two of this section after satisfying the payments for each such season specified in subsection
25 one of section twenty-nine of this Act.

29. (1) The supervisor shall in respect of each season after the season in which the stay order was granted out of the moneys received by him under section seventeen of this Act in respect of such season as proceeds of the marketing of the produce of the farm, and in such season as debts and other moneys due and payable to the farmer, make the following disbursements:—
30
35

Disbursements—
subsequent
seasons.

(a) firstly, in payment of the expenses of harvesting, shearing or other gathering and marketing of the produce of the farm, and in payment of premiums of fire and/or hail insurance effected with the approval of the Board, and moneys advanced for any such
40 purposes

Farmers' Relief (Amendment).

purposes, together with interest on such advances at the rate of four per centum per annum;

- 5 (b) secondly, in payment to the farmer for the purpose of clothing and paying the medical expenses of himself and family and otherwise for his personal use and benefit an amount equal to ten per centum of the gross proceeds of the marketing of the produce of the farm or other income of the farmer as does not exceed five hundred pounds, five per centum of so much of such proceeds or income as exceeds five hundred pounds but does not exceed one thousand pounds, and two and 15 one-half per centum of the balance of such proceeds or income;
- (c) thirdly, in payment of all moneys due and payable on all liens on crops or wool or stock mortgages granted with the consent of the 20 Board by the farmer or the supervisor;
- (d) fourthly, in payment of all debts incurred by the farmer or supervisor and guaranteed by the Board and of any advance made by the Board to the farmer;
- 25 (e) fifthly, in payment, *pari passu*, of the moneys specified in subsection three of section thirty and in section 30A of this Act, rent of any farm leased by the farmer, interest on any debt of the farmer secured by a first mortgage, 30 charge or lien over the farm, stock, machinery or other property or assets of the farmer, rates and taxes payable by the farmer and payments due to the Crown upon the farm of the farmer.

35 For the purposes of this paragraph "first mortgage, charge or lien" means any one or more mortgages, charges or liens given by and to the same person and which are entitled to priority over any *puisne* mortgage, charge or lien;

(f)

Farmers' Relief (Amendment).

(f) sixthly, in payment of interest on each debt of the farmer secured by a subsequent mortgage, charge or lien and in payment of any annuity secured by a charge over the farm, stock, machinery or other property or assets of the farmer. In the application of moneys under this paragraph regard shall so far as practicable be given to the priorities of securities and to the relative amounts of the several debts not placed in the suspended liabilities account of the farmer.

Payments under paragraphs (e) and (f) of this subsection shall be for the whole of the season in respect of which the disbursement is made.

(2) After making the payments in accordance with subsection one of this section and retaining such amount as the Board may consider necessary to meet the payments required to maintain the farmer and carry on the farm until the end of the next succeeding season or to repay any advances made for that purpose, the supervisor shall distribute the balance, if any, in or towards the satisfaction, *pari passu*, of the conditioned liabilities of the farmer, or if there are no conditioned liabilities or none such remaining unsatisfied then in or towards the satisfaction, *pari passu*, of the unsecured liabilities of the farmer.

(3) In the event of the moneys received by the supervisor as aforesaid being insufficient to meet the payments specified in subsection one of this section, the amount so unpaid shall be a charge on the income of the farmer for the succeeding seasons and shall be paid thereout in the order of priority specified in subsection one of this section after satisfying the payments for each such season specified in such subsection.

(4) The provision as to the payment of interest in this section contained shall as to the amount of such payment be subject to the provisions of subsections four, five and six of section twenty-six of this Act.

Farmers' Relief (Amendment).

29A. (1) The supervisor shall make the disbursements in accordance with sections twenty-eight and twenty-nine of this Act in respect only of such claims as are notified to him by the creditors concerned or their agents.

Notice of
claims to be
lodged with
supervisor.

(2) Where the supervisor is first notified by a creditor or his agent of any claim under either of such sections after the supervisor has made any disbursement under either of such sections to creditors of the class to which the first-mentioned creditor belongs, such claim shall, to the extent of the amount of the payment to which such creditor would have been entitled if his claim had been notified before the disbursement was made, be paid out of any moneys remaining available or becoming available to meet the payments provided for in respect of the season to which the claim relates, before any further disbursements are made for such season, but so as not to disturb any disbursements already made, and if no such moneys remain or become available shall be paid out of the income of the farmer for succeeding seasons prior to any disbursement out of the income of any such succeeding season in or towards satisfaction of the conditioned or unsecured liabilities of the farmer.

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

(3) Where any disbursement has been made under section twenty-eight or section twenty-nine of the Principal Act before the date upon which the assent of His Majesty to this Act is signified, such disbursement shall not be disturbed or in any way affected by any alteration of the law made by this section.

(4) Where, in the case of any farmer, the season in which the stay order was granted had terminated before the date upon which the assent of His Majesty to this Act is signified, the provisions of section twenty-eight of the Farmers' Relief Act, 1932-1934 (as inserted by subsection one of this section) shall apply to and in respect

Farmers' Relief (Amendment).

respect of the making of disbursements in respect of that season, with the following modifications and alterations:

- 5 (a) subsection one of that section shall apply only to and in respect of the proceeds of the produce marketed by the farmer and received by the supervisor under section seventeen of the Principal Act;
- (b) from subsection two of the said section twenty-eight—
 - 10 (i) paragraph (b) shall be omitted and the following paragraph inserted in lieu thereof—
 - 15 (b) secondly, in payment to the farmer for the purpose of clothing and paying the medical expenses of himself and family and otherwise for his personal use and benefit an amount equal to seven and one-half per centum of the gross proceeds of the marketing of his produce or the sum of seventy-five pounds whichever is the less;
 - (ii) the words “ and in section 30A ” appearing in paragraph (e) of that subsection
 - 20 shall be omitted;
- 25 (c) from subsection three of the said section twenty-eight the words “ and in section 30A ” shall be omitted;
- 30 (d) “ season ” shall be deemed to mean the period determined and notified in the case of each farmer, pursuant to subsection seven of section twenty-nine of the Principal Act.

4. The Principal Act is further amended—

- 35 (a) by inserting in section three after the definition of “Produce” the following new definition—

“Season” means in the case of each farmer the season determined and notified in the Gazette pursuant to this Act or deemed to have been so determined and notified;

(b).

Further amendment of Act No. 33, 1932.

Sec. 3.

(Definitions.)

Farmers' Relief (Amendment).

- (b) by omitting from subsection two of section seven the words "the term of one year" and by inserting in lieu thereof the words "such term not exceeding two years as may be specified in the instrument of appointment";
- (c) (i) by inserting in subsection three of section eight after the word "filed" the words "within the time specified in this subsection";
- (ii) by inserting at the end of the same subsection the words—
- "Any notice disclaiming the benefits of this Act, executed after the commencement of the Farmers' Relief (Amendment) Act, 1934, shall be accompanied by a statutory declaration in or to the effect of the prescribed form verifying the date of execution of such notice and the statements contained therein.
- Any such notice shall be filed in the office of the Board within twenty-one days after the date of execution thereof."
- (iii) by inserting next after the same subsection the following new subsections:—
- (3A) Where a notice in the prescribed form disclaiming the benefits of this Act was executed before the commencement of the Farmers' Relief (Amendment) Act, 1934, and was filed in the office of the Board before the eighteenth day of May, one thousand nine hundred and thirty-four, or within twenty-one days after the execution of such notice whichever is the later date, it shall have the effect of a notice filed pursuant to subsection three of this section; but any such notice which is not filed in the office of the Board within the time specified in this subsection shall not have that effect.
- (3B) As soon as practicable after the grant of a stay order the Director shall determine and notify in the Gazette the season applicable in respect of the farmer.
- The

Farmers' Relief (Amendment).

The season first determined shall be an annual period terminating not later than twelve months after the date of the grant of the stay order, and each succeeding season shall commence immediately after the termination of the next preceding season and shall be an annual period.

Any period determined and notified pursuant to subsection seven of section twenty-nine of the Farmers' Relief Act, 1932-1933, before the date upon which the assent of His Majesty to the Farmers' Relief (Amendment) Act, 1934, was signified, shall be deemed to be a season determined and notified under this Act.

- (d) by inserting next after subsection nine of section nine the following new subsection:—

(10) Subject to section forty-three of this Act 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 until removed in accordance with section ten of this Act.

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

- (e) (i) by omitting from subsection three of section thirteen the word "year" and by inserting in lieu thereof the word "season";

Sec. 13.
(Super-
visors.)

(ii) by omitting from the same subsection the words "marketed produce" and by inserting in lieu thereof the words "marketing of the produce of the farm and of any other income";

(iii) by inserting at the end of subsection four of the same section the words "and such other expenses as having in view the circumstances of the case, the Director shall direct";

(iv) by inserting in subsection five of the same section after the word "emolument" the words "and expenses";

(v)

Farmers' Relief (Amendment).

(v) by inserting next after the same subsection the following new subsection:—

(5A) Where the moneys of the farmer received by the supervisor in respect of any season are insufficient to meet the supervisor's said emolument and expenses any deficiency shall be added to and form part of the emoluments and expenses in respect of which a first charge on the income of the farmer received by the supervisor for the succeeding seasons is created by subsection five of this section.

The Board may pay the amount of such deficiency or any part thereof to the supervisor and shall thereupon be entitled to the benefit of such first charge to the extent of the amount so paid.

(f) (i) by omitting from section fourteen the words "to perform or observe the obligations of the farmer under any covenant or statute to repair, insure or destroy or keep down any noxious growths or animals" and by inserting in lieu thereof the words—

Sec. 14.
(Supervisor to manage and administer the farmer's affairs.)

" (a) to perform or observe the obligations of the farmer under any covenant or statute to repair, insure or destroy or keep down any noxious growths or animals; or

(b) to maintain as far as practicable and consistent with prudent management the number and class of adult stock subject to any existing stock mortgage executed prior to the date of the grant of the stay order, losses by drought, fire, tempest and other natural causes always excepted, and due regard being had to any payments made to the mortgagee of such stock under section 30A of this Act or of the proceeds of any capital realisation of the subject matter of the security.

The

Farmers' Relief (Amendment).

5 The Board may make available moneys to
remedy any failure of the nature referred
to in paragraph (a) and shall make avail-
able moneys to remedy any failure of the
nature referred to in paragraph (b) of this
subsection, and moneys so made available
shall be deemed advances to the farmer to
enable him to carry on for the season in
which they are made.

10 The supervisor shall notify the holder of
such stock mortgage of the number and
class of any stock which shall have been
purchased by or on behalf of the farmer
pursuant to this subsection, and from the
15 date of such notification such stock shall be
deemed to be included in and to be subject
to the provisions of such stock mortgage."

(ii) by inserting at the end of the same section
the following new subsections:—

20 (2) Where a stay order has been granted
in respect of any farmer, the estate of such
farmer shall, during the operation of such
order, remain subject to this Act, notwith-
standing the death, lunacy or unsoundness
25 of mind of such farmer.

(3) The fact that a stay order has been
granted in respect of a farmer shall not
prevent and shall be deemed never to have
prevented any person—

30 (a) from obtaining a grant of probate
of the will or letters of administra-
tion of the estate of any such farmer
who has died; or

35 (b) from initiating or continuing and
completing any proceedings under
the Lunacy Act of 1898 or otherwise
in respect of the person or estate of
any such farmer consequent upon
the lunacy or unsoundness of mind
40 of such farmer.

The

Farmers' Relief (Amendment).

The Board may make an advance to meet—

5 (i) the expenses of any such application for a grant of probate or letters of administration (including death duty and estate duty) and funeral expenses; or

10 (ii) the expenses of any such proceedings consequent upon the lunacy or unsoundness of mind of the farmer;

and any such advance shall be deemed to be an advance to the farmer.

15 (4) Where probate of the will or letters of administration of the estate of any such farmer has been granted, or when any committee, manager or other person has been appointed in respect of the person or estate of any such farmer the personal representative or the person so appointed
20 shall be subject to the obligations and shall have and may exercise and perform the powers, authorities, duties and functions conferred or imposed upon a farmer by this Act.

25 (5) Any amount which may be paid to a farmer pursuant to section twenty-eight or section twenty-nine of this Act may, where the farmer is dead, be paid to the personal representative of the farmer for the benefit
30 of the family of the farmer or where there is no personal representative may be paid to the widow or widower (if any) for the benefit of herself or himself, as the case may be, and other members of the family
35 of the farmer.

(6) The supervisor as the agent of the farmer may, with the consent of the Board, appoint some fit and proper person to represent, for the purposes of this Act,
any

Farmers' Relief (Amendment).

any farmer in respect of whom a stay order has been granted, in any of the following cases, namely—

- 5 (a) where the farmer is dead and probate of his will or letters of administration of his estate have not been granted; or
- 10 (b) where the farmer, owing to illness or absence from the farm or to any other cause whatsoever is, in the opinion of the Board, unfit or incapable to carry on business as a farmer.

15 Where any person is so appointed he shall be paid such remuneration as the Board may determine, and any such remuneration shall be deemed to be an advance made to the farmer.

20 (7) The supervisor with the consent of the Board may, where necessary, institute or defend legal proceedings on behalf of the farmer and may with the consent of the Board employ any solicitor or counsel in that behalf.

25 (g) by inserting at the end of subsection three of section fifteen the words "nor shall such authority be or be deemed ever to have been revoked by the death, lunacy or unsoundness of mind of the farmer"; Sec. 15. (Powers of supervisor.)

30 (h) (i) by omitting from paragraph (b) of subsection one of section seventeen the words "all produce marketed by the farmer" and by inserting in lieu thereof the words "the marketing of the produce of the farm or, where the farm is being cultivated under a share-farming agreement, such proportion of such proceeds as the farmer of whose estate he is supervisor, is by the terms of the agreement entitled to"; Sec. 17. (Further powers of supervisor.)

35

40 (ii) by inserting in paragraph (c) of the same subsection after the word "farmer" the words "and the proceeds of the marketing of the produce of the farm";

Farmers' Relief (Amendment).

(iii) by inserting next after the same subsection the following new subsection:—

(1A) Subject to subsection seven of section nine of this Act, the supervisor shall have power to receive the proceeds of the marketing of the produce of the farm or the proportion of such proceeds as the case may be, and to make the disbursements referred to in paragraph (c) of subsection one of this section whether or not any other person would, but for this section, have been entitled, by reason of any stock mortgage or any lien on crops or wool or other mortgage, charge or lien on or any agreement relating to the produce of the farm, to receive the the whole or any part of such proceeds.

(iv) by inserting in subsection two of the same section after the words " wool or crops " the words " and any other mortgage, charge or lien on the produce of the farm and, to the extent provided in paragraphs (b) and (c) of subsection one and in subsection (1A) of this section, any stock mortgage ";

(v) by inserting at the end of section seventeen the following new section:—

17A. Nothing in section fifteen or section seventeen of this Act contained shall prejudice or affect—

New s. 17A
Saving in
respect of
certain
produce of
stock.

(a) the right of any holder of a stock mortgage to the proceeds of the marketing before the commencement of the Farmers' Relief (Amendment) Act, 1934, of any produce derived from or being stock subject to such stock mortgage, nor

(b) the security constituted by such stock mortgage over any wool stored before such commencement which was derived from stock comprised in any such stock mortgage.

(i)

Farmers' Relief (Amendment).

- (i) by inserting at the end of subsection one of section twenty-one the words "save and except to the extent provided in subsection two of section twenty-two of this Act, as inserted by paragraph (j) of section four of the Farmers' Relief (Amendment) Act, 1934";
- (j) by inserting at the end of section twenty-two the following new subsection:—
- (2) Notwithstanding anything in this Act contained a supervisor with the approval of the Director may open a bank account in a bank in the name of any farmer in respect of whose estate he has been appointed supervisor and the supervisor, but no other person, may deposit moneys to the credit of such account and the banker may pay any cheque drawn by the farmer on such account and any promissory note or bill of exchange made or accepted by the farmer and payable at such bank, and the usual relation of banker and customer shall be deemed to exist between the bank and the farmer in respect of such moneys which shall for all purposes be deemed the property of the farmer free from any control or interference by the supervisor, the Director or the Board.
- The bank shall not be bound to enquire whether the approval of the Director has been obtained as herein provided to the opening of any such account.
- (k) by inserting next after section thirty the following new section:—
- 30A. From and after the commencement of the Farmers' Relief (Amendment) Act, 1934, in each season during which a stay order is in operation the person entitled to the benefit of any first mortgage over the farmer's stock shall in accordance with the provisions of sections twenty-eight and twenty-nine of this Act be entitled to be paid by the supervisor such of the moneys owing to him by the farmer and secured by such mortgage, as shall not exceed in amount one-fifth part of the value of such stock

Sec. 21.
(Saving of
certain
payments.)

Sec. 22.
(Supervisor
to open
account).

New s. 30A.

Special
provisions
in respect
of stock
mortgages.

Farmers' Relief (Amendment).

as assessed by the Board at the date of the stay order or of the amount owing on the security thereof whichever is the less.

5. The Principal Act is further amended—

Further amendment of Act No. 33, 1932.

Sec. 30. (Special provisions in respect of chattels under a hire-purchase agreement.)

- 5 (a) by omitting from subsection three of section thirty the words "the assessed value thereof" and by inserting in lieu thereof the words "on the balance remaining unpaid of such assessed value";

- 10 (b) by inserting at the end of the same section the following new subsections:—

15 (5) For the purposes of this Act a chattel in respect of which an application by the owner for repossession has been made and refused shall be deemed to be part of the property and assets of the farmer, subject to a lien in favour of the owner for the amount owing on such chattel.

(6) In this section—

20 "hire-purchase agreement" includes a letting of a chattel with an option to purchase, whether or not such option to purchase is contained in an agreement in writing, and an agreement for the payment of the price of a chattel by instalments whether such
25 agreement describes such instalments as rent or hire or otherwise and an agreement for sale where a bill of sale is given to the vendor to secure the payment of the whole or part of the purchase money; and

30 "owner" means a person who has disposed of chattels under a hire-purchase agreement whether such person is described therein as vendor, owner, lessor, or otherwise.

6. (1) The Principal Act is further amended—

Further amendment of Act No. 33, 1932.

- 35 (a) by omitting paragraphs (a) and (b) of subsection one of section thirty-one and by inserting in lieu thereof the following paragraphs:—

Sec. 31. (Advances and guarantees by the Board.)

- 40 (a) out of the moneys to be provided by Parliament (or out of any moneys whatsoever to the credit of the Relief to
Necessitous

Farmers' Relief (Amendment).

Necessitous Farmers and Graziers Working Capital Account in Special Deposits Account) advance to the farmer such moneys as it may think fit—

- 5 (i) for the purpose of maintaining the farmer and the members of his family;
- (ii) for the purchase of machinery and live stock and the carrying out of permanent improvements on the farm;
- 10 (iii) for the due performance of such commitments, covenants or obligations of the farmer as the Board thinks fit;
- 15 (iv) for the payment of any solicitor or barrister employed by the supervisor with the consent of the Board on behalf of the farmer and of any other legal expenses of the farmer;
- 20 (v) for the purpose of discharging any mortgage, charge or lien over the property or assets of the farmer or any part thereof or for any other purpose necessary or convenient for the due carrying on of the farmer's business and affairs and the due carrying out of the provisions of this Act;
- 25
- 30 (b) guarantee to the Crown or to any Minister of the Crown as such or to any statutory body representing the Crown or to any person, firm or corporate body the payment of the price of any live stock, chattel, commodity or thing whatsoever
- 35 purchased by or on behalf of the farmer, with the consent of the Board or the payment for any act, service or work done, rendered

Farmers' Relief (Amendment).

rendered or performed for or on behalf
of the farmer with the consent of the
Board or the repayment of moneys
advanced for any such purpose or other-
wise to or for the benefit of the farmer.

5

In making any advance of money or in
giving any guarantee the Board may pro-
vide for repayment in such instalments
and upon such terms and conditions as the
Board thinks fit, including provision for
the payment of interest at a rate not
exceeding four per centum per annum,
but so as not to prejudice or affect any
mortgage, charge or lien to which any
property of the farmer may be subject.

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15

(b) by omitting subsection three of the same section
and by inserting in lieu thereof the following
subsection:—

(3) When a stay order is removed any sum
of money that has been advanced by the Board
to the farmer or has been paid or agreed to be
paid by the Board in respect of any guarantee
given in pursuance of this Act shall, to the
extent that such sum has not been repaid at the
date of the removal, be a charge on the property
and assets of the farmer; and the Board shall
be deemed to have a preferential lien for the
amount of such charge over the produce of the
farm for the season then current.

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Such lien shall be in addition to and not in
substitution for such charge.

30

Any such charge or lien shall be subject to
any mortgage, charge or lien to which any
property of the farmer may be subject at the
date of such removal.

35

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

Farmers' Relief (Amendment).

7. The Principal Act is further amended—

Further amend-
ment of Act
No. 33, 1932.

- (a) by inserting at the end of section thirty-two the following new subsection:—

Sec. 32.

(Application
of proceeds
of sale.)

5 (2) The farmer with the consent of the Board may sell any part of his personal property and the supervisor may apply the proceeds of such sale but so as not to prejudice or affect any mortgage, charge or lien over such property for any purpose deemed by the Board necessary or convenient for the proper working and management of the farm.

10

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

New s. 33A.

15

33A. 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, 1933, of the Parliament of the Commonwealth of Australia and applied by that State to provide for his needs as a wheatgrower shall be unaffected by this Act.

Payments
under Wheat
Growers
Relief Act,
1933
(Common-
wealth)
protected.

20

- (c) (i) by inserting next after section thirty-four the following new Part:—

New Part II.

PART II.

25

AGREEMENTS BY CREDITORS.

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34A. Upon the application of any creditor of a farmer subject to this Act, the Board may, if in the circumstances it thinks fit, by notice in the prescribed manner convene a meeting of the farmer's creditors at a time and place to be appointed by the Board, for the purpose of considering a proposal for a composition or scheme of arrangement in satisfaction in whole or part of the debts of the farmer.

Composition
or arrange-
ment.

35

The Board shall appoint some fit and proper person to act as chairman of the meeting and shall cause minutes to be taken of the proceedings had at that meeting.

If

Farmers' Relief (Amendment).

If at the meeting the creditors formulate a composition or scheme in satisfaction in whole or in part of the debts of the farmer, the Board may, if it considers that the composition or scheme is fair and equitable, is agreed to by the farmer, and full legal effect can be given thereto, remove the stay order.

5

- (ii) by inserting in subsection one of section one after the matter relating to Part II the following words:—

10

PART II A. AGREEMENTS BY CREDITORS—

s. 34A.

- (d) by inserting at the end of paragraph thirteen of the Schedule the following new subparagraph:—

15

(2) The supervisor is hereby indemnified against any personal liability arising out of any act or thing done or omitted to be done by him pursuant to a general or special direction or order of the Director or the Board.

20

Any moneys payable in pursuance of any such indemnity shall be paid by the Board and shall be deemed an expense arising in the course of the administration of this Act.

25