

## FARMERS' RELIEF (AMENDMENT) BILL.

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*Schedule of the Amendments referred to in Message of 29th October, 1941.*

No. 1.—Page 13, clause 9, line 10. *After “notice” insert “and to every person who has guaranteed the repayment of any debt and/or liability of the farmer and of whom the Board has notice.”*

No. 2.—Page 13, clause 9, line 14. *After “creditor” insert “guarantor”*





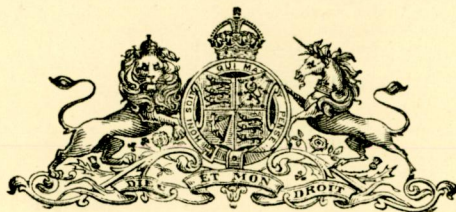
*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

W. R. McCOURT,  
*Clerk of the Legislative Assembly.*  
*Legislative Assembly Chamber,*  
*Sydney, 9 October, 1941.*

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

W. K. CHARLTON,  
*Clerk of the Parliaments.*  
*Legislative Council Chamber,*  
*Sydney, 29th October, 1941.*

## New South Wales.



ANNO QUINTO

## GEORGII VI REGIS.

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Act No. , 1941.

An Act to extend the time for the lodgment of applications for stay orders; to remove restrictions on the right to grant stay orders; to provide for the reconstitution of the Rural Reconstruction Board; to make further provision for and in relation to the adjustment of the debts and liabilities of certain farmers; for these and other purposes to amend the Farmers' Relief Act, 1932-1940, and certain other Acts in certain respects; and for purposes connected therewith.

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NOTE.—The words to be inserted are printed in black letter.



*Farmers' Relief (Amendment).*

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

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Farmers' Relief (Amendment) Act, 1941." Short title and citation.
- 10 (2) The Farmers' Relief Act, 1932-1940, as amended by subsequent Acts, is in this Act referred to as the Principal Act.
- (3) The Principal Act, as amended by this Act, may be cited as the Farmers' Relief Act, 1932-1941.
- 15 2. This Act is divided into Parts, as follows:— Division into Parts.
  - PART I.—PRELIMINARY—ss. 1, 2.
  - PART II.—STAY ORDERS AND DISCLAIMERS—s. 3.
  - PART III.—RECONSTITUTION OF THE RURAL RECONSTRUCTION BOARD—ss. 4-7.
  - 20 PART IV.—DEBTS ADJUSTMENT—ss. 8, 9.
  - PART V.—GENERAL—ss. 10-13.

PART II.

STAY ORDERS AND DISCLAIMERS.

3. (1) The Principal Act is amended— Amendment of Act No. 33, 1932. Sec. 8. (Stay orders.)
  - 25 (a) (i) by omitting from subsection one of section eight the words "the first day of April, one thousand nine hundred and thirty-six, and any farmer who proposes to make application to the Board under section 34A of this Act for assistance may at any time before";
  - 30 (ii) by omitting from subsection three of the same section the words "in respect of any farmer who has filed within the time specified in this subsection in the office of the Board a notice in or to the effect of the prescribed form disclaiming the benefits of this
  - 35



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- this Act, which notice has not been withdrawn in accordance with subsection (3c) of this section, nor";
- 5 (iii) by omitting from the same subsection all words after the words "amending, consolidating, or replacing the same";
- (iv) by omitting subsection (3A) of the same section;
- 10 (v) by omitting subsection (3c) of the same section.
- (b) by omitting from subsection eleven of section nine the words and figures "Farmers' Relief (Amendment) Act, 1940" and by inserting in lieu thereof the following words and figures "Farmers' Relief (Amendment) Act, 1941." Sec. 9. (Form and effect of stay order.)
- 15 (2) The amendments made by subsection one of this section shall not affect the validity or invalidity or any operation, effect or consequence of any stay order granted before the commencement of this Part.
- 20 (3) Any notice of disclaimer which was executed before the commencement of this Part, shall, as from such commencement, be void and of no effect.

PART III.

RECONSTITUTION OF THE RURAL RECONSTRUCTION BOARD.

- 25 4. This Part shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette. Commencement of Part III.
5. (1) Upon the commencement of this Part the body corporate constituted by section seven of the Principal Act shall be reconstituted and shall consist of seven members. Reconstitution of the Rural Reconstruction Board.
- 30 (2) Nothing contained in this Act shall prejudice or affect the continuity of such body corporate, but the same shall continue notwithstanding the provisions of this Part.

(3)



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(3) The amendments made to the Principal Act by section six of this Act and the provisions of subsection one of this section shall not affect any property, powers, rights, authorities, duties, functions, liabilities or obligations of the said body corporate or the appointment of the Director or the deputy director or of the members of the body corporate referred to in paragraphs (a) and (b) of section seven of this Act, or render defective any legal or other proceedings instituted or to be instituted by or against the body corporate.

(4) The body corporate aforesaid shall continue notwithstanding that there are at any time or times vacancies in the offices of all the members of the body corporate or of any one or more of them.

6. The Principal Act is further amended—

Further  
amendment of  
Act No. 33,  
1932.  
Sec. 7.  
(The Board.)

- (a) (i) by omitting from subsection one of section seven the words "of five persons" and by inserting in lieu thereof the words "of seven persons";
- (ii) by omitting from subsection two of the same section the words "other four members" and by inserting in lieu thereof the words "remaining members";
- (iii) by inserting next after the same subsection the following new subsections:—
  - (2A) Of the members so appointed—
    - (a) one shall be representative of the Crown as creditor of farmers;
    - (b) one shall be representative of creditors of farmers, other than the Crown;
    - (c) one shall be a person having a general knowledge and experience of farming, agricultural, horticultural and grazing operations and shall be representative of farmers generally;
    - (d) one shall be a person having special knowledge of agricultural operations and mixed farming and shall



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shall be representative of farmers engaged in agricultural operations and mixed farming;

5 (e) one shall be a person having special knowledge of grazing operations and shall be representative of farmers engaged in grazing operations;

10 (f) one shall be a person having special knowledge of dairy farming and other types of farming not falling within any of the classes referred to in paragraphs (d) and (e) of this subsection and shall be representative of farmers engaged in dairy farming and such other types of farming.

20 The members referred to in paragraphs (a) and (b) of this subsection are in this Act hereinafter referred to as "creditors' representatives."

25 The members referred to in paragraphs (c), (d), (e) and (f) of this subsection are in this Act hereinafter referred to as "farmers' representatives."

30 (2B) (a) The members referred to in paragraphs (a), (b) and (c) of subsection (2A) of this section shall be entitled to be present and to vote at any meeting of the Board.

35 (b) Only one of the members referred to in paragraphs (d), (e) and (f) of subsection (2A) of this section shall be entitled to be present and to vote at any one meeting of the Board.

40 The member who shall be so entitled to be present and to vote at any particular meeting of the Board shall be such one of those members as the Director may nominate in the notice convening the meeting.

In



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In making any such nomination the Director shall have regard to the matters to be submitted for consideration at the meeting.

- 5 (iv) by inserting in subsection three of the same section after the word "Board" where firstly occurring the words "(of whom at least one shall be a creditors' representative and at least one shall be a farmers' representative)";
- 10 (b) (i) by inserting at the end of paragraph one of the Schedule the words "and who shall be representative of the same interests as his predecessor, and (where special qualifications are prescribed by this Act for such a representative) shall have the qualifications so prescribed";
- 15 (ii) by omitting from paragraph two of the Schedule the word "member" and by inserting in lieu thereof the words "or more members";
- 20 (iii) by inserting at the end of subparagraph one of paragraph eleven of the Schedule the following new paragraph:—
- 25 (g) the nomination of any farmers' representative at any meeting of the Board.

7. Upon the commencement of this Part the following provisions shall have effect:—

- 30 (a) Charles Alfred Le Maistre Walker, Esquire, C.B.E., shall continue to hold office as a member of the Board for the balance of the term for which he was appointed by the Governor in pursuance of an Executive Council Minute approved upon the twenty-second day of November, one thousand nine hundred and thirty-nine, and shall, as from such commencement, be deemed to have been appointed as member representative of creditors of farmers, other
- 35

Office of certain members.



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- other than the Crown, and shall, upon the expiration of that term be eligible for reappointment under the Principal Act as amended by this Act.
- 5 (b) Ernest Field, Esquire, shall continue to hold office as a member of the Board for the balance of the term for which he was appointed by the Governor in pursuance of an Executive Council Minute approved upon the twenty-second day of November, one thousand nine hundred and
- 10 thirty-nine, and shall, as from such commencement, be deemed to have been appointed as member representative of farmers generally, and shall, upon the expiration of that term be eligible for reappointment under the Principal
- 15 Act as amended by this Act.
- (c) The remaining members of the Board (other than the Director) shall cease to hold office as such, but shall be eligible for reappointment under the Principal Act as amended by this Act.

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PART IV.

DEBTS ADJUSTMENT.

8. This Part shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette. Commencement of Part IV.
- 25 9. The Principal Act is further amended— Further amendment of Act No. 33, 1932.
- (a) by inserting in Part IIA after the heading "Farmers' Debts Adjustment," the following Part IIA. (Debts adjustment.) sub-heading:—
- DIVISION 1.—*Voluntary adjustments.*
- 30 (b) by omitting sections 34A, 34B, 34c and 34D and by inserting in lieu thereof the following new Subst. secw. 34A-34D. sections:—
- 35 34A. A farmer may at any time and from time to time make application in writing to the Board for assistance to effect a composition or Application for assistance to effect composition or scheme of arrangement. scheme



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scheme of arrangement with his creditors or any of them in satisfaction in whole or in part of his debts and/or liabilities whether secured or unsecured.

5 34B. The farmer shall, upon a request in writing by the Board in that behalf, furnish such information and such accounts, documents and writings as the Board may require for the purpose of considering such application. Information to be furnished.

10 34c. (1) The Board shall, on receipt of an application, consider whether the applicant will have a reasonable prospect of continuing and carrying on his farming operations successfully if a composition or scheme of arrangement with his creditors or any of them is concluded or put into effect. Consideration of application by Board.

15 (2) If the Board is of the opinion that the applicant has such a prospect it shall proceed with the application. If it is not of that opinion it shall dismiss the application.

20 34d. If the Board decides to proceed with the application it shall consider any proposal for a composition or scheme of arrangement submitted by the farmer or by the Director with the concurrence of the farmer and may approve of the same as submitted or may suggest such amendments to the proposal as it thinks fit and may thereafter approve of any amended proposal. Approval by Board.

25 30 (c) by inserting after section 34E the following new sub-headings and sections:—

DIVISION 2.—*Where voluntary adjustment is not concluded.*

35 34EA. Where a farmer has made application to the Board under section 34A of this Act (whether as originally enacted or as substituted or amended from time to time) for assistance and a proposal for a composition or scheme of arrangement has been approved pursuant to this Part, and a majority in number and value of the unsecured Where majority of unsecured creditors assent.

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unsecured creditors of the farmer (in this section hereinafter referred to as "assenting creditors") have signified their assent to the composition or scheme of arrangement and have given undertakings in writing to execute releases of their debts and/or liabilities upon receipt of the amount agreed to be paid to them in the composition or scheme of arrangement, the following provisions shall have effect:—

- 5
- 10 (a) For the purpose of calculating a majority of creditors under this section, account shall be taken only of those creditors of whom the Board has notice, joint creditors shall count as one creditor, and any
- 15 creditor whose debt or liability is less than ten pounds shall count for value but not for number.
- 20 (b) The Director may, by notice served personally or by post upon any unsecured creditor who is not an assenting creditor, submit a proposal for the discharge of the debt and/or liability of the farmer to such creditor in accordance with the composition or scheme of arrangement. If such
- 25 creditor fails or refuses to signify his assent to such proposal within a period of fourteen days after the date of service of the notice, or if, upon tender to him of the amount payable under such proposal the creditor neglects or refuses
- 30 to execute a release of his debt and/or liability, then the Board may direct that such debt and/or liability may be discharged by payment by or on behalf of the farmer of such amount at any time
- 35 within three years after the date of the direction.
- 40 (c) Notice of any such direction shall be served by post on the farmer and the creditor to whom the direction relates, and such direction shall be binding upon such creditor.
- (d)



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5 (d) Where notice of a direction of the Board  
under this section has been served on a  
creditor of the farmer, payment to such  
creditor by or on behalf of the farmer of  
the amount referred to in such direction  
within a period of three years from the  
date of the direction shall operate as a  
full and complete discharge to the farmer  
of the debt and/or liability to which the  
direction relates.

10 (e) Any discharge of a debt and/or liability  
effected under this section shall to the  
extent of such discharge release the  
farmer from any liability accrued or to  
accrue to any third party who has guar-  
anteed the payment by the farmer of the  
whole or any part of such debt and/or  
liability.

15 (f) If upon due tender to a creditor by or on  
behalf of a farmer of payment of the  
amount referred to in a direction of the  
Board under this section, the creditor  
refuses or neglects to accept the same  
within a period of seven days from the  
date of the tender, the amount may be  
paid into the Supreme Court in its equit-  
able jurisdiction and such payment into  
court shall have the same force and effect  
as if it were a payment to the creditor.

20 34EB. (1) (a) Where a farmer in respect of  
whose estate a stay order is in operation is in-  
formed by the Board that it is satisfied that a  
voluntary composition or scheme of arrangement  
in satisfaction of his debts and/or liabilities  
cannot be concluded, the farmer may at any  
time and from time to time during the operation  
of the stay order apply to the Board for assis-  
tance to effect a settlement of his debts and/or  
liabilities under this section.

Application  
for assistance  
where  
voluntary  
adjustment  
not concluded.

35 (b) The Board may thereupon  
40 appoint a date to proceed with the application  
and



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and shall as at that date (hereinafter referred to as the "date of the assessment") assess the value of the farmer's property and assets and the amount and value of his debts and/or liabilities, both secured and unsecured, including all interest accrued at or accruing due to the date of the assessment.

(c) In so far as the debts and/or liabilities secured by one or more mortgages, charges or liens over any property of the farmer exceed the assessed value of the property subject to such mortgages, charges or liens respectively, the amount of such excess shall for the purposes of this section be deemed to be unsecured and so much of every debt and/or liability as forms part of such excess shall from the date of the assessment be deemed to be an unsecured liability and the creditor shall be deemed to be an unsecured creditor in respect thereof.

(d) Where repayment of any debt and/or liability of the farmer to a creditor has been guaranteed as to the whole or part by any person any security given by the farmer to the guarantor over any of his property or assets in respect of the guarantor's liability under the guarantee shall for the purposes of this section be deemed to be a security in the hands of the creditor for so much of the debt and/or liability as is covered by the guarantee.

(e) In determining the amounts of the respective secured debts and/or liabilities that are to be deemed to be unsecured liabilities the Board shall give effect to the respective priorities of the mortgages, charges and liens securing such debts and/or liabilities and shall, in the case of any holding under any Act relating to the alienation of lands of the Crown where such holding is the subject of a mortgage, charge or lien to the Rural Bank, have regard to the provisions of section sixty-nine of the Government Savings Bank Act, 1906, as amended



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amended by subsequent Acts, and for the purpose of such determination no outstanding arrears of instalments or rents due to the Crown in respect of such holding shall be taken into account save one year's instalment or rent, as the case may be.

(f) (i) For the purposes of this section the assessed secured value of a debt and/or liability secured by any mortgage, charge or lien over any property or assets of the farmer shall be the amount of such debt and/or liability which is not deemed to be an unsecured liability under paragraph (c) of this subsection.

(ii) Such amount shall carry interest from the date of the assessment at the rate provided by the mortgage, charge or lien or at the rate of five per centum per annum whichever is the less.

(g) If the total value of the farmer's property and assets as assessed by the Board exceeds in amount the total of such debts and/or liabilities of the farmer as are secured by any mortgage, charge or lien after deducting therefrom such parts of such secured debts and/or liabilities as are deemed to be unsecured liabilities under paragraph (c) of this subsection such proportions of each and every unsecured debt and/or liability of the farmer (including such part of every secured debt and/or liability as is deemed to be an unsecured liability under the said paragraph) as when added together shall equal the amount of the excess in this paragraph referred to shall be deemed to be conditioned liabilities.

(h) For the purposes of this section the assessed value of an unsecured debt and/or liability (including such part of every secured debt and/or liability as is deemed to be an unsecured liability under paragraph (c) of this subsection) shall be that proportion thereof which by paragraph (g) of this subsection is deemed to be a conditioned liability. (i)



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5 (i) The Board may at any time and from time to time review any assessment made under this subsection and make such alterations therein and in the amounts deemed to be unsecured liabilities or conditioned liabilities as it thinks fit.

10 (j) Notice of every assessment or subsequent variation thereof shall be sent by post to the farmer and to every creditor of the farmer of whose debt the Board has notice **and to every person who has guaranteed the repayment of any debt and/or liability of the farmer and of whom the Board has notice.**

15 (k) Any creditor, **guarantor** or farmer may appeal to the local land board against any assessment by the Board of the value of the property and assets of the farmer.

20 (l) The local land board shall have jurisdiction to hear and determine such appeal and its decision thereon shall be final.

25 (m) The time within which the appeal may be made and the procedure before the local land board shall be as prescribed by regulations under the Crown Lands Consolidation Act, 1913.

(n) No costs shall be allowed to any party on any such appeal.

30 (o) If on any such appeal a valuation by the Board is varied the Board shall forthwith amend the assessment and send notice of such amendment to each creditor of whom the Board has notice.

35 (2) Where a farmer in respect of whose estate a stay order is in operation has, pursuant to subsection one of this section, made an application for assistance, the powers conferred by the succeeding provisions of this section may be exercised at any time after action in accordance with that subsection is completed and all appeals (if any) under that subsection have been determined, and before the removal or expiry of the stay order.

40 (3)



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5 (3) The Board may, notwithstanding  
anything in any mortgage, charge or lien over  
any land of the farmer, direct that the time for  
payment of the whole or any part of a debt  
and/or liability of the farmer secured by such  
mortgage, charge or lien shall be extended for  
such period, not exceeding five years from the  
date of removal or expiry of the stay order as  
10 the Board may determine, upon the terms that  
interest shall be payable thereon at the rate  
specified in the mortgage, charge or lien or at  
the rate of five per centum per annum, whichever  
is the less:

15 Provided that the Board may, if it thinks fit,  
extend the time for payment of any interest  
which may accrue due within the period of six  
months from the date of removal or expiry of  
the stay order for a period not exceeding  
twelve months from that date:

20 Provided further that the amount of a debt  
and/or liability the time for payment of which  
may be extended under this subsection shall not  
exceed the assessed secured value thereof as  
ascertained in accordance with paragraph (f)  
25 of subsection one of this section.

(4) (a) The Board may direct that a  
mortgage, charge or lien over any property or  
assets of the farmer may, notwithstanding  
anything in the mortgage, charge or lien, be dis-  
charged by payment by or on behalf of the  
30 farmer at any time within three years after the  
date of the direction, of an amount equal to the  
assessed secured value of the debt and/or  
liability secured by such mortgage, charge or  
lien, together with interest accrued thereon as  
35 ascertained in accordance with paragraph (f)  
of subsection one of this section.

(b) Where the Board has, pursuant  
to subsection three of this section, directed that  
40 the time for payment of part of a debt and/or  
liability of the farmer (being an amount less  
than



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5 than the assessed secured value of that debt  
and/or liability together with interest as ascer-  
tained in accordance with paragraph (f) of sub-  
section one of this section) shall be extended,  
the Board shall also direct that the balance  
of such assessed secured value and such  
interest may, notwithstanding anything in  
the mortgage, charge or lien, be satisfied  
10 by payment by or on behalf of the  
farmer at any time within three years after  
the date of the direction of an amount equal  
to such balance, together with interest as ascer-  
tained in accordance with paragraph (f) of  
subsection one of this section accrued to the  
15 date of payment.

(5) (a) The Director shall forthwith  
register every direction given by the Board  
under subsections three and four of this section  
in the office of the Registrar-General in the  
20 Register of Causes, Writs and Orders affecting  
land and shall lodge with the Registrar-General  
a caveat against any dealings not consistent with  
such direction, in respect of any mortgage,  
charge or lien affected by the direction over any  
25 land which is under the provisions of the Real  
Property Act, 1900.

(b) Every such direction shall be  
void as against a person dealing with any mort-  
gage, charge or lien affected by the direction  
30 unless the same is registered in the Register of  
Causes, Writs and Orders affecting land and  
in the case of a mortgage, charge or lien over  
land under the provisions of the Real Property  
Act, 1900, unless a caveat has been lodged pur-  
35 suant to paragraph (a) of this subsection.

(6) The Board may direct that any  
unsecured debt and/or liability of the farmer  
(including any such debt and/or liability as is  
deemed to be an unsecured liability under para-  
40 graph (c) of subsection one of this section) may  
at any time within three years from the date of  
the



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5 the direction be satisfied by payment by or on behalf of the farmer of an amount equal to that proportion thereof which under paragraph (g) of subsection one of this section is deemed to be a conditioned liability.

10 (7) Any discharge or satisfaction of the whole or any part of a debt and/or liability effected under this section shall to the extent of such discharge or satisfaction release the farmer from any liability accrued or to accrue to any third party who has guaranteed the payment by the farmer of the whole or any part of such debt and/or liability.

15 (8) A notice of every direction of the Board under this section shall be served by post on the creditor and the farmer and every such direction shall be binding upon the creditor and the farmer. Any payment by or on behalf of the farmer in accordance with any such direction, made within a period of three years from the date of the direction, shall operate as a full and complete discharge to the farmer of the debt and/or liability or of the part thereof to which the direction applies.

25 (9) If upon due tender to a creditor by or on behalf of a farmer of any payment in accordance with a direction of the Board under this section, the creditor refuses or neglects to accept the same within a period of seven days from the date of the tender, the amount thereof may be paid into the Supreme Court in its equitable jurisdiction and such payment into court shall have the same force and effect as if it were a payment to the creditor.

35 (10) If any creditor upon request in writing by the Board refuses or fails within the time limited in the request to execute any variation or discharge of a mortgage, charge or lien which is necessary to complete any settlement of the debts and/or liabilities of a farmer under  
40 this



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this section, the Board may execute such variation or discharge in the name of and on behalf of the creditor, and such variation or discharge shall have the same force and effect as if it had been executed by the creditor.

A statement contained in any variation or discharge executed by the Board that the same has been executed under and in pursuance of this subsection shall be evidence until the contrary is proved that the Board is authorised by this subsection to execute such variation or discharge.

(11) For the purposes of this section any hire-purchase agreement entered into by the farmer shall be deemed to be a mortgage by the farmer to the owner of the chattel or chattels comprised in the hire-purchase agreement to secure payment of the unpaid rental, hire and/or other moneys accrued or accruing due under the hire-purchase agreement.

Where in pursuance of any direction or directions given under this section the liability of the farmer in respect of any amounts so deemed to be secured is discharged the property in the chattel or chattels shall vest in the farmer.

In this subsection the expressions "hire-purchase agreement" and "owner" shall have the meanings ascribed thereto respectively in section thirty of this Act.

34ED. The farmer or any creditor of the farmer shall upon a request in writing by the Director produce such documents (including documents of title) and furnish such information and such accounts and writings as the Director may require for any of the purposes of this Division.

Production of documents,  
etc.

Any farmer or creditor to whom such a request has been made who neglects or refuses, without reasonable excuse, to comply with the request within the time limited therein shall be guilty of an offence against this Act.



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5 34ED. (1) If the Board is satisfied that a farmer to whom any of the provisions of this Division apply will have a reasonable prospect of continuing and carrying on his farming operations successfully if any settlement of his debts and/or liabilities under this Division is concluded or put into effect, it may for the purpose of granting the assistance applied for direct the Rural Bank to make an advance to the farmer for the purpose of discharging either wholly or in part any of the debts and/or liabilities of the farmer. Grant of assistance.

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

15 (3) The Rural Bank shall make any advance which the Board may direct under subsection one of this section.

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

DIVISION 3.—*Provisions applicable to all adjustments.*

25 (d) by inserting after section 34F the following section:— New sec. 34FA.

30 34FA. (1) If any creditor of the farmer is a trustee such creditor shall not be deemed guilty of any breach of trust by reason only of his joining in any composition or scheme of arrangement for the satisfaction in whole or in part Creditor trustee.



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part of the debts and/or liabilities of the farmer.

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

## PART V.

## GENERAL.

10 **10.** (1) Any alteration of the law by this Act, whether Savings.  
by the repeal of an enactment or otherwise, shall not, cf. Act No.  
unless otherwise expressly provided by this Act, affect— 14, 1925, s. 4.

- (a) any right accrued, or obligation incurred, before the commencement of this Act under the law so altered;
- 15 (b) the validity or invalidity, or any operation, effect or consequence, of any instrument executed or made, or of anything done or suffered before the commencement of this Act;
- 20 (c) any action, proceeding or thing pending or uncompleted at the commencement of this Act.

(2) Every such action, proceeding and thing may be carried on and completed as if the enactment had not been repealed, or the law otherwise altered.

25 (3) The generality of this section shall not be affected by any saving in any other section of this Act, nor shall this section limit any saving in the Interpretation Act of 1897.

30 **11.** During such time as any right or remedy of any creditor of a farmer against such farmer is, by reason of this Act, suspended or postponed, time shall not run against such creditor under the provisions of any Statute of Limitations so as to bar any right or remedy of such creditor against such farmer or any person who has guaranteed the payment by such farmer of any  
35 moneys or the performance by such farmer of any obligation.

Statutes  
of Limitations  
not to run.  
cf. Act No.  
57, 1932,  
s. 46c.



*Farmers' Relief (Amendment).*

**12.** (1) No amendment of the Farmers' Relief Act, 1932, made by any subsequent Act (including 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 or to the Rural Reconstruction Board in pursuance of section thirteen of that Act, whether as originally enacted or as amended from time to time.

Parties to certain bonds not to be released.

(2) A reference in any such bond executed before the commencement of this Act to the Farmers' Relief Act, 1932, or to the Farmers' Relief Act, 1932-1934, or to the Farmers' Relief Act, 1932-1935, or to the Farmers' Relief Act, 1932-1936, or to the Farmers' Relief Act, 1932-1937, or to the Farmers' Relief Act, 1932-1938, or to the Farmers' Relief Act, 1932-1939, or to the Farmers' Relief Act, 1932-1940, shall as from such commencement be read and construed as a reference to the Farmers' Relief Act, 1932-1941.

(3) The Farmers' Relief (Amendment) Act, 1940, is amended by omitting section five.

Amendment of Act No. 27, 1940.

Sec. 5.  
(Consequential.)

Further amendment of Act No. 33, 1932.  
(Revision.)

**13.** The Principal Act is further amended—

- (a) by omitting from the matter relating to Part IIA in subsection one of section one the figures and letter "34K" and by inserting in lieu thereof the figures and letter "34M";
- (b) by inserting at the end of the matter relating to Part IIA in the same subsection the following new matter:—

DIVISION 1.—*Voluntary adjustments*—ss. 34A-34E.

DIVISION 2.—*Where voluntary adjustment is not concluded*—ss. 34EA-34ED.

DIVISION 3.—*Provisions applicable to all adjustments*—ss. 34F-34M.

PART IIB.—PROTECTION ORDERS—s. 34N.



*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, 9 October, 1941.*

## New South Wales.



ANNO QUINTO

## GEORGII VI REGIS.

\*\*\*\*\*

Act No. , 1941.

An Act to extend the time for the lodgment of applications for stay orders; to remove restrictions on the right to grant stay orders; to provide for the reconstitution of the Rural Reconstruction Board; to make further provision for and in relation to the adjustment of the debts and liabilities of certain farmers; for these and other purposes to amend the Farmers' Relief Act, 1932-1940, and certain other Acts in certain respects; and for purposes connected therewith.



*Farmers' Relief (Amendment).*

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

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Farmers' Relief (Amendment) Act, 1941." Short title and citation.
- 10 (2) The Farmers' Relief Act, 1932-1940, as amended by subsequent Acts, is in this Act referred to as the Principal Act.
- (3) The Principal Act, as amended by this Act, may be cited as the Farmers' Relief Act, 1932-1941.
- 15 2. This Act is divided into Parts, as follows :— Division into Parts.
  - PART I.—PRELIMINARY—ss. 1, 2.
  - PART II.—STAY ORDERS AND DISCLAIMERS—s. 3.
  - PART III.—RECONSTITUTION OF THE RURAL RECONSTRUCTION BOARD—ss. 4-7.
  - 20 PART IV.—DEBTS ADJUSTMENT—ss. 8, 9.
  - PART V.—GENERAL—ss. 10-13.

PART II.

STAY ORDERS AND DISCLAIMERS.

3. (1) The Principal Act is amended— Amendment of Act No. 33, 1932. Sec. 8. (Stay orders.)
  - 25 (a) (i) by omitting from subsection one of section eight the words "the first day of April, one thousand nine hundred and thirty-six, and any farmer who proposes to make application to the Board under section 34A of this Act for assistance may at any time before";
  - 30 (ii) by omitting from subsection three of the same section the words "in respect of any farmer who has filed within the time specified in this subsection in the office of the Board a notice in or to the effect of the prescribed form disclaiming the benefits of
  - 35 this



*Farmers' Relief (Amendment).*

- this Act, which notice has not been withdrawn in accordance with subsection (3c) of this section, nor";
- 5 (iii) by omitting from the same subsection all words after the words "amending, consolidating, or replacing the same";
- (iv) by omitting subsection (3A) of the same section;
- 10 (v) by omitting subsection (3c) of the same section.
- (b) by omitting from subsection eleven of section nine the words and figures "Farmers' Relief (Amendment) Act, 1940" and by inserting in lieu thereof the following words and figures
- 15 "Farmers' Relief (Amendment) Act, 1941."
- (2) The amendments made by subsection one of this section shall not affect the validity or invalidity or any operation, effect or consequence of any stay order granted before the commencement of this Part.
- 20 (3) Any notice of disclaimer which was executed before the commencement of this Part, shall, as from such commencement, be void and of no effect.

PART III.

RECONSTITUTION OF THE RURAL RECONSTRUCTION BOARD.

- 25 4. This Part shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette. Commencement of Part III.
5. (1) Upon the commencement of this Part the body corporate constituted by section seven of the Principal
- 30 Act shall be reconstituted and shall consist of seven members. Reconstitution of the Rural Reconstruction Board.
- (2) Nothing contained in this Act shall prejudice or affect the continuity of such body corporate, but the same shall continue notwithstanding the provisions of
- 35 this Part.

(3)



*Farmers' Relief (Amendment).*

(3) The amendments made to the Principal Act by section six of this Act and the provisions of subsection one of this section shall not affect any property, powers, rights, authorities, duties, functions, liabilities  
 5 or obligations of the said body corporate or the appointment of the Director or the deputy director or of the members of the body corporate referred to in paragraphs (a) and (b) of section seven of this Act, or render defective any legal or other proceedings instituted or to be  
 10 instituted by or against the body corporate.

(4) The body corporate aforesaid shall continue notwithstanding that there are at any time or times vacancies in the offices of all the members of the body corporate or of any one or more of them.

15 6. The Principal Act is further amended—

Further  
 amendment of  
 Act No. 33,  
 1932.

(a) (i) by omitting from subsection one of section seven the words "of five persons" and by inserting in lieu thereof the words "of  
 seven persons";

Sec. 7.  
 (The Board.)

20 (ii) by omitting from subsection two of the same section the words "other four members" and by inserting in lieu thereof the words "remaining members";

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

(2A) Of the members so appointed—

(a) one shall be representative of the Crown as creditor of farmers;

30 (b) one shall be representative of creditors of farmers, other than the Crown;

(c) one shall be a person having a general knowledge and experience of farming, agricultural, horticultural and grazing operations and shall be representative of farmers generally;

35 (d) one shall be a person having special knowledge of agricultural operations and mixed farming and  
 40 shall



*Farmers' Relief (Amendment).*

shall be representative of farmers engaged in agricultural operations and mixed farming;

5

(e) one shall be a person having special knowledge of grazing operations and shall be representative of farmers engaged in grazing operations;

10

(f) one shall be a person having special knowledge of dairy farming and other types of farming not falling within any of the classes referred to in paragraphs (d) and (e) of this subsection and shall be representative of farmers engaged in dairy farming and such other types of farming.

15

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The members referred to in paragraphs (a) and (b) of this subsection are in this Act hereinafter referred to as "creditors' representatives."

25

The members referred to in paragraphs (c), (d), (e) and (f) of this subsection are in this Act hereinafter referred to as "farmers' representatives."

30

(2B) (a) The members referred to in paragraphs (a), (b) and (c) of subsection (2A) of this section shall be entitled to be present and to vote at any meeting of the Board.

35

(b) Only one of the members referred to in paragraphs (d), (e) and (f) of subsection (2A) of this section shall be entitled to be present and to vote at any one meeting of the Board.

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The member who shall be so entitled to be present and to vote at any particular meeting of the Board shall be such one of those members as the Director may nominate in the notice convening the meeting.

In



*Farmers' Relief (Amendment).*

In making any such nomination the Director shall have regard to the matters to be submitted for consideration at the meeting.

- 5 (iv) by inserting in subsection three of the same section after the word "Board" where firstly occurring the words "(of whom at least one shall be a creditors' representative and at least one shall be a farmers' representative)";

- 10 (b) (i) by inserting at the end of paragraph one of the Schedule the words "and who shall be representative of the same interests as his predecessor, and (where special qualifications are prescribed by this Act for such a representative) shall have the qualifications so prescribed";

- 15 (ii) by omitting from paragraph two of the Schedule the word "member" and by inserting in lieu thereof the words "or more members";

- 20 (iii) by inserting at the end of subparagraph one of paragraph eleven of the Schedule the following new paragraph:—

- 25 (g) the nomination of any farmers' representative at any meeting of the Board.

7. Upon the commencement of this Part the following provisions shall have effect:—

- 30 (a) Charles Alfred Le Maistre Walker, Esquire, C.B.E., shall continue to hold office as a member of the Board for the balance of the term for which he was appointed by the Governor in pursuance of an Executive Council Minute approved upon the twenty-second day of November, one thousand nine hundred and thirty-nine, and shall, as from such commencement, be deemed to have been appointed as member representative of creditors of farmers,

other

Office of  
certain  
members.



*Farmers' Relief (Amendment).*

- other than the Crown, and shall, upon the expiration of that term be eligible for reappointment under the Principal Act as amended by this Act.
- 5 (b) Ernest Field, Esquire, shall continue to hold office as a member of the Board for the balance of the term for which he was appointed by the Governor in pursuance of an Executive Council Minute approved upon the twenty-second day of November, one thousand nine hundred and
- 10 thirty-nine, and shall, as from such commencement, be deemed to have been appointed as member representative of farmers generally, and shall, upon the expiration of that term be eligible for reappointment under the Principal
- 15 Act as amended by this Act.
- (c) The remaining members of the Board (other than the Director) shall cease to hold office as such, but shall be eligible for reappointment under the Principal Act as amended by this Act.

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PART IV.

DEBTS ADJUSTMENT.

8. This Part shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Commencement of Part IV.

25 9. The Principal Act is further amended—

Further amendment of Act No. 33, 1932.

- (a) by inserting in Part IIA after the heading "Farmers' Debts Adjustment," the following sub-heading:—

Part IIA.  
(Debts adjustment.)

DIVISION 1.—*Voluntary adjustments.*

- 30 (b) by omitting sections 34A, 34B, 34C and 34D and by inserting in lieu thereof the following new sections:—

Subst. secs. 34A-34D.

- 35 34A. A farmer may at any time and from time to time make application in writing to the Board for assistance to effect a composition or scheme

Application for assistance to effect composition or scheme of arrangement.



*Farmers' Relief (Amendment).*

scheme of arrangement with his creditors or any of them in satisfaction in whole or in part of his debts and/or liabilities whether secured or unsecured.

5 34B. The farmer shall, upon a request in writing by the Board in that behalf, furnish such information and such accounts, documents and writings as the Board may require for the purpose of considering such application. Information to be furnished.

10 34c. (1) The Board shall, on receipt of an application, consider whether the applicant will have a reasonable prospect of continuing and carrying on his farming operations successfully if a composition or scheme of arrangement with his creditors or any of them is concluded or put into effect. Consideration of application by Board.

15 (2) If the Board is of the opinion that the applicant has such a prospect it shall proceed with the application. If it is not of that opinion it shall dismiss the application.

20 34d. If the Board decides to proceed with the application it shall consider any proposal for a composition or scheme of arrangement submitted by the farmer or by the Director with the concurrence of the farmer and may approve of the same as submitted or may suggest such amendments to the proposal as it thinks fit and may thereafter approve of any amended proposal. Approval by Board.

25 (c) by inserting after section 34E the following new sub-headings and sections:—

DIVISION 2.—*Where voluntary adjustment is not concluded.*

35 34EA. Where a farmer has made application to the Board under section 34A of this Act (whether as originally enacted or as substituted or amended from time to time) for assistance and a proposal for a composition or scheme of arrangement has been approved pursuant to this Part, and a majority in number and value of the unsecured Where majority of unsecured creditors assent.

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*Farmers' Relief (Amendment).*

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unsecured creditors of the farmer (in this section hereinafter referred to as "assenting creditors") have signified their assent to the composition or scheme of arrangement and have given undertakings in writing to execute releases of their debts and/or liabilities upon receipt of the amount agreed to be paid to them in the composition or scheme of arrangement, the following provisions shall have effect:—

- 5
- 10 (a) For the purpose of calculating a majority of creditors under this section, account shall be taken only of those creditors of whom the Board has notice, joint creditors shall count as one creditor, and any
- 15 creditor whose debt or liability is less than ten pounds shall count for value but not for number.
- 20 (b) The Director may, by notice served personally or by post upon any unsecured creditor who is not an assenting creditor, submit a proposal for the discharge of the debt and/or liability of the farmer to such creditor in accordance with the composition or scheme of arrangement. If such
- 25 creditor fails or refuses to signify his assent to such proposal within a period of fourteen days after the date of service of the notice, or if, upon tender to him of the amount payable under such proposal the creditor neglects or refuses
- 30 to execute a release of his debt and/or liability, then the Board may direct that such debt and/or liability may be discharged by payment by or on behalf of the farmer of such amount at any time
- 35 within three years after the date of the direction.
- 40 (c) Notice of any such direction shall be served by post on the farmer and the creditor to whom the direction relates, and such direction shall be binding upon such creditor.
- (d)



*Farmers' Relief (Amendment).*

- (d) Where notice of a direction of the Board under this section has been served on a creditor of the farmer, payment to such creditor by or on behalf of the farmer of the amount referred to in such direction within a period of three years from the date of the direction shall operate as a full and complete discharge to the farmer of the debt and/or liability to which the direction relates.
- (e) Any discharge of a debt and/or liability effected under this section shall to the extent of such discharge release the farmer from any liability accrued or to accrue to any third party who has guaranteed the payment by the farmer of the whole or any part of such debt and/or liability.
- (f) If upon due tender to a creditor by or on behalf of a farmer of payment of the amount referred to in a direction of the Board under this section, the creditor refuses or neglects to accept the same within a period of seven days from the date of the tender, the amount may be paid into the Supreme Court in its equitable jurisdiction and such payment into court shall have the same force and effect as if it were a payment to the creditor.
- 34EB. (1) (a) Where a farmer in respect of whose estate a stay order is in operation is informed by the Board that it is satisfied that a voluntary composition or scheme of arrangement in satisfaction of his debts and/or liabilities cannot be concluded, the farmer may at any time and from time to time during the operation of the stay order apply to the Board for assistance to effect a settlement of his debts and/or liabilities under this section.
- (b) The Board may thereupon appoint a date to proceed with the application and

Application  
for assistance  
where  
voluntary  
adjustment  
not concluded.



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*Farmers' Relief (Amendment).*

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and shall as at that date (hereinafter referred to as the "date of the assessment") assess the value of the farmer's property and assets and the amount and value of his debts and/or liabilities, both secured and unsecured, including all interest accrued at or accruing due to the date of the assessment.

(c) In so far as the debts and/or liabilities secured by one or more mortgages, charges or liens over any property of the farmer exceed the assessed value of the property subject to such mortgages, charges or liens respectively, the amount of such excess shall for the purposes of this section be deemed to be unsecured and so much of every debt and/or liability as forms part of such excess shall from the date of the assessment be deemed to be an unsecured liability and the creditor shall be deemed to be an unsecured creditor in respect thereof.

(d) Where repayment of any debt and/or liability of the farmer to a creditor has been guaranteed as to the whole or part by any person any security given by the farmer to the guarantor over any of his property or assets in respect of the guarantor's liability under the guarantee shall for the purposes of this section be deemed to be a security in the hands of the creditor for so much of the debt and/or liability as is covered by the guarantee.

(e) In determining the amounts of the respective secured debts and/or liabilities that are to be deemed to be unsecured liabilities the Board shall give effect to the respective priorities of the mortgages, charges and liens securing such debts and/or liabilities and shall, in the case of any holding under any Act relating to the alienation of lands of the Crown where such holding is the subject of a mortgage, charge or lien to the Rural Bank, have regard to the provisions of section sixty-nine of the Government Savings Bank Act, 1906, as amended



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*Farmers' Relief (Amendment).*

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5 amended by subsequent Acts, and for the purpose of such determination no outstanding arrears of instalments or rents due to the Crown in respect of such holding shall be taken into account save one year's instalment or rent, as the case may be.

10 (f) (i) For the purposes of this section the assessed secured value of a debt and/or liability secured by any mortgage, charge or lien over any property or assets of the farmer shall be the amount of such debt and/or liability which is not deemed to be an unsecured liability under paragraph (c) of this subsection.

15 (ii) Such amount shall carry interest from the date of the assessment at the rate provided by the mortgage, charge or lien or at the rate of five per centum per annum whichever is the less.

20 (g) If the total value of the farmer's property and assets as assessed by the Board exceeds in amount the total of such debts and/or liabilities of the farmer as are secured by any mortgage, charge or lien after deducting therefrom such parts of such secured debts and/or liabilities as are deemed to be unsecured  
25 liabilities under paragraph (c) of this subsection such proportions of each and every unsecured debt and/or liability of the farmer (including such part of every secured debt and/or liability  
30 as is deemed to be an unsecured liability under the said paragraph) as when added together shall equal the amount of the excess in this paragraph referred to shall be deemed to be conditioned liabilities.

35 (h) For the purposes of this section the assessed value of an unsecured debt and/or liability (including such part of every secured debt and/or liability as is deemed to be an unsecured liability under paragraph (c) of this  
40 subsection) shall be that proportion thereof which by paragraph (g) of this subsection is deemed to be a conditioned liability. (i)



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*Farmers' Relief (Amendment).*

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5 (i) The Board may at any time and from time to time review any assessment made under this subsection and make such alterations therein and in the amounts deemed to be unsecured liabilities or conditioned liabilities as it thinks fit.

10 (j) Notice of every assessment or subsequent variation thereof shall be sent by post to the farmer and to every creditor of the farmer of whose debt the Board has notice.

15 (k) Any creditor or farmer may appeal to the local land board against any assessment by the Board of the value of the property and assets of the farmer.

(l) The local land board shall have jurisdiction to hear and determine such appeal and its decision thereon shall be final.

20 (m) The time within which the appeal may be made and the procedure before the local land board shall be as prescribed by regulations under the Crown Lands Consolidation Act, 1913.

(n) No costs shall be allowed to any party on any such appeal.

25 (o) If on any such appeal a valuation by the Board is varied the Board shall forthwith amend the assessment and send notice of such amendment to each creditor of whom the Board has notice.

30 (2) Where a farmer in respect of whose estate a stay order is in operation has, pursuant to subsection one of this section, made an application for assistance, the powers conferred by the succeeding provisions of this section may be exercised at any time after action in accordance with that subsection is completed and all appeals (if any) under that subsection have been determined, and before the removal or expiry of the stay order.

40 (3) The Board may, notwithstanding anything in any mortgage, charge or lien over any



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*Farmers' Relief (Amendment).*

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5 any land of the farmer, direct that the time for  
payment of the whole or any part of a debt  
and/or liability of the farmer secured by such  
mortgage, charge or lien shall be extended for  
such period, not exceeding five years from the  
date of removal or expiry of the stay order as  
the Board may determine, upon the terms that  
interest shall be payable thereon at the rate  
specified in the mortgage, charge or lien or at  
10 the rate of five per centum per annum, whichever  
is the less:

15 Provided that the Board may, if it thinks fit,  
extend the time for payment of any interest  
which may accrue due within the period of six  
months from the date of removal or expiry of  
the stay order for a period not exceeding  
twelve months from that date:

20 Provided further that the amount of a debt  
and/or liability the time for payment of which  
may be extended under this subsection shall not  
exceed the assessed secured value thereof as  
ascertained in accordance with paragraph (f)  
of subsection one of this section.

25 (4) (a) The Board may direct that a  
mortgage, charge or lien over any property or  
assets of the farmer may, notwithstanding  
anything in the mortgage, charge or lien, be dis-  
charged by payment by or on behalf of the  
farmer at any time within three years after the  
30 date of the direction, of an amount equal to the  
assessed secured value of the debt and/or  
liability secured by such mortgage, charge or  
lien, together with interest accrued thereon as  
ascertained in accordance with paragraph (f)  
35 of subsection one of this section.

(b) Where the Board has, pursuant  
to subsection three of this section, directed that  
the time for payment of part of a debt and/or  
liability of the farmer (being an amount less  
40 than the assessed secured value of that debt  
and/or



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*Farmers' Relief (Amendment).*

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5 and/or liability together with interest as ascer-  
tained in accordance with paragraph (f) of sub-  
section one of this section) shall be extended,  
the Board shall also direct that the balance  
of such assessed secured value and such  
interest may, notwithstanding anything in  
the mortgage, charge or lien, be satisfied  
by payment by or on behalf of the  
farmer at any time within three years after  
10 the date of the direction of an amount equal  
to such balance, together with interest as ascer-  
tained in accordance with paragraph (f) of  
subsection one of this section accrued to the  
date of payment.

15 (5) (a) The Director shall forthwith  
register every direction given by the Board  
under subsections three and four of this section  
in the office of the Registrar-General in the  
Register of Causes, Writs and Orders affecting  
20 land and shall lodge with the Registrar-General  
a caveat against any dealings not consistent with  
such direction, in respect of any mortgage,  
charge or lien affected by the direction over any  
land which is under the provisions of the Real  
Property Act, 1900.  
25

(b) Every such direction shall be  
void as against a person dealing with any mort-  
gage, charge or lien affected by the direction  
unless the same is registered in the Register of  
30 Causes, Writs and Orders affecting land and  
in the case of a mortgage, charge or lien over  
land under the provisions of the Real Property  
Act, 1900, unless a caveat has been lodged pur-  
suant to paragraph (a) of this subsection.

35 (6) The Board may direct that any  
unsecured debt and/or liability of the farmer  
(including any such debt and/or liability as is  
deemed to be an unsecured liability under para-  
graph (c) of subsection one of this section) may  
40 at any time within three years from the date of  
the



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*Farmers' Relief (Amendment).*

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the direction be satisfied by payment by or on behalf of the farmer of an amount equal to that proportion thereof which under paragraph (g) of subsection one of this section is deemed to be a conditioned liability.

(7) Any discharge or satisfaction of the whole or any part of a debt and/or liability effected under this section shall to the extent of such discharge or satisfaction release the farmer from any liability accrued or to accrue to any third party who has guaranteed the payment by the farmer of the whole or any part of such debt and/or liability.

(8) A notice of every direction of the Board under this section shall be served by post on the creditor and the farmer and every such direction shall be binding upon the creditor and the farmer. Any payment by or on behalf of the farmer in accordance with any such direction, made within a period of three years from the date of the direction, shall operate as a full and complete discharge to the farmer of the debt and/or liability or of the part thereof to which the direction applies.

(9) If upon due tender to a creditor by or on behalf of a farmer of any payment in accordance with a direction of the Board under this section, the creditor refuses or neglects to accept the same within a period of seven days from the date of the tender, the amount thereof may be paid into the Supreme Court in its equitable jurisdiction and such payment into court shall have the same force and effect as if it were a payment to the creditor.

(10) If any creditor upon request in writing by the Board refuses or fails within the time limited in the request to execute any variation or discharge of a mortgage, charge or lien which is necessary to complete any settlement of the debts and/or liabilities of a farmer under this



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*Farmers' Relief (Amendment).*

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this section, the Board may execute such variation or discharge in the name of and on behalf of the creditor, and such variation or discharge shall have the same force and effect as if it had been executed by the creditor.

A statement contained in any variation or discharge executed by the Board that the same has been executed under and in pursuance of this subsection shall be evidence until the contrary is proved that the Board is authorised by this subsection to execute such variation or discharge.

(11) For the purposes of this section any hire-purchase agreement entered into by the farmer shall be deemed to be a mortgage by the farmer to the owner of the chattel or chattels comprised in the hire-purchase agreement to secure payment of the unpaid rental, hire and/or other moneys accrued or accruing due under the hire-purchase agreement.

Where in pursuance of any direction or directions given under this section the liability of the farmer in respect of any amounts so deemed to be secured is discharged the property in the chattel or chattels shall vest in the farmer.

In this subsection the expressions "hire-purchase agreement" and "owner" shall have the meanings ascribed thereto respectively in section thirty of this Act.

34EC. The farmer or any creditor of the farmer shall upon a request in writing by the Director produce such documents (including documents of title) and furnish such information and such accounts and writings as the Director may require for any of the purposes of this Division.

Production of documents, etc.

Any farmer or creditor to whom such a request has been made who neglects or refuses, without reasonable excuse, to comply with the request within the time limited therein shall be guilty of an offence against this Act.



*Farmers' Relief (Amendment).*

34ED. (1) If the Board is satisfied that a farmer to whom any of the provisions of this Division apply will have a reasonable prospect of continuing and carrying on his farming operations successfully if any settlement of his debts and/or liabilities under this Division is concluded or put into effect, it may for the purpose of granting the assistance applied for direct the Rural Bank to make an advance to the farmer for the purpose of discharging either wholly or in part any of the debts and/or liabilities of the farmer.

Grant of assistance.

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

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

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

DIVISION 3.—*Provisions applicable to all adjustments.*

(d) by inserting after section 34F the following section:—

New sec. 34FA.

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

Creditor trustee.



*Farmers' Relief (Amendment).*

part of the debts and/or liabilities of the farmer.

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

## PART V.

## GENERAL.

- 10 **10.** (1) Any alteration of the law by this Act, whether by the repeal of an enactment or otherwise, shall not, unless otherwise expressly provided by this Act, affect—

- (a) any right accrued, or obligation incurred, before the commencement of this Act under the law so altered;
- 15 (b) the validity or invalidity, or any operation, effect or consequence, of any instrument executed or made, or of anything done or suffered before the commencement of this Act;
- 20 (c) any action, proceeding or thing pending or uncompleted at the commencement of this Act.

(2) Every such action, proceeding and thing may be carried on and completed as if the enactment had not been repealed, or the law otherwise altered.

- 25 (3) The generality of this section shall not be affected by any saving in any other section of this Act, nor shall this section limit any saving in the Interpretation Act of 1897.

- 11.** During such time as any right or remedy of any creditor of a farmer against such farmer is, by reason of this Act, suspended or postponed, time shall not run against such creditor under the provisions of any Statute of Limitations so as to bar any right or remedy of such creditor against such farmer or any person who has guaranteed the payment by such farmer of any moneys or the performance by such farmer of any obligation.

Savings.  
cf. Act No.  
14, 1925, s. 4.

Statutes  
of Limitations  
not to run.  
cf. Act No.  
57, 1932,  
s. 46c.



*Farmers' Relief (Amendment).*

12. (1) No amendment of the Farmers' Relief Act, 1932, made by any subsequent Act (including 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 or to the Rural Reconstruction Board in pursuance of section thirteen of that Act, whether as originally enacted or as amended from time to time.

Parties to certain bonds not to be released.

(2) A reference in any such bond executed before the commencement of this Act to the Farmers' Relief Act, 1932, or to the Farmers' Relief Act, 1932-1934, or to the Farmers' Relief Act, 1932-1935, or to the Farmers' Relief Act, 1932-1936, or to the Farmers' Relief Act, 1932-1937, or to the Farmers' Relief Act, 1932-1938, or to the Farmers' Relief Act, 1932-1939, or to the Farmers' Relief Act, 1932-1940, shall as from such commencement be read and construed as a reference to the Farmers' Relief Act, 1932-1941.

(3) The Farmers' Relief (Amendment) Act, 1940, is amended by omitting section five.

Amendment of Act No. 27, 1940.  
Sec. 5.  
(Consequential.)  
Further amendment of Act No. 33, 1932.  
(Revision.)

13. The Principal Act is further amended—

(a) by omitting from the matter relating to Part IIA in subsection one of section one the figures and letter "34K" and by inserting in lieu thereof the figures and letter "34M";

(b) by inserting at the end of the matter relating to Part IIA in the same subsection the following new matter:—

DIVISION 1.—*Voluntary adjustments*—ss. 34A-34E.

DIVISION 2.—*Where voluntary adjustment is not concluded*—ss. 34EA-34ED.

DIVISION 3.—*Provisions applicable to all adjustments*—ss. 34F-34M.

PART IIB.—*PROTECTION ORDERS*—s. 34N.



No. , 1941.

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## A BILL

To extend the time for the lodgment of applications for stay orders; to remove restrictions on the right to grant stay orders; to provide for the reconstitution of the Rural Reconstruction Board; to make further provision for and in relation to the adjustment of the debts and liabilities of certain farmers; for these and other purposes to amend the Farmers' Relief Act, 1932-1940, and certain other Acts in certain respects; and for purposes connected therewith.

[MR. TULLY;—19 *August*, 1941.]

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*Farmers' Relief (Amendment).*

**B**E 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 :—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Farmers' Relief Short title and citation.  
(Amendment) Act, 1941."
- 10 (2) The Farmers' Relief Act, 1932-1940, as amended  
by subsequent Acts, is in this Act referred to as the  
Principal Act.  
(3) The Principal Act, as amended by this Act,  
may be cited as the Farmers' Relief Act, 1932-1941.
- 15 2. This Act is divided into Parts, as follows :— Division into Parts.  
PART I.—PRELIMINARY—ss. 1, 2.  
PART II.—STAY ORDERS AND DISCLAIMERS—s. 3.  
PART III.—RECONSTITUTION OF THE RURAL RECON-  
STRUCTION BOARD—ss. 4-7.
- 20 PART IV.—DEBTS ADJUSTMENT—ss. 8, 9.  
PART V.—GENERAL—ss. 10-12.

PART II.

STAY ORDERS AND DISCLAIMERS.

3. (1) The Principal Act is amended— Amendment of Act No. 33, 1932.  
Sec. 8.  
(Stay orders.)  
25 (a) (i) by omitting from subsection one of section  
eight the words "the first day of April, one  
thousand nine hundred and thirty-six, and  
any farmer who proposes to make appli-  
cation to the Board under section 34A of this  
Act for assistance may at any time before";  
30 (ii) by omitting from subsection three of the  
same section the words "in respect of any  
farmer who has filed within the time  
specified in this subsection in the office of  
the Board a notice in or to the effect of the  
35 prescribed form disclaiming the benefits of  
this



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*Farmers' Relief (Amendment).*

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- this Act, which notice has not been withdrawn in accordance with subsection (3c) of this section, nor";
- 5 (iii) by omitting from the same subsection all words after the words "amending, consolidating, or replacing the same";
- (iv) by omitting subsection (3A) of the same section;
- 10 (v) by omitting subsection (3c) of the same section.
- (b) by omitting from subsection eleven of section nine the words and figures "Farmers' Relief (Amendment) Act, 1940" and by inserting in lieu thereof the following words and figures "Farmers' Relief (Amendment) Act, 1941." Sec. 9. (Form and effect of stay order.)
- 15 (2) The amendments made by subsection one of this section shall not affect the validity or invalidity or any operation, effect or consequence of any stay order granted before the commencement of this Part.
- 20 (3) Any notice of disclaimer which was executed before the commencement of this Part, shall, as from such commencement, be void and of no effect.

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PART III.

RECONSTITUTION OF THE RURAL RECONSTRUCTION BOARD.

- 25 **4.** This Part shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette. Commencement of Part III.
- 5.** (1) Upon the commencement of this Part the body corporate constituted by section seven of the Principal Act shall be reconstituted and shall consist of seven members. Reconstitution of the Rural Reconstruction Board.
- 30 (2) Nothing contained in this Act shall prejudice or affect the continuity of such body corporate, but the same shall continue notwithstanding the provisions of this Part.

(3)



*Farmers' Relief (Amendment).*

(3) The amendments made to the Principal Act by section six of this Act and the provisions of subsection one of this section shall not affect any property, powers, rights, authorities, duties, functions, liabilities or obligations of the said body corporate or the appointment of the Director or the deputy director or of the members of the body corporate referred to in paragraphs (a) and (b) of section seven of this Act, or render defective any legal or other proceedings instituted or to be instituted by or against the body corporate.

(4) The body corporate aforesaid shall continue notwithstanding that there are at any time or times vacancies in the offices of all the members of the body corporate or of any one or more of them.

15 **6.** The Principal Act is further amended—

Further  
amendment of  
Act No. 33,  
1932.  
Sec. 7.  
(The Board.)

- (a) (i) by omitting from subsection one of section seven the words “of five persons” and by inserting in lieu thereof the words “of seven persons”;
- 20 (ii) by omitting from subsection two of the same section the words “other four members” and by inserting in lieu thereof the words “remaining members”;
- 25 (iii) by inserting next after the same subsection the following new subsections:—
  - (2A) Of the members so appointed—
    - (a) one shall be representative of the Crown as creditor of farmers;
    - 30 (b) one shall be representative of creditors of farmers, other than the Crown;
    - (c) one shall be a person having a general knowledge and experience of farming and shall be representative of farmers generally;
    - 35 (d) one shall be a person having special knowledge of agricultural operations and mixed farming and shall



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*Farmers' Relief (Amendment).*

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shall be representative of farmers engaged in agricultural operations and mixed farming;

5

(e) one shall be a person having special knowledge of grazing operations and shall be representative of farmers engaged in grazing operations;

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(f) one shall be a person having special knowledge of dairy farming and other types of farming not falling within any of the classes referred to in paragraphs (d) and (e) of this subsection and shall be representative of farmers engaged in dairy farming and such other types of farming.

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The members referred to in paragraphs (a) and (b) of this subsection are in this Act hereinafter referred to as "creditors' representatives."

25

The members referred to in paragraphs (c), (d), (e) and (f) of this subsection are in this Act hereinafter referred to as "farmers' representatives."

30

(2B) (a) The members referred to in paragraphs (a), (b) and (c) of subsection (2A) of this section shall be entitled to be present and to vote at any meeting of the Board.

35

(b) Only one of the members referred to in paragraphs (d), (e) and (f) of subsection (2A) of this section shall be entitled to be present and to vote at any one meeting of the Board.

40

The member who shall be so entitled to be present and to vote at any particular meeting of the Board shall be such one of those members as the Director may nominate in the notice convening the meeting.

In



*Farmers' Relief (Amendment).*

In making any such nomination the Director shall have regard to the matters to be submitted for consideration at the meeting.

- 5 (iv) by inserting in subsection three of the same section after the word "Board" where firstly occurring the words "(of whom at least one shall be a creditors' representative and at least one shall be a farmers' representative)";
- 10 (b) (i) by inserting at the end of paragraph one of the Schedule the words "and who shall be representative of the same interests as his predecessor, and (where special qualifications are prescribed by this Act for such a representative) shall have the qualifications so prescribed";
- 15 (ii) by omitting from paragraph two of the Schedule the word "member" and by inserting in lieu thereof the words "or more members";
- 20 (iii) by inserting at the end of subparagraph one of paragraph eleven of the Schedule the following new paragraph:—
- 25 (g) the nomination of any farmers' representative at any meeting of the Board.

7. Upon the commencement of this Part the following provisions shall have effect:—

- 30 (a) Charles Alfred Le Maistre Walker, Esquire, C.B.E., shall continue to hold office as a member of the Board for the balance of the term for which he was appointed by the Governor in pursuance of an Executive Council Minute approved upon the twenty-second day of November, one thousand nine hundred and thirty-nine, and shall, as from such commencement, be deemed to have been appointed as member representative of creditors of farmers,
- 35 other

Office of  
certain  
members.



*Farmers' Relief (Amendment).*

- other than the Crown, and shall, upon the expiration of that term be eligible for reappointment under the Principal Act as amended by this Act.
- 5 (b) Ernest Field, Esquire, shall continue to hold office as a member of the Board for the balance of the term for which he was appointed by the Governor in pursuance of an Executive Council Minute approved upon the twenty-second day of November, one thousand nine hundred and
- 10 thirty-nine, and shall, as from such commencement, be deemed to have been appointed as member representative of farmers generally, and shall, upon the expiration of that term be eligible for reappointment under the Principal
- 15 Act as amended by this Act.
- (c) The remaining members of the Board (other than the Director) shall cease to hold office as such, but shall be eligible for reappointment under the Principal Act as amended by this Act.

20

## PART IV.

## DEBTS ADJUSTMENT.

8. This Part shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Commencement of Part IV.

- 25 9. The Principal Act is further amended—

Further amendment of Act No. 33, 1932.

- (a) by inserting in Part IIA after the heading "Farmers' Debts Adjustment," the following sub-heading:—

Part IIA.  
(Debts adjustment.)DIVISION 1.—*Voluntary adjustments.*

- 30 (b) by omitting sections 34A, 34B, 34C and 34D and by inserting in lieu thereof the following new sections:—

Subst. secs.  
34A-34D.

35

34A. A farmer may at any time and from time to time make application in writing to the Board for assistance to effect a composition or scheme

Application for assistance to effect composition or scheme of arrangement.



*Farmers' Relief (Amendment).*

scheme of arrangement with his creditors or any of them in satisfaction in whole or in part of his debts and/or liabilities whether secured or unsecured.

5        34B. The farmer shall, upon a request in writing by the Board in that behalf, furnish such information and such accounts, documents and writings as the Board may require for the purpose of considering such application. Information to be furnished.

10       34c. (1) The Board shall, on receipt of an application, consider whether the applicant will have a reasonable prospect of continuing and carrying on his farming operations successfully if a composition or scheme of arrangement with his creditors or any of them is concluded or put into effect. Consideration of application by Board.

15       (2) If the Board is of the opinion that the applicant has such a prospect it shall proceed with the application. If it is not of that opinion it shall dismiss the application.

20       34D. If the Board decides to proceed with the application it shall consider any proposal for a composition or scheme of arrangement submitted by the farmer or by the Director with the concurrence of the farmer and may approve of the same as submitted or may suggest such amendments to the proposal as it thinks fit and may thereafter approve of any amended proposal. Approval by Board.

25       (c) by inserting after section 34E the following new sub-headings and sections:—

DIVISION 2.—*Where voluntary adjustment is not concluded.*

30       34EA. Where a farmer has made application to the Board under section 34A of this Act (whether as originally enacted or as substituted or amended from time to time) for assistance and a proposal for a composition or scheme of arrangement has been approved pursuant to this Part, and a majority in number and value of the unsecured Where majority of unsecured creditors assent.

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*Farmers' Relief (Amendment).*

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unsecured creditors of the farmer (in this section hereinafter referred to as "assenting creditors") have signified their assent to the composition or scheme of arrangement and have given undertakings in writing to execute releases of their debts and/or liabilities upon receipt of the amount agreed to be paid to them in the composition or scheme of arrangement, the following provisions shall have effect:—

- 5
- 10 (a) For the purpose of calculating a majority of creditors under this section, account shall be taken only of those creditors of whom the Board has notice, joint creditors shall count as one creditor, and any
- 15 creditor whose debt or liability is less than ten pounds shall count for value but not for number.
- 20 (b) The Director may, by notice served personally or by post upon any unsecured creditor who is not an assenting creditor, submit a proposal for the discharge of the debt and/or liability of the farmer to such creditor in accordance with the composition or scheme of arrangement. If such
- 25 creditor fails or refuses to signify his assent to such proposal within a period of fourteen days after the date of service of the notice, or if, upon tender to him of the amount payable under such proposal the creditor neglects or refuses
- 30 to execute a release of his debt and/or liability, then the Board may direct that such debt and/or liability may be discharged by payment by or on behalf of the farmer of such amount at any time
- 35 within three years after the date of the direction.
- 40 (c) Notice of any such direction shall be served by post on the farmer and the creditor to whom the direction relates, and such direction shall be binding upon such creditor.
- (d)



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*Farmers' Relief (Amendment).*

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- 5 (d) Where notice of a direction of the Board under this section has been served on a creditor of the farmer, payment to such creditor by or on behalf of the farmer of the amount referred to in such direction within a period of three years from the date of the direction shall operate as a full and complete discharge to the farmer of the debt and/or liability to which the direction relates.
- 10 (e) Any discharge of a debt and/or liability effected under this section shall to the extent of such discharge release the farmer from any liability accrued or to
- 15 accrue to any third party who has guaranteed the payment by the farmer of the whole or any part of such debt and/or liability.
- 20 (f) If upon due tender to a creditor by or on behalf of a farmer of payment of the amount referred to in a direction of the Board under this section, the creditor refuses or neglects to accept the same within a period of seven days from the
- 25 date of the tender, the amount may be paid into the Supreme Court in its equitable jurisdiction and such payment into court shall have the same force and effect as if it were a payment to the creditor.
- 30 34EB. (1) (a) Where a farmer in respect of whose estate a stay order is in operation is informed by the Board that it is satisfied that a voluntary composition or scheme of arrangement in satisfaction of his debts and/or liabilities cannot be concluded, the farmer may at any time and from time to time during the operation of the stay order apply to the Board for assistance to effect a settlement of his debts and/or liabilities under this section.
- 35 (b) The Board may thereupon
- 40 appoint a date to proceed with the application and

Application  
for assistance  
where  
voluntary  
adjustment  
not concluded.



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*Farmers' Relief (Amendment).*

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and shall as at that date (hereinafter referred to as the "date of the assessment") assess the value of the farmer's property and assets and the amount and value of his debts and/or liabilities, both secured and unsecured, including all interest accrued at or accruing due to the date of the assessment.

(c) In so far as the debts and/or liabilities secured by one or more mortgages, charges or liens over any property of the farmer exceed the assessed value of the property subject to such mortgages, charges or liens respectively, the amount of such excess shall for the purposes of this section be deemed to be unsecured and so much of every debt and/or liability as forms part of such excess shall from the date of the assessment be deemed to be an unsecured liability and the creditor shall be deemed to be an unsecured creditor in respect thereof.

(d) Where repayment of any debt and/or liability of the farmer to a creditor has been guaranteed as to the whole or part by any person any security given by the farmer to the guarantor over any of his property or assets in respect of the guarantor's liability under the guarantee shall be deemed to be a security in the hands of the creditor for so much of the debt and/or liability as is covered by the guarantee.

(e) In determining the amounts of the respective secured debts and/or liabilities that are to be deemed to be unsecured liabilities the Board shall give effect to the respective priorities of the mortgages, charges and liens securing such debts and/or liabilities and shall, in the case of any holding under any Act relating to the alienation of lands of the Crown where such holding is the subject of a mortgage, charge or lien to the Rural Bank, have regard to the provisions of section sixty-nine of the Government Savings Bank Act, 1906, as amended by subsequent Acts, and for the purpose



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*Farmers' Relief (Amendment).*

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5 purpose of such determination no outstanding arrears of instalments or rents due to the Crown in respect of such holding shall be taken into account save one year's instalment or rent, as the case may be.

10 (f) For the purposes of this section the assessed secured value of a debt and/or liability secured by any mortgage, charge or lien over any property or assets of the farmer shall be the amount of such debt and/or liability which is not deemed to be an unsecured liability under paragraph (c) of this subsection, together with interest on such amount from the date of the assessment at the rate provided by the mortgage, charge or lien or at the rate of five per centum per annum whichever is the less.

20 (g) If the total value of the farmer's property and assets as assessed by the Board exceeds in amount the total of such debts and/or liabilities of the farmer as are secured by any mortgage, charge or lien after deducting therefrom such parts of such secured debts and/or liabilities as are deemed to be unsecured liabilities under paragraph (c) of this subsection  
25 such proportions of each and every unsecured debt and/or liability of the farmer (including such part of every secured debt and/or liability as is deemed to be an unsecured liability under the said paragraph) as when added together  
30 shall equal the amount of the excess in this paragraph referred to shall be deemed to be conditioned liabilities.

35 (h) For the purposes of this section the assessed value of an unsecured debt and/or liability (including such part of every secured debt and/or liability as is deemed to be an unsecured liability under paragraph (c) of this subsection) shall be that proportion thereof which by paragraph (g) of this subsection is  
40 deemed to be a conditioned liability.

(i)



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*Farmers' Relief (Amendment).*

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5 (i) The Board may at any time and from time to time review any assessment made under this subsection and make such alterations therein and in the amounts deemed to be unsecured liabilities or conditioned liabilities as it thinks fit.

10 (j) Notice of every assessment or subsequent variation thereof shall be sent by post to every creditor of the farmer of whose debt the Board has notice.

(k) Any creditor may appeal to the local land board against any assessment by the Board of the value of the property and assets of the farmer.

15 (l) The local land board shall have jurisdiction to hear and determine such appeal and its decision thereon shall be final.

20 (m) The time within which the appeal may be made and the procedure before the local land board shall be as prescribed by regulations under the Crown Lands Consolidation Act, 1913.

(n) No costs shall be allowed to any party on any such appeal.

25 (o) If on any such appeal a valuation by the Board is varied the Board shall forthwith amend the assessment and send notice of such amendment to each creditor of whom the Board has notice.

30 (2) Where a farmer in respect of whose estate a stay order is in operation has, pursuant to subsection one of this section, made an application for assistance, the powers conferred by the succeeding provisions of this section may be exercised at any time after action in accordance with that subsection is completed and all appeals (if any) under that subsection have been determined, and before the removal or expiry of the stay order.

40 (3) The Board may, notwithstanding anything in any mortgage, charge or lien over any



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*Farmers' Relief (Amendment).*

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any land of the farmer, direct that the time for payment of the whole or any part of a debt and/or liability of the farmer secured by such mortgage, charge or lien shall be extended for  
5 such period, not exceeding five years from the date of removal or expiry of the stay order as the Board may determine, upon the terms that interest shall be payable thereon half-yearly at  
10 the rate specified in the mortgage, charge or lien or at the rate of five per centum per annum, whichever is the less:

Provided that the Board may, if it thinks fit, extend the time for payment of the first six months' interest for a period not exceeding six  
15 months:

Provided further that the amount of a debt and/or liability the time for payment of which may be extended under this subsection shall not exceed the assessed secured value thereof as  
20 ascertained in accordance with paragraph (f) of subsection one of this section.

(4) (a) The Board may direct that a mortgage, charge or lien over any property or assets of the farmer may, notwithstanding  
25 anything in the mortgage, charge or lien, be discharged by payment by or on behalf of the farmer at any time within three years after the date of the direction, of an amount equal to the assessed secured value of the debt and/or  
30 liability secured by such mortgage, charge or lien.

(b) Where the Board has, pursuant to subsection three of this section, directed that the time for payment of part of a debt and/or  
35 liability of the farmer (being an amount less than the assessed secured value of that debt and/or liability) shall be extended, the Board shall also direct that the balance of such assessed secured value may, notwithstanding  
40 anything in the mortgage, charge or lien, be satisfied by payment by or on behalf of the farmer



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*Farmers' Relief (Amendment).*

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farmer at any time within three years after the date of the direction of an amount equal to such balance.

5 (5) (a) The Director shall forthwith  
register every direction given by the Board  
under subsections three and four of this section  
in the office of the Registrar-General in the  
Register of Causes, Writs and Orders affecting  
10 land and shall lodge with the Registrar-General  
a caveat against any dealings not consistent with  
such direction, in respect of any mortgage,  
charge or lien affected by the direction over any  
land which is under the provisions of the Real  
Property Act, 1900.

15 (b) Every such direction shall be  
void as against a person dealing with any mort-  
gage, charge or lien affected by the direction  
unless the same is registered in the Register of  
Causes, Writs and Orders affecting land and  
20 in the case of a mortgage, charge or lien over  
land under the provisions of the Real Property  
Act, 1900, unless a caveat has been lodged pur-  
suant to paragraph (a) of this subsection.

25 (6) The Board may direct that any  
unsecured debt and/or liability of the farmer  
(including any such debt and/or liability as is  
deemed to be an unsecured liability under para-  
graph (c) of subsection one of this section) may  
30 at any time within three years from the date of  
the direction be satisfied by payment by or on  
behalf of the farmer of an amount equal to that  
proportion thereof which under paragraph (g)  
of subsection one of this section is deemed to be  
a conditioned liability.

35 (7) Any discharge or satisfaction of  
the whole or any part of a debt and/or liability  
effected under this section shall to the extent of  
such discharge or satisfaction release the farmer  
from any liability accrued or to accrue to any  
third



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*Farmers' Relief (Amendment).*

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third party who has guaranteed the payment by the farmer of the whole or any part of such debt and/or liability.

5 (8) A notice of every direction of the Board under this section shall be served by post on the creditor and the farmer and every such direction shall be binding upon the creditor and the farmer. Any payment by or on behalf of the farmer in accordance with any such direc-  
10 tion, made within a period of three years from the date of the direction, shall operate as a full and complete discharge to the farmer of the debt and/or liability or of the part thereof to which the direction applies.

15 (9) If upon due tender to a creditor by or on behalf of a farmer of any payment in accordance with a direction of the Board under this section, the creditor refuses or neglects to accept the same within a period of seven days  
20 from the date of the tender, the amount thereof may be paid into the Supreme Court in its equitable jurisdiction and such payment into court shall have the same force and effect as if it were a payment to the creditor.

25 (10) If any creditor upon request in writing by the Board refuses or fails within the time limited in the request to execute any variation or discharge of a mortgage, charge or lien which is necessary to complete any settlement  
30 of the debts and/or liabilities of a farmer under this section, the Board may execute such variation or discharge in the name of and on behalf of the creditor, and such variation or discharge shall have the same force and effect as if it had  
35 been executed by the creditor.

A statement contained in any variation or discharge executed by the Board that the same has been executed under and in pursuance of this subsection shall be conclusive evidence that  
40 the Board is authorised by this subsection to execute such variation or discharge.

(11)



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*Farmers' Relief (Amendment).*

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(11) For the purposes of this section any hire-purchase agreement entered into by the farmer shall be deemed to be a mortgage by the farmer to the owner of the chattel or chattels comprised in the hire-purchase agreement to secure payment of the unpaid rental, hire and/or other moneys accrued or accruing due under the hire-purchase agreement.

Where in pursuance of any direction or directions given under this section the liability of the farmer in respect of any amounts so deemed to be secured is discharged the property in the chattel or chattels shall vest in the farmer.

In this subsection the expressions "hire-purchase agreement" and "owner" shall have the meanings ascribed thereto respectively in section thirty of this Act.

34EC. The farmer or any creditor of the farmer shall upon a request in writing by the Director produce such documents (including documents of title) and furnish such information and such accounts and writings as the Director may require for any of the purposes of this Division.

Production of documents, etc.

Any farmer or creditor to whom such a request has been made who neglects or refuses, without reasonable excuse, to comply with the request within the time limited therein shall be guilty of an offence against this Act.

34ED. (1) If the Board is satisfied that a farmer to whom any of the provisions of this Division apply will have a reasonable prospect of continuing and carrying on his farming operations successfully if any settlement of his debts and/or liabilities under this Division is concluded or put into effect, it may for the purpose of granting the assistance applied for direct the Rural Bank to make an advance to the farmer for the purpose of discharging either wholly or in part any of the debts and/or liabilities of the farmer.

Grant of assistance.



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*Farmers' Relief (Amendment).*

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

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

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

DIVISION 3.—*Provisions applicable to all adjustments.*

(d) by inserting after section 34F the following section:—

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

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

New sec.  
34FA.

Creditor  
trustee.



*Farmers' Relief (Amendment).*

PART V.

GENERAL.

**10.** (1) Any alteration of the law by this Act, whether by the repeal of an enactment or otherwise, shall not, Savings. cf. Act No. 14, 1925, s. 4.  
5 unless otherwise expressly provided by this Act, affect—

- (a) any right accrued, or obligation incurred, before the commencement of this Act under the law so altered;
- 10 (b) the validity or invalidity, or any operation, effect or consequence, of any instrument executed or made, or of anything done or suffered before the commencement of this Act;
- (c) any action, proceeding or thing pending or uncompleted at the commencement of this Act.

15 (2) Every such action, proceeding and thing may be carried on and completed as if the enactment had not been repealed, or the law otherwise altered.

(3) The generality of this section shall not be affected by any saving in any other section of this Act.  
20 nor shall this section limit any saving in the Interpretation Act of 1897.

**11.** (1) No amendment of the Farmers' Relief Act, 1932, made by any subsequent Act (including this Act) shall be held to operate or to have operated so as to  
25 release any party<sup>1</sup> or surety to any bond executed and delivered to the Farmers' Relief Board or to the Rural Reconstruction Board in pursuance of section thirteen of that Act, whether as originally enacted or as amended from time to time.

30 (2) A reference in any such bond executed before the commencement of this Act to the Farmers' Relief Act, 1932, or to the Farmers' Relief Act, 1932-1934, or to the Farmers' Relief Act, 1932-1935, or to the Farmers' Relief Act, 1932-1936, or to the Farmers' Relief Act,  
35 1932-1937, or to the Farmers' Relief Act, 1932-1938, or to the Farmers' Relief Act, 1932-1939, or to the Farmers' Relief Act, 1932-1940, shall as from such commencement be read and construed as a reference to the Farmers' Relief Act, 1932-1941.

(3)



*Farmers' Relief (Amendment).*

(3) The Farmers' Relief (Amendment) Act, 1940, is amended by omitting section five.

Amendment  
of Act No. 27,  
1940.

Sec. 5.  
(Consequen-  
tial.)

Further  
amendment of  
Act No. 33,  
1932.

(Revision.)

**12.** The Principal Act is further amended—

5 (a) by omitting from the matter relating to Part  
IIA in subsection one of section one the figures  
and letter "34K" and by inserting in lieu  
thereof the figures and letter "34M";

10 (b) by inserting at the end of the matter relating  
to Part IIA in the same subsection the following  
new matter:—

DIVISION 1.—*Voluntary adjustments*—ss. 34A–  
34E.

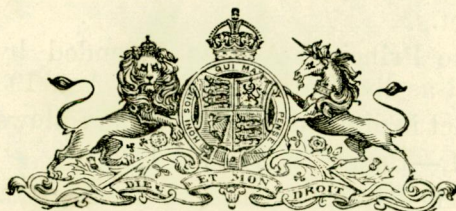
DIVISION 2.—*Where voluntary adjustment is  
not concluded*—ss. 34EA–34ED.

15 DIVISION 3.—*Provisions applicable to all  
adjustments*—ss. 34F–34M.

PART IIB.—PROTECTION ORDERS—s. 34N.



# New South Wales.



ANNO QUINTO

## GEORGII VI REGIS.

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### Act No. 53, 1941.

An Act to extend the time for the lodgment of applications for stay orders; to remove restrictions on the right to grant stay orders; to provide for the reconstitution of the Rural Reconstruction Board; to make further provision for and in relation to the adjustment of the debts and liabilities of certain farmers; for these and other purposes to amend the Farmers' Relief Act, 1932-1940, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 13th November, 1941.]



*Farmers' Relief (Amendment).*

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

## PART I.

## PRELIMINARY.

Short title  
and citation.

**1.** (1) This Act may be cited as the "Farmers' Relief (Amendment) Act, 1941."

(2) The Farmers' Relief Act, 1932-1940, as amended by subsequent Acts, is in this Act referred to as the Principal Act.

(3) The Principal Act, as amended by this Act, may be cited as the Farmers' Relief Act, 1932-1941.

Division  
into Parts.

**2.** This Act is divided into Parts, as follows :—

PART I.—PRELIMINARY—ss. 1, 2.

PART II.—STAY ORDERS AND DISCLAIMERS—s. 3.

PART III.—RECONSTITUTION OF THE RURAL RECONSTRUCTION BOARD—ss. 4-7.

PART IV.—DEBTS ADJUSTMENT—ss. 8, 9.

PART V.—GENERAL—ss. 10-13.

## PART II.

## STAY ORDERS AND DISCLAIMERS.

**3.** (1) The Principal Act is amended—

Amendment  
of Act No. 33,  
1932.

Sec. 8.  
(Stay orders.)

- (a) (i) by omitting from subsection one of section eight the words "the first day of April, one thousand nine hundred and thirty-six, and any farmer who proposes to make application to the Board under section 34A of this Act for assistance may at any time before";
- (ii) by omitting from subsection three of the same section the words "in respect of any farmer who has filed within the time specified in this subsection in the office of the Board a notice in or to the effect of the prescribed form disclaiming the benefits of this



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*Farmers' Relief (Amendment).*

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this Act, which notice has not been withdrawn in accordance with subsection (3c) of this section, nor'';

- (iii) by omitting from the same subsection all words after the words "amending, consolidating, or replacing the same";
- (iv) by omitting subsection (3A) of the same section;
- (v) by omitting subsection (3c) of the same section.

- (b) by omitting from subsection eleven of section nine the words and figures "Farmers' Relief (Amendment) Act, 1940" and by inserting in lieu thereof the following words and figures "Farmers' Relief (Amendment) Act, 1941."

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

(2) The amendments made by subsection one of this section shall not affect the validity or invalidity or any operation, effect or consequence of any stay order granted before the commencement of this Part.

(3) Any notice of disclaimer which was executed before the commencement of this Part, shall, as from such commencement, be void and of no effect.

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PART III.

RECONSTITUTION OF THE RURAL RECONSTRUCTION BOARD.

4. This Part shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Commence-  
ment of  
Part III.

5. (1) Upon the commencement of this Part the body corporate constituted by section seven of the Principal Act shall be reconstituted and shall consist of seven members.

Reconstitution  
of the Rural  
Reconstruction  
Board.

(2) Nothing contained in this Act shall prejudice or affect the continuity of such body corporate, but the same shall continue notwithstanding the provisions of this Part.

(3)



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*Farmers' Relief (Amendment).*

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(3) The amendments made to the Principal Act by section six of this Act and the provisions of subsection one of this section shall not affect any property, powers, rights, authorities, duties, functions, liabilities or obligations of the said body corporate or the appointment of the Director or the deputy director or of the members of the body corporate referred to in paragraphs (a) and (b) of section seven of this Act, or render defective any legal or other proceedings instituted or to be instituted by or against the body corporate.

(4) The body corporate aforesaid shall continue notwithstanding that there are at any time or times vacancies in the offices of all the members of the body corporate or of any one or more of them.

**6. The Principal Act is further amended—**

Further  
amendment of  
Act No. 33,  
1932.  
Sec. 7.  
(The Board.)

- (a) (i) by omitting from subsection one of section seven the words "of five persons" and by inserting in lieu thereof the words "of seven persons";
- (ii) by omitting from subsection two of the same section the words "other four members" and by inserting in lieu thereof the words "remaining members";
- (iii) by inserting next after the same subsection the following new subsections:—
  - (2A) Of the members so appointed—
    - (a) one shall be representative of the Crown as creditor of farmers;
    - (b) one shall be representative of creditors of farmers, other than the Crown;
    - (c) one shall be a person having a general knowledge and experience of farming, agricultural, horticultural and grazing operations and shall be representative of farmers generally;
    - (d) one shall be a person having special knowledge of agricultural operations and mixed farming and shall



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*Farmers' Relief (Amendment).*

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shall be representative of farmers engaged in agricultural operations and mixed farming;

- (e) one shall be a person having special knowledge of grazing operations and shall be representative of farmers engaged in grazing operations;
- (f) one shall be a person having special knowledge of dairy farming and other types of farming not falling within any of the classes referred to in paragraphs (d) and (e) of this subsection and shall be representative of farmers engaged in dairy farming and such other types of farming.

The members referred to in paragraphs (a) and (b) of this subsection are in this Act hereinafter referred to as "creditors' representatives."

The members referred to in paragraphs (c), (d), (e) and (f) of this subsection are in this Act hereinafter referred to as "farmers' representatives."

(2B) (a) The members referred to in paragraphs (a), (b) and (c) of subsection (2A) of this section shall be entitled to be present and to vote at any meeting of the Board.

(b) Only one of the members referred to in paragraphs (d), (e) and (f) of subsection (2A) of this section shall be entitled to be present and to vote at any one meeting of the Board.

The member who shall be so entitled to be present and to vote at any particular meeting of the Board shall be such one of those members as the Director may nominate in the notice convening the meeting.

In



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*Farmers' Relief (Amendment).*

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In making any such nomination the Director shall have regard to the matters to be submitted for consideration at the meeting.

- (iv) by inserting in subsection three of the same section after the word "Board" where firstly occurring the words "(of whom at least one shall be a creditors' representative and at least one shall be a farmers' representative)";

Schedule.

- (b) (i) by inserting at the end of paragraph one of the Schedule the words "and who shall be representative of the same interests as his predecessor, and (where special qualifications are prescribed by this Act for such a representative) shall have the qualifications so prescribed";

- (ii) by omitting from paragraph two of the Schedule the word "member" and by inserting in lieu thereof the words "or more members";

- (iii) by inserting at the end of subparagraph one of paragraph eleven of the Schedule the following new paragraph:—

- (g) the nomination of any farmers' representative at any meeting of the Board.

Office of  
certain  
members.

7. Upon the commencement of this Part the following provisions shall have effect:—

- (a) Charles Alfred Le Maistre Walker, Esquire, C.B.E., shall continue to hold office as a member of the Board for the balance of the term for which he was appointed by the Governor in pursuance of an Executive Council Minute approved upon the twenty-second day of November, one thousand nine hundred and thirty-nine, and shall, as from such commencement, be deemed to have been appointed as member representative of creditors of farmers,  
other



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*Farmers' Relief (Amendment).*

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- other than the Crown, and shall, upon the expiration of that term be eligible for reappointment under the Principal Act as amended by this Act.
- (b) Ernest Field, Esquire, shall continue to hold office as a member of the Board for the balance of the term for which he was appointed by the Governor in pursuance of an Executive Council Minute approved upon the twenty-second day of November, one thousand nine hundred and thirty-nine, and shall, as from such commencement, be deemed to have been appointed as member representative of farmers generally, and shall, upon the expiration of that term be eligible for reappointment under the Principal Act as amended by this Act.
- (c) The remaining members of the Board (other than the Director) shall cease to hold office as such, but shall be eligible for reappointment under the Principal Act as amended by this Act.

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PART IV.

DEBTS ADJUSTMENT.

8. This Part shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette. Commencement of Part IV.

9. The Principal Act is further amended—

- (a) by inserting in Part II<sub>A</sub> after the heading “Farmers’ Debts Adjustment,” the following sub-heading:— Further amendment of Act No. 33, 1932.  
Part II<sub>A</sub>.  
(Debts adjustment.)

DIVISION 1.—*Voluntary adjustments.*

- (b) by omitting sections 34A, 34B, 34C and 34D and by inserting in lieu thereof the following new sections:— Subst. secs. 34A-34D.

34A. A farmer may at any time and from time to time make application in writing to the Board for assistance to effect a composition or scheme Application for assistance to effect composition or scheme of arrangement.



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*Farmers' Relief (Amendment).*

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scheme of arrangement with his creditors or any of them in satisfaction in whole or in part of his debts and/or liabilities whether secured or unsecured.

Information  
to be  
furnished.

34B. The farmer shall, upon a request in writing by the Board in that behalf, furnish such information and such accounts, documents and writings as the Board may require for the purpose of considering such application.

Consideration  
of application  
by Board.

34C. (1) The Board shall, on receipt of an application, consider whether the applicant will have a reasonable prospect of continuing and carrying on his farming operations successfully if a composition or scheme of arrangement with his creditors or any of them is concluded or put into effect.

(2) If the Board is of the opinion that the applicant has such a prospect it shall proceed with the application. If it is not of that opinion it shall dismiss the application.

Approval by  
Board.

34D. If the Board decides to proceed with the application it shall consider any proposal for a composition or scheme of arrangement submitted by the farmer or by the Director with the concurrence of the farmer and may approve of the same as submitted or may suggest such amendments to the proposal as it thinks fit and may thereafter approve of any amended proposal.

(c) by inserting after section 34E the following new sub-headings and sections:—

DIVISION 2.—*Where voluntary adjustment is not concluded.*

Where  
majority of  
unsecured  
creditors  
assent.

34EA. Where a farmer has made application to the Board under section 34A of this Act (whether as originally enacted or as substituted or amended from time to time) for assistance and a proposal for a composition or scheme of arrangement has been approved pursuant to this Part, and a majority in number and value of the unsecured



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*Farmers' Relief (Amendment).*

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unsecured creditors of the farmer (in this section hereinafter referred to as "assenting creditors") have signified their assent to the composition or scheme of arrangement and have given undertakings in writing to execute releases of their debts and/or liabilities upon receipt of the amount agreed to be paid to them in the composition or scheme of arrangement, the following provisions shall have effect:—

- (a) For the purpose of calculating a majority of creditors under this section, account shall be taken only of those creditors of whom the Board has notice, joint creditors shall count as one creditor, and any creditor whose debt or liability is less than ten pounds shall count for value but not for number.
- (b) The Director may, by notice served personally or by post upon any unsecured creditor who is not an assenting creditor, submit a proposal for the discharge of the debt and/or liability of the farmer to such creditor in accordance with the composition or scheme of arrangement. If such creditor fails or refuses to signify his assent to such proposal within a period of fourteen days after the date of service of the notice, or if, upon tender to him of the amount payable under such proposal the creditor neglects or refuses to execute a release of his debt and/or liability, then the Board may direct that such debt and/or liability may be discharged by payment by or on behalf of the farmer of such amount at any time within three years after the date of the direction.
- (c) Notice of any such direction shall be served by post on the farmer and the creditor to whom the direction relates, and such direction shall be binding upon such creditor.
- (d)



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*Farmers' Relief (Amendment).*

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- (d) Where notice of a direction of the Board under this section has been served on a creditor of the farmer, payment to such creditor by or on behalf of the farmer of the amount referred to in such direction within a period of three years from the date of the direction shall operate as a full and complete discharge to the farmer of the debt and/or liability to which the direction relates.
- (e) Any discharge of a debt and/or liability effected under this section shall to the extent of such discharge release the farmer from any liability accrued or to accrue to any third party who has guaranteed the payment by the farmer of the whole or any part of such debt and/or liability.
- (f) If upon due tender to a creditor by or on behalf of a farmer of payment of the amount referred to in a direction of the Board under this section, the creditor refuses or neglects to accept the same within a period of seven days from the date of the tender, the amount may be paid into the Supreme Court in its equitable jurisdiction and such payment into court shall have the same force and effect as if it were a payment to the creditor.

Application  
for assistance  
where  
voluntary  
adjustment  
not concluded.

34EB. (1) (a) Where a farmer in respect of whose estate a stay order is in operation is informed by the Board that it is satisfied that a voluntary composition or scheme of arrangement in satisfaction of his debts and/or liabilities cannot be concluded, the farmer may at any time and from time to time during the operation of the stay order apply to the Board for assistance to effect a settlement of his debts and/or liabilities under this section.

(b) The Board may thereupon appoint a date to proceed with the application  
and



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*Farmers' Relief (Amendment).*

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and shall as at that date (hereinafter referred to as the "date of the assessment") assess the value of the farmer's property and assets and the amount and value of his debts and/or liabilities, both secured and unsecured, including all interest accrued at or accruing due to the date of the assessment.

(c) In so far as the debts and/or liabilities secured by one or more mortgages, charges or liens over any property of the farmer exceed the assessed value of the property subject to such mortgages, charges or liens respectively, the amount of such excess shall for the purposes of this section be deemed to be unsecured and so much of every debt and/or liability as forms part of such excess shall from the date of the assessment be deemed to be an unsecured liability and the creditor shall be deemed to be an unsecured creditor in respect thereof.

(d) Where repayment of any debt and/or liability of the farmer to a creditor has been guaranteed as to the whole or part by any person any security given by the farmer to the guarantor over any of his property or assets in respect of the guarantor's liability under the guarantee shall for the purposes of this section be deemed to be a security in the hands of the creditor for so much of the debt and/or liability as is covered by the guarantee.

(e) In determining the amounts of the respective secured debts and/or liabilities that are to be deemed to be unsecured liabilities the Board shall give effect to the respective priorities of the mortgages, charges and liens securing such debts and/or liabilities and shall, in the case of any holding under any Act relating to the alienation of lands of the Crown where such holding is the subject of a mortgage, charge or lien to the Rural Bank, have regard to the provisions of section sixty-nine of the Government Savings Bank Act, 1906, as amended



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*Farmers' Relief (Amendment).*

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amended by subsequent Acts, and for the purpose of such determination no outstanding arrears of instalments or rents due to the Crown in respect of such holding shall be taken into account save one year's instalment or rent, as the case may be.

(f) (i) For the purposes of this section the assessed secured value of a debt and/or liability secured by any mortgage, charge or lien over any property or assets of the farmer shall be the amount of such debt and/or liability which is not deemed to be an unsecured liability under paragraph (c) of this subsection.

(ii) Such amount shall carry interest from the date of the assessment at the rate provided by the mortgage, charge or lien or at the rate of five per centum per annum whichever is the less.

(g) If the total value of the farmer's property and assets as assessed by the Board exceeds in amount the total of such debts and/or liabilities of the farmer as are secured by any mortgage, charge or lien after deducting therefrom such parts of such secured debts and/or liabilities as are deemed to be unsecured liabilities under paragraph (c) of this subsection such proportions of each and every unsecured debt and/or liability of the farmer (including such part of every secured debt and/or liability as is deemed to be an unsecured liability under the said paragraph) as when added together shall equal the amount of the excess in this paragraph referred to shall be deemed to be conditioned liabilities.

(h) For the purposes of this section the assessed value of an unsecured debt and/or liability (including such part of every secured debt and/or liability as is deemed to be an unsecured liability under paragraph (c) of this subsection) shall be that proportion thereof which by paragraph (g) of this subsection is deemed to be a conditioned liability. (i)



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*Farmers' Relief (Amendment).*

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(i) The Board may at any time and from time to time review any assessment made under this subsection and make such alterations therein and in the amounts deemed to be unsecured liabilities or conditioned liabilities as it thinks fit.

(j) Notice of every assessment or subsequent variation thereof shall be sent by post to the farmer and to every creditor of the farmer of whose debt the Board has notice and to every person who has guaranteed the repayment of any debt and/or liability of the farmer and of whom the Board has notice.

(k) Any creditor, guarantor or farmer may appeal to the local land board against any assessment by the Board of the value of the property and assets of the farmer.

(l) The local land board shall have jurisdiction to hear and determine such appeal and its decision thereon shall be final.

(m) The time within which the appeal may be made and the procedure before the local land board shall be as prescribed by regulations under the Crown Lands Consolidation Act, 1913.

(n) No costs shall be allowed to any party on any such appeal.

(o) If on any such appeal a valuation by the Board is varied the Board shall forthwith amend the assessment and send notice of such amendment to each creditor of whom the Board has notice.

(2) Where a farmer in respect of whose estate a stay order is in operation has, pursuant to subsection one of this section, made an application for assistance, the powers conferred by the succeeding provisions of this section may be exercised at any time after action in accordance with that subsection is completed and all appeals (if any) under that subsection have been determined, and before the removal or expiry of the stay order.

(3)



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*Farmers' Relief (Amendment).*

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(3) The Board may, notwithstanding anything in any mortgage, charge or lien over any land of the farmer, direct that the time for payment of the whole or any part of a debt and/or liability of the farmer secured by such mortgage, charge or lien shall be extended for such period, not exceeding five years from the date of removal or expiry of the stay order as the Board may determine, upon the terms that interest shall be payable thereon at the rate specified in the mortgage, charge or lien or at the rate of five per centum per annum, whichever is the less:

Provided that the Board may, if it thinks fit, extend the time for payment of any interest which may accrue due within the period of six months from the date of removal or expiry of the stay order for a period not exceeding twelve months from that date:

Provided further that the amount of a debt and/or liability the time for payment of which may be extended under this subsection shall not exceed the assessed secured value thereof as ascertained in accordance with paragraph (f) of subsection one of this section.

(4) (a) The Board may direct that a mortgage, charge or lien over any property or assets of the farmer may, notwithstanding anything in the mortgage, charge or lien, be discharged by payment by or on behalf of the farmer at any time within three years after the date of the direction, of an amount equal to the assessed secured value of the debt and/or liability secured by such mortgage, charge or lien, together with interest accrued thereon as ascertained in accordance with paragraph (f) of subsection one of this section.

(b) Where the Board has, pursuant to subsection three of this section, directed that the time for payment of part of a debt and/or liability of the farmer (being an amount less  
than



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*Farmers' Relief (Amendment).*

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than the assessed secured value of that debt and/or liability together with interest as ascertained in accordance with paragraph (f) of subsection one of this section) shall be extended, the Board shall also direct that the balance of such assessed secured value and such interest may, notwithstanding anything in the mortgage, charge or lien, be satisfied by payment by or on behalf of the farmer at any time within three years after the date of the direction of an amount equal to such balance, together with interest as ascertained in accordance with paragraph (f) of subsection one of this section accrued to the date of payment.

(5) (a) The Director shall forthwith register every direction given by the Board under subsections three and four of this section in the office of the Registrar-General in the Register of Causes, Writs and Orders affecting land and shall lodge with the Registrar-General a caveat against any dealings not consistent with such direction, in respect of any mortgage, charge or lien affected by the direction over any land which is under the provisions of the Real Property Act, 1900.

(b) Every such direction shall be void as against a person dealing with any mortgage, charge or lien affected by the direction unless the same is registered in the Register of Causes, Writs and Orders affecting land and in the case of a mortgage, charge or lien over land under the provisions of the Real Property Act, 1900, unless a caveat has been lodged pursuant to paragraph (a) of this subsection.

(6) The Board may direct that any unsecured debt and/or liability of the farmer (including any such debt and/or liability as is deemed to be an unsecured liability under paragraph (c) of subsection one of this section) may at any time within three years from the date of the



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*Farmers' Relief (Amendment).*

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the direction be satisfied by payment by or on behalf of the farmer of an amount equal to that proportion thereof which under paragraph (g) of subsection one of this section is deemed to be a conditioned liability.

(7) Any discharge or satisfaction of the whole or any part of a debt and/or liability effected under this section shall to the extent of such discharge or satisfaction release the farmer from any liability accrued or to accrue to any third party who has guaranteed the payment by the farmer of the whole or any part of such debt and/or liability.

(8) A notice of every direction of the Board under this section shall be served by post on the creditor and the farmer and every such direction shall be binding upon the creditor and the farmer. Any payment by or on behalf of the farmer in accordance with any such direction, made within a period of three years from the date of the direction, shall operate as a full and complete discharge to the farmer of the debt and/or liability or of the part thereof to which the direction applies.

(9) If upon due tender to a creditor by or on behalf of a farmer of any payment in accordance with a direction of the Board under this section, the creditor refuses or neglects to accept the same within a period of seven days from the date of the tender, the amount thereof may be paid into the Supreme Court in its equitable jurisdiction and such payment into court shall have the same force and effect as if it were a payment to the creditor.

(10) If any creditor upon request in writing by the Board refuses or fails within the time limited in the request to execute any variation or discharge of a mortgage, charge or lien which is necessary to complete any settlement of the debts and/or liabilities of a farmer under this



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*Farmers' Relief (Amendment).*

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this section, the Board may execute such variation or discharge in the name of and on behalf of the creditor, and such variation or discharge shall have the same force and effect as if it had been executed by the creditor.

A statement contained in any variation or discharge executed by the Board that the same has been executed under and in pursuance of this subsection shall be evidence until the contrary is proved that the Board is authorised by this subsection to execute such variation or discharge.

(11) For the purposes of this section any hire-purchase agreement entered into by the farmer shall be deemed to be a mortgage by the farmer to the owner of the chattel or chattels comprised in the hire-purchase agreement to secure payment of the unpaid rental, hire and/or other moneys accrued or accruing due under the hire-purchase agreement.

Where in pursuance of any direction or directions given under this section the liability of the farmer in respect of any amounts so deemed to be secured is discharged the property in the chattel or chattels shall vest in the farmer.

In this subsection the expressions "hire-purchase agreement" and "owner" shall have the meanings ascribed thereto respectively in section thirty of this Act.

34EC. The farmer or any creditor of the farmer shall upon a request in writing by the Director produce such documents (including documents of title) and furnish such information and such accounts and writings as the Director may require for any of the purposes of this Division.

Production of documents, etc.

Any farmer or creditor to whom such a request has been made who neglects or refuses, without reasonable excuse, to comply with the request within the time limited therein shall be guilty of an offence against this Act.



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*Farmers' Relief (Amendment).*

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Grant of  
assistance.

34ED. (1) If the Board is satisfied that a farmer to whom any of the provisions of this Division apply will have a reasonable prospect of continuing and carrying on his farming operations successfully if any settlement of his debts and/or liabilities under this Division is concluded or put into effect, it may for the purpose of granting the assistance applied for direct the Rural Bank to make an advance to the farmer for the purpose of discharging either wholly or in part any of the debts and/or liabilities of the farmer.

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

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

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

DIVISION 3.—*Provisions applicable to all adjustments.*

(d) by inserting after section 34F the following section:—

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

New sec.  
34FA

Creditor  
trustee.



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*Farmers' Relief (Amendment).*


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part of the debts and/or liabilities of the farmer.

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

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## PART V.

### GENERAL.

**10.** (1) Any alteration of the law by this Act, whether by the repeal of an enactment or otherwise, shall not, unless otherwise expressly provided by this Act, affect—

Savings.  
cf. Act No.  
14, 1925, s. 4.

- (a) any right accrued, or obligation incurred, before the commencement of this Act under the law so altered;
- (b) the validity or invalidity, or any operation, effect or consequence, of any instrument executed or made, or of anything done or suffered before the commencement of this Act;
- (c) any action, proceeding or thing pending or uncompleted at the commencement of this Act.

(2) Every such action, proceeding and thing may be carried on and completed as if the enactment had not been repealed, or the law otherwise altered.

(3) The generality of this section shall not be affected by any saving in any other section of this Act, nor shall this section limit any saving in the Interpretation Act of 1897.

**11.** During such time as any right or remedy of any creditor of a farmer against such farmer is, by reason of this Act, suspended or postponed, time shall not run against such creditor under the provisions of any Statute of Limitations so as to bar any right or remedy of such creditor against such farmer or any person who has guaranteed the payment by such farmer of any moneys or the performance by such farmer of any obligation.

Statutes  
of Limitations  
not to run.  
cf. Act No.  
57, 1932,  
s. 46c.



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*Farmers' Relief (Amendment).*

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Parties to  
certain bonds  
not to be  
released.

**12.** (1) No amendment of the Farmers' Relief Act, 1932, made by any subsequent Act (including 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 or to the Rural Reconstruction Board in pursuance of section thirteen of that Act, whether as originally enacted or as amended from time to time.

(2) A reference in any such bond executed before the commencement of this Act to the Farmers' Relief Act, 1932, or to the Farmers' Relief Act, 1932-1934, or to the Farmers' Relief Act, 1932-1935, or to the Farmers' Relief Act, 1932-1936, or to the Farmers' Relief Act, 1932-1937, or to the Farmers' Relief Act, 1932-1938, or to the Farmers' Relief Act, 1932-1939, or to the Farmers' Relief Act, 1932-1940, shall as from such commencement be read and construed as a reference to the Farmers' Relief Act, 1932-1941.

Amendment  
of Act No. 27,  
1940.

Sec. 5.

(Consequen-  
tial.)

Further  
amendment of  
Act No. 33,  
1932.

(Revision.)

(3) The Farmers' Relief (Amendment) Act, 1940, is amended by omitting section five.

**13.** The Principal Act is further amended—

- (a) by omitting from the matter relating to Part IIA in subsection one of section one the figures and letter "34K" and by inserting in lieu thereof the figures and letter "34M";
- (b) by inserting at the end of the matter relating to Part IIA in the same subsection the following new matter:—

DIVISION 1.—*Voluntary adjustments*—ss. 34A–34E.

DIVISION 2.—*Where voluntary adjustment is not concluded*—ss. 34EA–34ED.

DIVISION 3.—*Provisions applicable to all adjustments*—ss. 34F–34M.

PART IIB.—*PROTECTION ORDERS*—s. 34N.

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By Authority:

ALFRED HENRY PETTIFER, Acting Government Printer, Sydney, 1941.

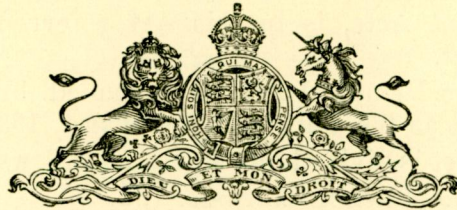
[9d.]



*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, 5 November, 1941.*

## New South Wales.



ANNO QUINTO

## GEORGII VI REGIS.

\*\*\*\*\*

Act No. 53, 1941.

An Act to extend the time for the lodgment of applications for stay orders; to remove restrictions on the right to grant stay orders; to provide for the reconstitution of the Rural Reconstruction Board; to make further provision for and in relation to the adjustment of the debts and liabilities of certain farmers; for these and other purposes to amend the Farmers' Relief Act, 1932-1940, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 13th November, 1941.]  
BE

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

G. BOOTH,  
*Chairman of Committees of the Legislative Assembly.*



*Farmers' Relief (Amendment).*

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

## PART I.

## PRELIMINARY.

Short title  
and citation.

**1.** (1) This Act may be cited as the "Farmers' Relief (Amendment) Act, 1941."

(2) The Farmers' Relief Act, 1932-1940, as amended by subsequent Acts, is in this Act referred to as the Principal Act.

(3) The Principal Act, as amended by this Act, may be cited as the Farmers' Relief Act, 1932-1941.

Division  
into Parts.

**2.** This Act is divided into Parts, as follows :—

PART I.—PRELIMINARY—ss. 1, 2.

PART II.—STAY ORDERS AND DISCLAIMERS—s. 3.

PART III.—RECONSTITUTION OF THE RURAL RECONSTRUCTION BOARD—ss. 4-7.

PART IV.—DEBTS ADJUSTMENT—ss. 8, 9.

PART V.—GENERAL—ss. 10-13.

## PART II.

## STAY ORDERS AND DISCLAIMERS.

Amendment  
of Act No. 33,  
1932.

Sec. 8.  
(Stay orders.)

**3.** (1) The Principal Act is amended—

- (a) (i) by omitting from subsection one of section eight the words "the first day of April, one thousand nine hundred and thirty-six, and any farmer who proposes to make application to the Board under section 34A of this Act for assistance may at any time before";
- (ii) by omitting from subsection three of the same section the words "in respect of any farmer who has filed within the time specified in this subsection in the office of the Board a notice in or to the effect of the prescribed form disclaiming the benefits of this



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*Farmers' Relief (Amendment).*

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this Act, which notice has not been withdrawn in accordance with subsection (3c) of this section, nor";

(iii) by omitting from the same subsection all words after the words "amending, consolidating, or replacing the same";

(iv) by omitting subsection (3A) of the same section;

(v) by omitting subsection (3c) of the same section.

(b) by omitting from subsection eleven of section nine the words and figures "Farmers' Relief (Amendment) Act, 1940" and by inserting in lieu thereof the following words and figures "Farmers' Relief (Amendment) Act, 1941." **Sec. 9.**  
(Form and effect of stay order.)

(2) The amendments made by subsection one of this section shall not affect the validity or invalidity or any operation, effect or consequence of any stay order granted before the commencement of this Part.

(3) Any notice of disclaimer which was executed before the commencement of this Part, shall, as from such commencement, be void and of no effect.

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PART III.

RECONSTITUTION OF THE RURAL RECONSTRUCTION BOARD.

4. This Part shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette. Commence-  
ment of  
Part III.

5. (1) Upon the commencement of this Part the body corporate constituted by section seven of the Principal Act shall be reconstituted and shall consist of seven members. Reconstitution  
of the Rural  
Reconstruction  
Board.

(2) Nothing contained in this Act shall prejudice or affect the continuity of such body corporate, but the same shall continue notwithstanding the provisions of this Part.

(3)



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*Farmers' Relief (Amendment).*

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(3) The amendments made to the Principal Act by section six of this Act and the provisions of subsection one of this section shall not affect any property, powers, rights, authorities, duties, functions, liabilities or obligations of the said body corporate or the appointment of the Director or the deputy director or of the members of the body corporate referred to in paragraphs (a) and (b) of section seven of this Act, or render defective any legal or other proceedings instituted or to be instituted by or against the body corporate.

(4) The body corporate aforesaid shall continue notwithstanding that there are at any time or times vacancies in the offices of all the members of the body corporate or of any one or more of them.

Further  
amendment of  
Act No. 33,  
1932.

Sec. 7.  
(The Board.)

**6.** The Principal Act is further amended—

- (a) (i) by omitting from subsection one of section seven the words “of five persons” and by inserting in lieu thereof the words “of seven persons”;
- (ii) by omitting from subsection two of the same section the words “other four members” and by inserting in lieu thereof the words “remaining members”;
- (iii) by inserting next after the same subsection the following new subsections:—
  - (2A) Of the members so appointed—
    - (a) one shall be representative of the Crown as creditor of farmers;
    - (b) one shall be representative of creditors of farmers, other than the Crown;
    - (c) one shall be a person having a general knowledge and experience of farming, agricultural, horticultural and grazing operations and shall be representative of farmers generally;
    - (d) one shall be a person having special knowledge of agricultural operations and mixed farming and shall



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*Farmers' Relief (Amendment).*

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shall be representative of farmers engaged in agricultural operations and mixed farming;

- (e) one shall be a person having special knowledge of grazing operations and shall be representative of farmers engaged in grazing operations;
- (f) one shall be a person having special knowledge of dairy farming and other types of farming not falling within any of the classes referred to in paragraphs (d) and (e) of this subsection and shall be representative of farmers engaged in dairy farming and such other types of farming.

The members referred to in paragraphs (a) and (b) of this subsection are in this Act hereinafter referred to as "creditors' representatives."

The members referred to in paragraphs (c), (d), (e) and (f) of this subsection are in this Act hereinafter referred to as "farmers' representatives."

(2B) (a) The members referred to in paragraphs (a), (b) and (c) of subsection (2A) of this section shall be entitled to be present and to vote at any meeting of the Board.

(b) Only one of the members referred to in paragraphs (d), (e) and (f) of subsection (2A) of this section shall be entitled to be present and to vote at any one meeting of the Board.

The member who shall be so entitled to be present and to vote at any particular meeting of the Board shall be such one of those members as the Director may nominate in the notice convening the meeting.

In



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*Farmers' Relief (Amendment).*

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In making any such nomination the Director shall have regard to the matters to be submitted for consideration at the meeting.

- (iv) by inserting in subsection three of the same section after the word "Board" where firstly occurring the words "(of whom at least one shall be a creditors' representative and at least one shall be a farmers' representative)";
- Schedule. (b) (i) by inserting at the end of paragraph one of the Schedule the words "and who shall be representative of the same interests as his predecessor, and (where special qualifications are prescribed by this Act for such a representative) shall have the qualifications so prescribed";
- (ii) by omitting from paragraph two of the Schedule the word "member" and by inserting in lieu thereof the words "or more members";
- (iii) by inserting at the end of subparagraph one of paragraph eleven of the Schedule the following new paragraph:—
- (g) the nomination of any farmers' representative at any meeting of the Board.

Office of  
certain  
members.

**7.** Upon the commencement of this Part the following provisions shall have effect:—

- (a) Charles Alfred Le Maistre Walker, Esquire, C.B.E., shall continue to hold office as a member of the Board for the balance of the term for which he was appointed by the Governor in pursuance of an Executive Council Minute approved upon the twenty-second day of November, one thousand nine hundred and thirty-nine, and shall, as from such commencement, be deemed to have been appointed as member representative of creditors of farmers, other



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*Farmers' Relief (Amendment).*

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- other than the Crown, and shall, upon the expiration of that term be eligible for reappointment under the Principal Act as amended by this Act.
- (b) Ernest Field, Esquire, shall continue to hold office as a member of the Board for the balance of the term for which he was appointed by the Governor in pursuance of an Executive Council Minute approved upon the twenty-second day of November, one thousand nine hundred and thirty-nine, and shall, as from such commencement, be deemed to have been appointed as member representative of farmers generally, and shall, upon the expiration of that term be eligible for reappointment under the Principal Act as amended by this Act.
- (c) The remaining members of the Board (other than the Director) shall cease to hold office as such, but shall be eligible for reappointment under the Principal Act as amended by this Act.

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PART IV.

DEBTS ADJUSTMENT.

8. This Part shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette. Commencement of Part IV.

9. The Principal Act is further amended—

- (a) by inserting in Part II<sub>A</sub> after the heading "Farmers' Debts Adjustment," the following sub-heading:— Further amendment of Act No. 33, 1932. Part II<sub>A</sub>. (Debts adjustment.)

DIVISION 1.—*Voluntary adjustments.*

- (b) by omitting sections 34A, 34B, 34C and 34D and by inserting in lieu thereof the following new sections:— Subst. secs. 34A-34D.

34A. A farmer may at any time and from time to time make application in writing to the Board for assistance to effect a composition or scheme Application for assistance to effect composition or scheme of arrangement.



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*Farmers' Relief (Amendment).*

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scheme of arrangement with his creditors or any of them in satisfaction in whole or in part of his debts and/or liabilities whether secured or unsecured.

Information  
to be  
furnished.

34B. The farmer shall, upon a request in writing by the Board in that behalf, furnish such information and such accounts, documents and writings as the Board may require for the purpose of considering such application.

Consideration  
of application  
by Board.

34c. (1) The Board shall, on receipt of an application, consider whether the applicant will have a reasonable prospect of continuing and carrying on his farming operations successfully if a composition or scheme of arrangement with his creditors or any of them is concluded or put into effect.

(2) If the Board is of the opinion that the applicant has such a prospect it shall proceed with the application. If it is not of that opinion it shall dismiss the application.

Approval by  
Board.

34d. If the Board decides to proceed with the application it shall consider any proposal for a composition or scheme of arrangement submitted by the farmer or by the Director with the concurrence of the farmer and may approve of the same as submitted or may suggest such amendments to the proposal as it thinks fit and may thereafter approve of any amended proposal.

(c) by inserting after section 34E the following new sub-headings and sections:—

DIVISION 2.—*Where voluntary adjustment is not concluded.*

Where  
majority of  
unsecured  
creditors  
assent.

34EA. Where a farmer has made application to the Board under section 34A of this Act (whether as originally enacted or as substituted or amended from time to time) for assistance and a proposal for a composition or scheme of arrangement has been approved pursuant to this Part, and a majority in number and value of the unsecured



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*Farmers' Relief (Amendment).*

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unsecured creditors of the farmer (in this section hereinafter referred to as "assenting creditors") have signified their assent to the composition or scheme of arrangement and have given undertakings in writing to execute releases of their debts and/or liabilities upon receipt of the amount agreed to be paid to them in the composition or scheme of arrangement, the following provisions shall have effect:—

- (a) For the purpose of calculating a majority of creditors under this section, account shall be taken only of those creditors of whom the Board has notice, joint creditors shall count as one creditor, and any creditor whose debt or liability is less than ten pounds shall count for value but not for number.
- (b) The Director may, by notice served personally or by post upon any unsecured creditor who is not an assenting creditor, submit a proposal for the discharge of the debt and/or liability of the farmer to such creditor in accordance with the composition or scheme of arrangement. If such creditor fails or refuses to signify his assent to such proposal within a period of fourteen days after the date of service of the notice, or if, upon tender to him of the amount payable under such proposal the creditor neglects or refuses to execute a release of his debt and/or liability, then the Board may direct that such debt and/or liability may be discharged by payment by or on behalf of the farmer of such amount at any time within three years after the date of the direction.
- (c) Notice of any such direction shall be served by post on the farmer and the creditor to whom the direction relates, and such direction shall be binding upon such creditor.
- (d)



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*Farmers' Relief (Amendment).*

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- (d) Where notice of a direction of the Board under this section has been served on a creditor of the farmer, payment to such creditor by or on behalf of the farmer of the amount referred to in such direction within a period of three years from the date of the direction shall operate as a full and complete discharge to the farmer of the debt and/or liability to which the direction relates.
- (e) Any discharge of a debt and/or liability effected under this section shall to the extent of such discharge release the farmer from any liability accrued or to accrue to any third party who has guaranteed the payment by the farmer of the whole or any part of such debt and/or liability.
- (f) If upon due tender to a creditor by or on behalf of a farmer of payment of the amount referred to in a direction of the Board under this section, the creditor refuses or neglects to accept the same within a period of seven days from the date of the tender, the amount may be paid into the Supreme Court in its equitable jurisdiction and such payment into court shall have the same force and effect as if it were a payment to the creditor.

Application  
for assistance  
where  
voluntary  
adjustment  
not concluded.

34EB. (1) (a) Where a farmer in respect of whose estate a stay order is in operation is informed by the Board that it is satisfied that a voluntary composition or scheme of arrangement in satisfaction of his debts and/or liabilities cannot be concluded, the farmer may at any time and from time to time during the operation of the stay order apply to the Board for assistance to effect a settlement of his debts and/or liabilities under this section.

(b) The Board may thereupon appoint a date to proceed with the application and



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*Farmers' Relief (Amendment).*

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and shall as at that date (hereinafter referred to as the "date of the assessment") assess the value of the farmer's property and assets and the amount and value of his debts and/or liabilities, both secured and unsecured, including all interest accrued at or accruing due to the date of the assessment.

(c) In so far as the debts and/or liabilities secured by one or more mortgages, charges or liens over any property of the farmer exceed the assessed value of the property subject to such mortgages, charges or liens respectively, the amount of such excess shall for the purposes of this section be deemed to be unsecured and so much of every debt and/or liability as forms part of such excess shall from the date of the assessment be deemed to be an unsecured liability and the creditor shall be deemed to be an unsecured creditor in respect thereof.

(d) Where repayment of any debt and/or liability of the farmer to a creditor has been guaranteed as to the whole or part by any person any security given by the farmer to the guarantor over any of his property or assets in respect of the guarantor's liability under the guarantee shall for the purposes of this section be deemed to be a security in the hands of the creditor for so much of the debt and/or liability as is covered by the guarantee.

(e) In determining the amounts of the respective secured debts and/or liabilities that are to be deemed to be unsecured liabilities the Board shall give effect to the respective priorities of the mortgages, charges and liens securing such debts and/or liabilities and shall, in the case of any holding under any Act relating to the alienation of lands of the Crown where such holding is the subject of a mortgage, charge or lien to the Rural Bank, have regard to the provisions of section sixty-nine of the Government Savings Bank Act, 1906, as amended



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*Farmers' Relief (Amendment).*

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amended by subsequent Acts, and for the purpose of such determination no outstanding arrears of instalments or rents due to the Crown in respect of such holding shall be taken into account save one year's instalment or rent, as the case may be.

(f) (i) For the purposes of this section the assessed secured value of a debt and/or liability secured by any mortgage, charge or lien over any property or assets of the farmer shall be the amount of such debt and/or liability which is not deemed to be an unsecured liability under paragraph (c) of this subsection.

(ii) Such amount shall carry interest from the date of the assessment at the rate provided by the mortgage, charge or lien or at the rate of five per centum per annum whichever is the less.

(g) If the total value of the farmer's property and assets as assessed by the Board exceeds in amount the total of such debts and/or liabilities of the farmer as are secured by any mortgage, charge or lien after deducting therefrom such parts of such secured debts and/or liabilities as are deemed to be unsecured liabilities under paragraph (c) of this subsection such proportions of each and every unsecured debt and/or liability of the farmer (including such part of every secured debt and/or liability as is deemed to be an unsecured liability under the said paragraph) as when added together shall equal the amount of the excess in this paragraph referred to shall be deemed to be conditioned liabilities.

(h) For the purposes of this section the assessed value of an unsecured debt and/or liability (including such part of every secured debt and/or liability as is deemed to be an unsecured liability under paragraph (c) of this subsection) shall be that proportion thereof which by paragraph (g) of this subsection is deemed to be a conditioned liability. (i)



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*Farmers' Relief (Amendment).*

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(i) The Board may at any time and from time to time review any assessment made under this subsection and make such alterations therein and in the amounts deemed to be unsecured liabilities or conditioned liabilities as it thinks fit.

(j) Notice of every assessment or subsequent variation thereof shall be sent by post to the farmer and to every creditor of the farmer of whose debt the Board has notice and to every person who has guaranteed the repayment of any debt and/or liability of the farmer and of whom the Board has notice.

(k) Any creditor, guarantor or farmer may appeal to the local land board against any assessment by the Board of the value of the property and assets of the farmer.

(l) The local land board shall have jurisdiction to hear and determine such appeal and its decision thereon shall be final.

(m) The time within which the appeal may be made and the procedure before the local land board shall be as prescribed by regulations under the Crown Lands Consolidation Act, 1913.

(n) No costs shall be allowed to any party on any such appeal.

(o) If on any such appeal a valuation by the Board is varied the Board shall forthwith amend the assessment and send notice of such amendment to each creditor of whom the Board has notice.

(2) Where a farmer in respect of whose estate a stay order is in operation has, pursuant to subsection one of this section, made an application for assistance, the powers conferred by the succeeding provisions of this section may be exercised at any time after action in accordance with that subsection is completed and all appeals (if any) under that subsection have been determined, and before the removal or expiry of the stay order.

(3)



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*Farmers' Relief (Amendment).*

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(3) The Board may, notwithstanding anything in any mortgage, charge or lien over any land of the farmer, direct that the time for payment of the whole or any part of a debt and/or liability of the farmer secured by such mortgage, charge or lien shall be extended for such period, not exceeding five years from the date of removal or expiry of the stay order as the Board may determine, upon the terms that interest shall be payable thereon at the rate specified in the mortgage, charge or lien or at the rate of five per centum per annum, whichever is the less:

Provided that the Board may, if it thinks fit, extend the time for payment of any interest which may accrue due within the period of six months from the date of removal or expiry of the stay order for a period not exceeding twelve months from that date:

Provided further that the amount of a debt and/or liability the time for payment of which may be extended under this subsection shall not exceed the assessed secured value thereof as ascertained in accordance with paragraph (f) of subsection one of this section.

(4) (a) The Board may direct that a mortgage, charge or lien over any property or assets of the farmer may, notwithstanding anything in the mortgage, charge or lien, be discharged by payment by or on behalf of the farmer at any time within three years after the date of the direction, of an amount equal to the assessed secured value of the debt and/or liability secured by such mortgage, charge or lien, together with interest accrued thereon as ascertained in accordance with paragraph (f) of subsection one of this section.

(b) Where the Board has, pursuant to subsection three of this section, directed that the time for payment of part of a debt and/or liability of the farmer (being an amount less than



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*Farmers' Relief (Amendment).*

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than the assessed secured value of that debt and/or liability together with interest as ascertained in accordance with paragraph (f) of subsection one of this section) shall be extended, the Board shall also direct that the balance of such assessed secured value and such interest may, notwithstanding anything in the mortgage, charge or lien, be satisfied by payment by or on behalf of the farmer at any time within three years after the date of the direction of an amount equal to such balance, together with interest as ascertained in accordance with paragraph (f) of subsection one of this section accrued to the date of payment.

(5) (a) The Director shall forthwith register every direction given by the Board under subsections three and four of this section in the office of the Registrar-General in the Register of Causes, Writs and Orders affecting land and shall lodge with the Registrar-General a caveat against any dealings not consistent with such direction, in respect of any mortgage, charge or lien affected by the direction over any land which is under the provisions of the Real Property Act, 1900.

(b) Every such direction shall be void as against a person dealing with any mortgage, charge or lien affected by the direction unless the same is registered in the Register of Causes, Writs and Orders affecting land and in the case of a mortgage, charge or lien over land under the provisions of the Real Property Act, 1900, unless a caveat has been lodged pursuant to paragraph (a) of this subsection.

(6) The Board may direct that any unsecured debt and/or liability of the farmer (including any such debt and/or liability as is deemed to be an unsecured liability under paragraph (c) of subsection one of this section) may at any time within three years from the date of the



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*Farmers' Relief (Amendment).*

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the direction be satisfied by payment by or on behalf of the farmer of an amount equal to that proportion thereof which under paragraph (g) of subsection one of this section is deemed to be a conditioned liability.

(7) Any discharge or satisfaction of the whole or any part of a debt and/or liability effected under this section shall to the extent of such discharge or satisfaction release the farmer from any liability accrued or to accrue to any third party who has guaranteed the payment by the farmer of the whole or any part of such debt and/or liability.

(8) A notice of every direction of the Board under this section shall be served by post on the creditor and the farmer and every such direction shall be binding upon the creditor and the farmer. Any payment by or on behalf of the farmer in accordance with any such direction, made within a period of three years from the date of the direction, shall operate as a full and complete discharge to the farmer of the debt and/or liability or of the part thereof to which the direction applies.

(9) If upon due tender to a creditor by or on behalf of a farmer of any payment in accordance with a direction of the Board under this section, the creditor refuses or neglects to accept the same within a period of seven days from the date of the tender, the amount thereof may be paid into the Supreme Court in its equitable jurisdiction and such payment into court shall have the same force and effect as if it were a payment to the creditor.

(10) If any creditor upon request in writing by the Board refuses or fails within the time limited in the request to execute any variation or discharge of a mortgage, charge or lien which is necessary to complete any settlement of the debts and/or liabilities of a farmer under  
this



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*Farmers' Relief (Amendment).*

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this section, the Board may execute such variation or discharge in the name of and on behalf of the creditor, and such variation or discharge shall have the same force and effect as if it had been executed by the creditor.

A statement contained in any variation or discharge executed by the Board that the same has been executed under and in pursuance of this subsection shall be evidence until the contrary is proved that the Board is authorised by this subsection to execute such variation or discharge.

(11) For the purposes of this section any hire-purchase agreement entered into by the farmer shall be deemed to be a mortgage by the farmer to the owner of the chattel or chattels comprised in the hire-purchase agreement to secure payment of the unpaid rental, hire and/or other moneys accrued or accruing due under the hire-purchase agreement.

Where in pursuance of any direction or directions given under this section the liability of the farmer in respect of any amounts so deemed to be secured is discharged the property in the chattel or chattels shall vest in the farmer.

In this subsection the expressions "hire-purchase agreement" and "owner" shall have the meanings ascribed thereto respectively in section thirty of this Act.

34EC. The farmer or any creditor of the farmer shall upon a request in writing by the Director produce such documents (including documents of title) and furnish such information and such accounts and writings as the Director may require for any of the purposes of this Division. Production of documents, etc.

Any farmer or creditor to whom such a request has been made who neglects or refuses, without reasonable excuse, to comply with the request within the time limited therein shall be guilty of an offence against this Act.

34ED.



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*Farmers' Relief (Amendment).*

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Grant of  
assistance.

34ED. (1) If the Board is satisfied that a farmer to whom any of the provisions of this Division apply will have a reasonable prospect of continuing and carrying on his farming operations successfully if any settlement of his debts and/or liabilities under this Division is concluded or put into effect, it may for the purpose of granting the assistance applied for direct the Rural Bank to make an advance to the farmer for the purpose of discharging either wholly or in part any of the debts and/or liabilities of the farmer.

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

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

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

DIVISION 3.—*Provisions applicable to all  
adjustments.*

New sec.  
34FA.

(d) by inserting after section 34F the following section:—

Creditor  
trustee.

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



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*Farmers' Relief (Amendment).*

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part of the debts and/or liabilities of the farmer.

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

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PART V.

GENERAL.

**10.** (1) Any alteration of the law by this Act, whether by the repeal of an enactment or otherwise, shall not, unless otherwise expressly provided by this Act, affect—

Savings.  
cf. Act No.  
14, 1925, s. 4.

- (a) any right accrued, or obligation incurred, before the commencement of this Act under the law so altered;
- (b) the validity or invalidity, or any operation, effect or consequence, of any instrument executed or made, or of anything done or suffered before the commencement of this Act;
- (c) any action, proceeding or thing pending or uncompleted at the commencement of this Act.

(2) Every such action, proceeding and thing may be carried on and completed as if the enactment had not been repealed, or the law otherwise altered.

(3) The generality of this section shall not be affected by any saving in any other section of this Act, nor shall this section limit any saving in the Interpretation Act of 1897.

**11.** During such time as any right or remedy of any creditor of a farmer against such farmer is, by reason of this Act, suspended or postponed, time shall not run against such creditor under the provisions of any Statute of Limitations so as to bar any right or remedy of such creditor against such farmer or any person who has guaranteed the payment by such farmer of any moneys or the performance by such farmer of any obligation.

Statutes  
of Limitations  
not to run.  
cf. Act No.  
57, 1932,  
s. 46c.

**12.**



*Farmers' Relief (Amendment).*

Parties to  
certain bonds  
not to be  
released.

**12.** (1) No amendment of the Farmers' Relief Act, 1932, made by any subsequent Act (including 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 or to the Rural Reconstruction Board in pursuance of section thirteen of that Act, whether as originally enacted or as amended from time to time.

(2) A reference in any such bond executed before the commencement of this Act to the Farmers' Relief Act, 1932, or to the Farmers' Relief Act, 1932-1934, or to the Farmers' Relief Act, 1932-1935, or to the Farmers' Relief Act, 1932-1936, or to the Farmers' Relief Act, 1932-1937, or to the Farmers' Relief Act, 1932-1938, or to the Farmers' Relief Act, 1932-1939, or to the Farmers' Relief Act, 1932-1940, shall as from such commencement be read and construed as a reference to the Farmers' Relief Act, 1932-1941.

(3) The Farmers' Relief (Amendment) Act, 1940, is amended by omitting section five.

Amendment  
of Act No. 27,  
1940.  
Sec. 5.  
(Consequen-  
tial.)  
Further  
amendment of  
Act No. 33,  
1932.  
(Revision.)

**13.** The Principal Act is further amended—

- (a) by omitting from the matter relating to Part IIA in subsection one of section one the figures and letter "34κ" and by inserting in lieu thereof the figures and letter "34M";
- (b) by inserting at the end of the matter relating to Part IIA in the same subsection the following new matter:—

DIVISION 1.—*Voluntary adjustments*—ss. 34A-34E.

DIVISION 2.—*Where voluntary adjustment is not concluded*—ss. 34EA-34ED.

DIVISION 3.—*Provisions applicable to all adjustments*—ss. 34F-34M.

PART IIB.—*PROTECTION ORDERS*—s. 34N.

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

WAKEHURST,  
Governor.

*Government House,  
Sydney, 13th November, 1941.*