

FARMERS' RELIEF ACT.

Act No. 33, 1932.

George V.
No. 33, 1932.

An Act to provide for the assistance and relief of necessitous farmers; to amend the Moratorium Act, 1930-1931, and Acts amending the same; and for purposes connected therewith. [Assented to, 29th November, 1932.]

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

PART I.

PRELIMINARY.

Short title and division into Parts.

1. (1) This Act may be cited as the "Farmers' Relief Act, 1932," and is divided into Parts as follows:—

PART I.—PRELIMINARY—ss. 1-7.

PART II.—FARMERS' RELIEF—ss. 8-34.

DIVISION 1.—*Stay orders*—ss. 8-12.

DIVISION 2.—*Supervisors*—ss. 13-25.

DIVISION 3.—*Management and administration of estates*—ss. 26-34.

PART III.—APPLICATION TO COURT—ss. 35-37.

PART IV.—GENERAL PROVISIONS—ss. 38-44.

SCHEDULE.

Commence-ment.

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

Construc-tion.

2. (1) This Act shall be read and construed subject to the Commonwealth of Australia Constitution Act, and so as not to exceed the legislative power of the State to
the

the intent that where any provision of this Act or the application thereof to any person or circumstance is held invalid the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected.

(2) This Act shall bind the Crown.

3. In this Act, unless inconsistent with the context or subject-matter,— **Definitions,**

“ Board ” means the Farmers' Relief Board appointed under this Act.

“ Director ” means the Director appointed under this Act and includes any deputy director.

“ Farmer ” means any person (including a corporate body) who is a resident of this State and is engaged in farming (including dairy-farming, poultry-farming and bee-farming), agricultural, horticultural or grazing operations in this State and includes the owner of any land which is cultivated under a share-farming agreement and the personal representatives of a deceased farmer.

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

“ Local Land Board ” means the local land board as defined by the Agricultural Lessees Relief Act, 1931.

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

“ Mortgage ” includes an agreement by a farmer to purchase land, and for the purposes of this Act such an agreement shall be deemed to be a mortgage of such land by the purchaser to the vendor to secure payment of the unpaid purchase money and interest thereon.

“ Prescribed ” means prescribed by this Act or any regulations made thereunder.

“ Produce ” means agricultural and horticultural produce within the meaning of the Liens on Crops and Wool and Stock Mortgages Act of 1898, milk, cream, poultry, eggs, honey, beeswax and

Farmers' Relief Act.**No. 33, 1932.**

and wool and includes sheep, cattle, horses, pigs and other farming or grazing live-stock sold by a farmer in the usual course of his business and not by way of capital realisation.

“ Supervisor ” means a supervisor appointed by the Director under this Act.

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

Director and deputies.

4. (1) The Governor may appoint a Director for the purpose of this Act upon such terms and at such salary as the Governor may determine.

(2) The Governor may appoint any person or persons to act as deputy or deputies of the Director.

(3) A deputy while acting under such appointment shall have and exercise such of the powers and duties of the Director as shall be delegated to him by the Governor.

(4) The Governor may, in accordance with the Public Service Act, 1902, as amended by subsequent Acts, appoint such officers as may be necessary for the administration of this Act.

(5) Such deputy-directors and other officers shall receive such remuneration as shall be determined by the Governor which remuneration shall be payable out of moneys appropriated by Parliament for the purpose.

Officers and employees.

5. The Director may, with the approval of the Minister administering the Department concerned and the Public Service Board, make use of the services of any officer or employee of the Public Service for the purposes of this Act.

Fees and emoluments of officers appointed Supervisors.

6. If any officer or employee mentioned in sections four and five of this Act be appointed a supervisor under this Act the fees and emolument to which he is entitled under subsection three of section thirteen of this Act shall be paid into the Consolidated Revenue Fund.

Farmers' Relief Board.

7. (1) There shall be a Board of three persons which shall carry into effect the objects and purposes of this Act and have and discharge the duties, powers and functions thereby conferred and imposed on the Board.

(2)

(2) The Director shall be a member and the chairman of the Board. The other two members shall be appointed by the Governor for the term of one year, but on the expiration of his term of office any member of the Board shall be eligible for re-appointment.

(3) The Director and one other member of the Board shall constitute a quorum at any meeting thereof. At any meeting of the Board the Director shall have a deliberative vote, and in case of equality of votes, a second or casting vote.

(4) The members of the Board other than the Director shall receive such remuneration as shall be determined by the Governor which remuneration shall be payable out of such moneys as may be appropriated by Parliament for the purpose.

(5) The Board shall be a body corporate with perpetual succession and common seal and may sue and be sued in its corporate name.

(6) The corporate name of the Board shall be the "Farmers' Relief Board."

PART II.

FARMERS' RELIEF.

DIVISION 1.—*Stay orders.*

S. (1) Any farmer or creditor of a farmer may at any time within twelve months after the date of commencement of this Act by writing under his hand (or in the case of a corporate body under the hand of its agent) in the prescribed form make application to the Director for a stay order under this Act. Such application shall be accompanied by such particulars as are prescribed.

(2) The farmer or any creditor of the farmer shall upon a request in writing by the Director furnish such information and such accounts, documents and writings as the Director may require for the purpose of considering such application.

(3)

No. 33, 1932.

(3) The Director on the receipt of such application may at his discretion grant a stay order:

Provided that the Director shall not refuse to grant a stay order on the application of a farmer without the concurrence of the Board:

Provided further that the Director shall not grant a stay order in respect of any farmer who has filed in the office of the Board a notice in or to the effect of the prescribed form disclaiming the benefits of this Act, nor on the application of a creditor pending the hearing of an application by the farmer of which the Director has notice, under section fourteen of the Moratorium Act, 1930-1931, or any enactment amending, consolidating, or replacing the same.

(4) In this section " creditor " means—

(a) a judgment creditor who is entitled to issue execution for a sum not less than fifty pounds; or

(b) any creditor of a farmer upon whose property at the date of an application for a stay order execution has been levied under any judgment.

Form and effect of stay order.

9. (1) Such stay order shall be in the form prescribed.

(2) On a stay order being granted in respect of a farmer no action, execution, proceedings whether judicial or extra judicial on default or for or upon breach of covenant under any mortgage or other security for money or under an agreement for sale or purchase of land or other process or proceeding shall be commenced or proceeded with or put in force against the farmer or his estate or effects during the operation of such stay order.

(3) On any such order being granted the prescribed particulars thereof shall be published in the Gazette and shall be further advertised as prescribed.

(4) The Director shall keep a register of stay orders which shall be open to public inspection at such times and on payment of such fees as may be prescribed. The Director shall also forthwith register every such stay order in the office of the Registrar-General in the Register of Causes, Writs and Orders Affecting Land, and

and shall lodge with the Registrar-General a caveat against any dealings with any land of the farmer which is under the provisions of the Real Property Act, 1900. No. 33, 1932.

(5) Every stay order shall be void as against a person purchasing from a farmer subject to this Act any land unless the same is registered in the Register of Causes, Writs and Orders affecting land, or in the case of land under the provisions of the Real Property Act, 1900, unless a caveat has been lodged in pursuance of subsection four of this section.

(6) No purchaser of any such land shall be affected with notice of any stay order by reason of omission to make any inquiry or any search other than search in such last-mentioned register.

(7) A stay order shall not affect the rights or remedies of any mortgagee or secured creditor of the farmer if he or any mortgagee subsequent to him has been in possession of the property subject to the mortgage or other security for at least two months before the date of the stay order:

Provided that the exercise of any such right or remedy shall be subject to any restrictions imposed by the Moratorium Act, 1930-1931, or any enactment amending, consolidating or replacing the same.

(8) During the operation of such stay order any mortgagee of any of the farmer's property may, with the consent of the Board, exercise any of his powers under his security, and such consent shall operate after the removal or expiration of such stay order as the consent of a court to such exercise under the Moratorium Act, 1930-1931, or any enactment amending, consolidating or replacing the same.

(9) Save as provided in subsection seven, during the operation of such stay order neither the farmer nor his estate or effects shall be subject to the provisions of the Moratorium Act, 1930-1931, or any Acts amending, consolidating or replacing the same.

10. (1) The Board may at any time remove any stay order after giving twenty-one days' notice of its intention so to do by notice in the Gazette and by advertisement as prescribed. Power of Board to remove stay order.

(2)

No. 33, 1932.

(2) The Director shall also give the prescribed notice of such removal to every creditor of the farmer who has given notice in writing of his debt or claim to the Director.

Any creditor of a farmer may at any time apply to the Board in the prescribed manner to remove any stay order in respect of such farmer.

(3) The prescribed particulars of such removal shall be entered by the Director in the register of stay orders kept by him and be registered by him in the office of the Registrar-General in the Register of Causes, Writs and Orders Affecting Land.

(4) On the removal of a stay order the supervisor shall, after deducting out of the moneys of the farmer in his hands such sums as are necessary—

- (a) to pay his remuneration;
- (b) to satisfy any costs and expenses incurred by him in the management of the farmer's estate;
- (c) to discharge any debts incurred by him or the farmer and guaranteed by the Board; and
- (d) to repay to the Board any advance made by it to the farmer,

pay the balance to the farmer.

Matters
to be
considered.

11. The Director or the Board in determining whether a stay order should be granted or removed shall consider (inter alia) whether the farmer in respect of whom a stay order has been applied for or granted, as the case may be, is able to obtain financial assistance to enable him to carry on without relief or assistance under this Act, and shall refuse to grant or shall remove the stay order if, in his or its opinion, the farmer is able to carry on without relief or assistance under this Act, or if having regard to all relevant circumstances the farmer is otherwise not entitled to such relief or assistance.

The Board shall remove the stay order if the farmer shall abandon the farm or fail to work or manage the same to the satisfaction of the Board.

Effect of
removal of
stay order.

12. (1) When a stay order is removed any action, execution or proceedings pending or in course of being put into operation against the farmer or his estate or effects at the time when the stay order was made may be continued and proceeded with, and in computing the time

time for taking any further step in connection therewith no account shall be taken of the period which has elapsed during the operation of the stay order.

No. 33, 1932.

(2) The period during which a stay order was in operation shall not for the purposes of any statute of limitation be taken into account in connection with any debt or claim affected by the order.

DIVISION 2.—*Supervisors.*

13. (1) On the granting of a stay order the Director shall appoint some fit and proper person (which may be a corporate body) to act as supervisor of the estate of the farmer in respect of whom the stay order has been granted. Supervisors.

(2) Any person or corporate body who has been appointed a supervisor of the estate of any farmer unless he has previously executed and delivered a bond in pursuance of this section and such bond is still subsisting, shall before proceeding to act execute and deliver a bond to the Board with one or more sureties approved of by the Board in the penal sum of two thousand pounds conditioned for duly accounting to the Board for all receipts and disbursements during the management and administration of the financial affairs of any farmer of whose estate he has been or may be appointed supervisor. Such bond shall be in the form prescribed.

The Board may at its discretion require any supervisor to give such further security as it thinks fit.

(3) Every such supervisor shall each year be entitled to retain by way of emolument out of the moneys of the farmer received by him, such sum being not less than five pounds five shillings and not more than three per centum of the gross proceeds of the marketed produce of the farmer of whose estate he has been appointed supervisor, as the Director shall determine.

(4) The supervisor shall out of such emolument pay all his expenses in administering the farmer's affairs, but, with the consent of the Director, he may also be allowed out of such moneys such special travelling expenses as in the opinion of the Director have been properly incurred by him.

(5)

No. 33, 1932.

(5) The supervisor's said emolument shall be a first charge on the said moneys in priority of any other charge, lien or claim whatsoever whether existing prior to the granting of the stay order or arising thereafter.

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

Supervisor
to manage
and
administer
farmer's
affairs.

14. On a stay order being granted in respect of a farmer under this Act he shall be deemed to become, and during the operation of such order to be, subject to this Act, and during the operation of such order a supervisor shall, subject to the control and direction of the Director, manage and administer the farmer's business and estate.

The supervisor shall in the course of his duties report to the Board any failure on the part of the farmer to perform or observe the obligations of the farmer under any covenant or statute to repair, insure, or destroy or keep down any noxious growths or animals.

If default shall be made in the performance or observance of any such obligation the Board may, on the application of any secured creditor of the farmer, remove the stay order:

Provided that unless and until the Board otherwise directs the farmer shall continue to work the farm and market the produce thereof.

Powers of
supervisor.

15. (1) On the granting of a stay order under this Act the supervisor of the estate of the farmer, subject to the control and direction of the Director, shall receive all moneys derived from the carrying on of the farmer's business or otherwise payable to the farmer and make all disbursements thereof.

(2) The appointment of a supervisor under this Act shall remain in force during the operation of the stay order granted in connection with the affairs of the farmer and no longer:

Provided that the Director may at any time remove a supervisor from his office and appoint another supervisor in his place.

(3) The supervisor shall be deemed to be the agent of the farmer, with such powers as are by this Act conferred

conferred or as may be prescribed by the regulations, but so that the farmer shall not have power to revoke or abrogate the supervisor's authority.

No. 83, 1932.

16. The Director shall, before any land of a farmer is sold under this Act, register in the office of the Registrar-General every instrument appointing a supervisor of the estate of such farmer.

Registration
of
appointment.

17. (1) On his appointment a supervisor shall, subject to the control and direction of the Director, have the following powers:—

Further
powers of
supervisor.

- (a) To receive all debts and other moneys due and payable to the farmer.
- (b) To receive the proceeds of all produce marketed by the farmer.
- (c) To make out of moneys of the farmer received by him the disbursements mentioned in sections twenty-eight and twenty-nine of this Act.

(2) Nothing in this section or section fifteen of this Act contained shall prejudice or affect any mortgage, charge or lien to which any debt or other moneys due or payable to the farmer or other property of the farmer may be subject save and except any lien on the farmer's wool or crops existing at the date of the stay order or granted thereafter with the consent of the Board.

18. If the moneys received by the supervisor under the provisions of section seventeen of this Act are insufficient to satisfy the payments set forth in sections twenty-eight or twenty-nine of this Act, as the case may be, the supervisor may, with the consent of the Board, as the statutory attorney and agent of the farmer, sell any of the property and assets of the farmer except his farm and such of his assets as are used in connection therewith, and excepting also the property and interest of the farmer in any policy of life assurance to the extent that such policy is declared by section thirty-four of this Act to be unaffected by this Act, and shall, after deducting out of the net proceeds of such sale and paying such moneys as may be necessary to satisfy any debts of the farmer secured by any mortgage, charge or lien over the property sold and subject to which the property has not been sold, apply the balance of such proceeds as if they were the proceeds of produce marketed by the farmer.

Power of
sale by
supervisor.

Farmers' Relief Act.

No. 33, 1932.

Supervisor
may make
application
under
Agricultural
Lessees
Relief Act,
1931.

19. The supervisor of the estate of a farmer subject to this Act may, with the consent of the Board, apply as the agent of and in the name of the farmer to the local land board—

- (a) for any order or determination under the provisions of the Agricultural Lessees Relief Act, 1931; or
- (b) for a determination of the capital value or rent under the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, the Closer Settlement Acts, the Returned Soldiers' Settlement Act, 1916, as amended by subsequent Acts; or
- (c) exercise any other rights conferred upon the farmer under those Acts or under the Prickly-pear Acts, 1924-1930;

and the local land board may on such application make any such order or determination as it could make on the application of the farmer.

Any costs or expenses incurred by the supervisor under this section shall be regarded as costs incurred in the management of the farmer's estate.

Power of
supervisor
to get
in moneys.

20. If in the books of any bank or branch of a bank or of any firm, person or company any sum of money is standing to the credit of the farmer, then the supervisor may by notice in writing require the manager of such bank or branch or such firm, person or company subject to any right of set-off to transfer such sum to the credit of the supervisor, and the manager, firm, person or company shall forthwith so transfer it accordingly.

Saving of
payments
made with-
out notice
of stay
order.

21. (1) On the granting of a stay order in respect of a farmer the duty and authority of any banker to pay any cheque, promissory note or bill of exchange drawn, made, or accepted by such farmer shall be determined.

(2) Notwithstanding the granting of any stay order, any payment of money or the delivery of any security or negotiable instrument made to or by the order or direction of the farmer by his banker or by any firm, person or company acting as his banker in good faith and without negligence on the part of the banker, firm, person
or

or company, and without the prescribed notice of the granting of the stay order on the part of the banker, firm, person or company shall be as valid and effectual as if such stay order had not been granted.

No. 33, 1932.

(3) A payment of money or delivery of property to or by the order of a farmer against whom a stay order has been made shall, notwithstanding anything in this Act contained, be a good discharge to the person paying the money or delivering the property, if the payment or delivery is made without notice of the granting of the stay order and is either pursuant to the ordinary course of business or otherwise in good faith.

22. The supervisor shall open a bank account in some bank approved by the Director in connection with the estate in respect of which he has been appointed and shall pay into and deposit at the bank all such moneys and securities as may be received by him in the course of his management and administration of such estate.

Supervisor
to open bank
account.

23. A supervisor shall whenever called upon by the Director and on the termination of his supervisorship furnish the Board with full and accurate accounts verified by statutory declaration of all moneys and other property received and disbursed or otherwise disposed of by him by virtue of or in connection with his office.

Supervisor
to furnish
accounts.

24. The Supreme Court or a judge thereof or a district court may on the application of the Board make such orders for the taking of the accounts of the supervisor as may be deemed expedient.

Power of
court
to order
accounts.

25. The Director may at any time require a supervisor to deliver to him any moneys or other property in his hand as such supervisor and the Supreme Court or a judge thereof or a district court may on the application of the director make such orders as shall be necessary to compel compliance with the requisition.

Supervisor
to deliver
moneys or
property
to Director.

DIVISION 3.—Management and administration of estates.

26. (1) As soon as practicable after the granting of a stay order the Board shall as at the date thereof assess the value of the farmers' lands, plant, machinery, and other property and assets and ascertain the amount of his debts and liabilities, both secured and unsecured, including all interest accrued at or accruing to such date.

Board to
assess value
of assets and
amount of
liabilities.

Any

No. 33, 1932.

Any such assessment or subsequent variation thereof shall be notified by the Board to every creditor of the farmer of whose debt the board has notice within fourteen days from the making thereof.

Suspended liabilities account.

(2) In so far as the debts 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 in the books of the Board be placed in a suspended liabilities account, and so much of every debt or liability as forms part of such excess shall, during the operation of the stay order, be deemed to be an unsecured liability.

(3) In apportioning the respective secured debts that are to be placed in the suspended liabilities account the Board shall give effect to the respective priorities of the mortgages, charges and liens securing such debts.

Limitation of interest.

(4) Any such mortgage, charge or lien shall to the extent of the amount thereof not placed in the suspended liabilities account carry interest each year or part of the year during the operation of a stay order at the rate provided by the mortgage, charge or lien or at the rate of five pounds per centum per annum, whichever is the less.

(5) During the operation of the stay order the unsecured debts of the farmer (including the amount placed in the suspended liabilities account) shall not carry interest.

Power to review assessment.

(6) The Board may from time to time review any assessment made under this section, and make such alterations and variations therein and in the amounts placed in the suspended liabilities account as it thinks fit.

(7) In making or reviewing any such assessment the Board 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 Commissioners of the Government Savings Bank of New South Wales 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 of such assessment no outstanding arrears of instalments

or

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.

No. 33, 1932.

(8) Before making or reviewing any such assessment the Board shall give fourteen days' notice of its intention so to do to every creditor of whose debt it has notice.

(9) Any creditor may appeal to the local land board against any assessment by the Board of the value of the assets of the farmer subject to any security.

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

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.

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

27. (1) If the total value of the farmer's property and assets exceeds in amount the total of such debts or liabilities of the farmer as are secured by any mortgage, charge or lien after deducting therefrom such parts of such secured debts as are by subsection two of section twenty-six of this Act deemed to be unsecured liabilities the Board on making or reviewing any such assessment as is in section twenty-six mentioned shall enter in an account to be called the conditioned liabilities account such proportions of each and every unsecured liability of the farmer (including such part of every secured debt or liability as is by subsection two of section twenty-six deemed to be an unsecured liability) as when added together shall equal the amount of the excess in this subsection referred to.

Conditioned liabilities.

(2) Such proportions of the unsecured liabilities are in this Act referred to as "the conditioned liabilities."

28. (1) The supervisor shall out of the moneys received by him under section seventeen of this Act, prior to the first day of July, one thousand nine hundred and thirty-three, make the following disbursements:—

Disbursements—
Moneys received
prior to
1st July,
1933.

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

No. 33, 1932.

premiums of fire and/or hail insurance effected with the approval of the Board, and moneys advanced for any such purposes, together with interest on such advances at the rate of four per centum per annum;

- (b) secondly, in the discharge of the existing liens on the farmer's wool or crops to the extent that the moneys secured thereby were advanced after the first day of October, one thousand nine hundred and thirty-one, by the lienee to enable the farmer to carry on during the season in which the produce was grown so far as the net proceeds of such wool or crops will respectively extend.

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

- (c) thirdly, in payment to the farmer for the purpose of clothing and paying the medical expenses of himself and family and otherwise for his personal use and benefit an amount equal to seven and one-half per centum of the gross proceeds of the marketing of his produce or the sum of seventy-five pounds whichever is the less;
- (d) fourthly, in payment, *pari passu*, of the moneys specified in subsection three of section thirty of this Act one year's rent of any farm leased by the farmer, one year's interest on any first mortgage, charge or lien over the farm, stock, machinery

machinery or other property or assets of the farmer, one year's rates and taxes payable by the farmer and one year's payments due to the Crown upon the farm of the farmer.

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

- (e) fifthly, in payment of one year's interest on each second and subsequent mortgage, charge or lien over the farm, stock, machinery or other property or assets of the farmer. In the application of moneys under this paragraph regard shall so far as practicable be given to the priorities of securities and to the relative values of the property subject to the securities.

(2) After making such payments as aforesaid and retaining such amount as the Board may consider necessary to meet the payments required to maintain the farmer and carry on the farm until the end of the next ensuing season, the supervisor shall distribute the balance, if any, in or towards the satisfaction, *pari passu*, of the unsecured liabilities to the farmer.

For the purposes of this subsection the unsecured liabilities shall not include the amounts which are by subsection two of section twenty-six of this Act deemed to be unsecured liabilities.

(3) Notwithstanding the provisions of subsection five of section twenty-six interest payable under this section shall be at the rate of five per centum per annum upon the principal sum secured by the mortgage, lien or charge as at the date of the stay order.

(4) In the event of the moneys received by the supervisor being insufficient to meet the payments in paragraph (a) of subsection one of this section specified the amount so unpaid shall be paid by the supervisor out of the moneys received by him, *pari passu*, with the expenses specified in paragraph (a) of subsection one of section twenty-nine.

(5) In the event of the moneys received by the supervisor being insufficient to meet all the payments specified

No. 33, 1932.

specified in subsection one of this section, any such amount unpaid shall for the purposes of this Act if due in respect of a secured debt, be added to such debt, and if due in respect of an unsecured debt, shall be added to the unsecured liabilities of the farmer.

Disburse-
ments—
Moneys
received
after
1st July,
1933.

29. (1) The supervisor in each season shall out of the moneys received by him under section seventeen of this Act on and after the first day of July, one thousand nine hundred and thirty-three, make the following disbursements:—

- (a) firstly, in payment of the expenses of harvesting, shearing or other gathering and marketing of the produce of the farmer, and in payment of premiums of fire and/or hail insurance effected with the approval of the Board, and moneys advanced for any such purposes, together with interest on such advances at the rate of four per centum per annum;
- (b) secondly, in paying to the farmer for the purpose of clothing and paying the medical expenses of himself and family and otherwise for his own personal use and benefit an amount equal to seven and one-half per centum of the gross proceeds of the marketing of the produce of the farm or the sum of seventy-five pounds, whichever is the less;
- (c) thirdly, in payment of all liens on crop or wool or stock mortgages granted with the consent of the Board by the farmer or the supervisor to the extent of the money secured thereby. Where the stay order is granted after the thirtieth day of June, one thousand nine hundred and thirty-three, in payment of all liens on crops or wool granted prior to such date to the extent that the moneys secured thereby were advanced by the licensee to enable the farmer to carry on during the season in which the produce was grown;
- (d) fourthly, in payment of all debts incurred by the farmer or supervisor and guaranteed by the Board and of any advance made by the Board to the farmer and in discharging any liability incurred in pursuance of section fourteen;

(e)

- (e) fifthly, in payment, *pari passu*, of the moneys specified in subsection three of section thirty of this Act, one year's rent of any farm leased by the farmer, one year's interest on any first mortgage, charge or lien over the farm, stock, machinery or other property or assets of the farmer, one year's rates and taxes payable by the farmer, and one year's payments due to the Crown upon the farm of the farmer.

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

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

(2) The surplus, if any, after making such payments as aforesaid and after retaining thereout such amount as the Board directs for the purpose of enabling the farmer to carry on until the end of the next ensuing season shall be distributed in or towards the satisfaction, *pari passu*, of the conditioned liabilities of the farmer, or if there are no conditioned liabilities or none such remaining unsatisfied then in or towards the satisfaction, *pari passu*, of the unsecured liabilities of the farmer.

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

K

(4)

No. 33, 1932.

(4) Until any amount so unpaid is paid or discharged it shall, if due in respect of a secured debt, be added to such debt, and if due in respect of an unsecured debt, it shall be added to the unsecured liability of the farmer, and so far as such secured or unsecured debts are or are by this Act deemed to be unsecured liabilities, shall be entitled to be paid in priority to any unsecured liabilities of the farmer existing prior to the granting of the stay order and still undischarged.

(5) The supervisor shall make the payments provided for in subsection three of this section in the order of priority set forth in subsection one of this section.

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

(7) For the purposes of this section and section twenty-eight "season" shall mean such period as the Director shall in the case of each farmer determine and notify in the Gazette.

Special provisions in respect of chattels under hire-purchase agreement.

30. (1) The owner of any chattel which has been delivered to a farmer under a hire-purchase agreement and which at the time any stay order with respect to him comes into operation is in the farmer's possession shall not, except with the consent of the Director, take any steps to terminate the agreement or to take the chattel out of the possession of the farmer.

(2) The owner of the chattel may at any time and from time to time make application to the Director for such consent, and if but for the provisions of this section such owner be entitled to the possession thereof the Director shall accede to the application unless in his opinion it will be necessary or desirable to use the chattel for the purpose of taking off or putting in a crop on or otherwise working the farm or making the farm more conveniently habitable, in which case he may refuse the application, and the owner shall thereupon become entitled to the right in subsection three mentioned.

(3) Where any such application is refused the owner of such chattel shall, for each season during which a stay order has been in operation and during which

which such chattel has been used on the farm, in accordance with the provisions of sections twenty-eight and twenty-nine of this Act be entitled to be paid by the supervisor such of the moneys owing to him by the farmer on or in respect of such chattel as shall not exceed in amount one-fifth part of the value of such chattel as assessed by the Board or of the amount owing thereon, whichever is the less, with interest on the amount owing on such chattel or the assessed value thereof, whichever is the less, at the rate of five pounds per centum per annum, computed from the date of the stay order.

(4) The Director may at any time return to the owner any chattel held by the farmer under a hire-purchase agreement in respect of which an application by the owner for repossession has not been made and refused and may terminate the agreement, and the farmer shall be liable only for such hire or instalments as have accrued due prior to such termination and are then unpaid.

The return shall be at the nearest railway station where practicable loading facilities exist.

31. (1) During the currency of the stay order the Board may—

(a) out of moneys to be provided by Parliament advance to the farmer such moneys as it thinks fit for the purpose of maintaining the farmer and the members of his family resident with him on his farm and carrying on his business;

(b) guarantee to any vendor the payment of the price of any fertilisers, cornsacks, bales, stores, seed wheat, live-stock, or other commodities whatsoever purchased by the farmer with the consent of the Board.

(2) The moneys so advanced by the Board shall be paid by the Board to the supervisor or credited to his account with the bank and shall be disbursed by the supervisor under the direction of the Board. The bank shall not be concerned to inquire whether any such direction has been given.

(3) Where the farmer with the consent of the supervisor purchases on credit any of the commodities mentioned in paragraph (b) of subsection one of this section

Advances
and guar-
antees by
Board.

No. 33, 1932.

section and the payment of the price thereof is guaranteed or not by the Board, the farmer with the consent of the supervisor or the supervisor as agent for and in the name of the farmer may grant a preferable lien under the Liens on Crops and Wool and Stock Mortgages Act of 1898, to secure to the vendor the payment of such price.

Application
of proceeds
of sale with
consent of
Board.

32. The farmer may, with the consent of the Board and of the mortgagee of the subject property, sell his farm or any part thereof with or without any of his property or assets used in connection therewith.

Such consent of the Board may be given subject to such conditions as the Board may deem proper.

The proceeds of sale shall, subject to the fulfilment of all conditions imposed by the Board, be applied by the supervisor as if no stay order was in operation.

Farmer
not to
mortgage,
etc., assets
without
consent
of Board.

33. (1) Any farmer who while subject to this Act without the consent of the Board except as by this Act provided mortgages, charges, pledges, or creates any lien upon or otherwise encumbers or transfers, assigns or parts with the possession or control of any part of his real or personal property, credits or effects, shall be liable on summary conviction to a penalty not exceeding one hundred pounds or to imprisonment for six months.

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

(3) A contravention of this section shall not invalidate any instrument intending to affect or evidence the title to any land unless the provisions of subsection four of section nine have been complied with prior to the execution of such instrument.

(4) Subsection one of this section shall not extend to any disposal by the farmer in pursuance of a binding contract made in good faith and for valuable consideration prior to the date of the stay order.

(5) All contracts entered into by the farmer in good faith and for valuable consideration prior to the date of the stay order for the alienation of any of his property may, subject to the Moratorium Act, 1930-1931, or any Act amending, consolidating or replacing the same, be enforced against the farmer and the supervisor.

34.

34. The property and interest of any farmer in any policy within the meaning of Part II of the Life, Fire and Marine Insurance Act, 1902, shall to the extent to which it is protected by the said Act or any Act amending the same be unaffected by this Act.

No. 33, 1932.

Policies of insurance protected.

PART III.

APPLICATION TO COURT.

35. If the condition of any bond given by a supervisor hereunder has been broken the Board may sue upon the said bond and shall be entitled to recover thereon as trustee for all persons interested the full amount recoverable in respect of any breach of the condition of the said bond.

Assignment of bond.

Such remedy shall be in addition to and not in substitution for any other remedy that any person may have against the supervisor.

36. (1) If any question shall arise in the course of the administration of this Act touching the right of any creditor or alleged creditor or as to the validity of any proceeding or act which has been taken or done or purports to be taken or done under this Act or as to the extent of the powers of the Board, the Director or any supervisor such question may be referred by the Board, the Director or any creditor or alleged creditor to a judge of the Supreme Court or to a district court for decision.

Application to court for directions.

(2) The decision of the judge or court on the question shall be final and conclusive.

37. (1) The costs of any proceedings under this Act shall be in the discretion of the judge or court.

Costs of proceedings.

(2) The procedure and practice of the Supreme Court and the district court respectively in all applications made under this Act shall be as prescribed by the respective rules of court.

PART

PART IV.

GENERAL PROVISIONS.

Guarantees.

38. Nothing in this Act contained shall in any way prejudice or impair the rights, powers or remedies of any person who is entitled to the benefit of a guarantee for the payment by a farmer subject to this Act of any moneys or the performance by any such farmer of any obligation:

Provided that the rights of such person to proceed against the guarantor shall be subject to the provisions of the Moratorium Act, 1930-1931, and any Acts amending, consolidating or replacing the same.

Exemption from liability for acts of supervisor.

39. Neither the Board nor the Director nor the Crown shall be under any liability to any farmer whose affairs are being or have been managed or administered under this Act or to any creditor of such farmer for or in respect of any act or omission of any supervisor or for or in respect of any debt or obligation incurred by any supervisor.

Offences.

40. (1) Every person guilty of an offence against this Act shall for every such offence be liable if no other penalty or punishment is imposed to a penalty not exceeding fifty pounds.

(2) Penalties imposed by this Act or any regulation made thereunder may be recovered in a summary manner in any court of petty sessions holden before a stipendiary or police magistrate.

Regulations.

41. (1) The Governor may make regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Act.

(2) Such regulations may prescribe a penalty not exceeding fifty pounds for any breach thereof.

(3) Such regulations shall—

(a) be published in the Gazette;

(b) take effect from the date of publication or from a later date to be specified in such regulations; and

(c)

(c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

No. 33, 1932.

If either House of Parliament passes a resolution of which notice has been given within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

42. The provisions of the Schedule to this Act shall be deemed and taken to have the same force and effect as if contained herein. Operation and effect of Schedule.

43. Notwithstanding the provisions of section forty-four of this Act with respect to the expiration of this Act, the Board may by publishing in the Gazette prior to the date of such expiration such notice as may be prescribed extend the operation of any stay order granted prior to the publication of such notice. The operation of any stay order whose operation shall be so extended shall continue till such stay order be removed by the Board: Provided that no such stay order shall in any event remain in operation for a period longer than twelve months after the date of expiration specified in section forty-four of this Act. Extension of stay orders.

44. This Act shall continue in force until the thirty-first day of March, one thousand nine hundred and thirty-six, and thereafter until such time as the Governor notifies by proclamation in the Gazette that he is satisfied that all stay orders granted under this Act have been removed: Duration of Act.

Provided that after the said thirty-first day of March, one thousand nine hundred and thirty six, the provisions of this Act shall only apply to those farmers in respect of whom stay orders are at the said date still in operation and to their creditors.

No. 33, 1932.

THE SCHEDULE.

Sec. 42.

THE BOARD.

- Vacancy.** 1. On the occurrence of an extraordinary vacancy in the office of a member of the Board (other than the Director) the Governor shall appoint a person to the vacant office, whose term of office shall be for his predecessor's unexpired term of office.
- Validity of proceedings and acts.** 2. No proceeding or act of the Board shall be invalidated or illegal in consequence only of there being any vacancy in the office of any one member of the Board at the time of such proceeding or act.
- Minutes.** 3. The Board shall keep minutes of all their proceedings.
- Governor to have reports, etc., from the Board.** 4. The Board shall furnish the Governor with—
 (a) all such reports, documents, papers, and minutes as are required by Parliament pursuant to any order of either House of Parliament; and
 (b) full information of all business of the Board which the Governor may require.
- Report.** 5. The Board shall make an annual report of their proceedings to the Governor, which shall be laid before Parliament.

LEGAL PROCEEDINGS, EVIDENCE, ETC.

- Judicial notice of common seal.** 6. All courts, judges, and persons acting judicially shall take judicial notice of the common seal of the Board affixed to any deed or instrument, and shall presume that such seal was properly affixed thereto.
- Service of notices and legal proceedings.** 7. Any notice, summons, writ, or other proceeding required to be served upon the Director or the Board may be served by being left at the office of the Board.
- Documents how authenticated.** 8. Every notice, order, summons, or other document requiring authentication by the Board may be sufficiently authenticated without the seal of the Board if signed by the Director.
- Power to direct prosecutions.** 9. The Board may order either generally or in any particular case that proceedings may be taken for the recovery of any money payable to them or for the recovery of any penalties incurred under or for the punishment of any persons offending against this Act or under or against any regulation.
- Power of officer to represent Board or Director in petty sessions.** 10. In all proceedings before any court of petty sessions any officer appointed by the Director in writing under his hand for that purpose may represent the Board or the Director in all respects as though such officer was the party concerned.
- Proof of certain matters not required.** 11. (1) In any prosecution or legal proceeding by or under the direction or authority of the Director or the Board no proof shall be required (until evidence is given to the contrary) of—
 (a) the constitution of the Board;
 (b) any order of the Board;
 (c) the particular or general appointment of any officer of the Board to take proceedings against any person;
 (d) the powers of the said officer to prosecute or take proceedings;

(e)

(e) the appointment of the Director or of any member of the Board; or

No. 33, 1932.

(f) the presence of a quorum at any meeting at which any order, assessment or determination is made or any act is done by the Board.

(2) The production of—

Evidence of regulations, etc.

(a) a copy of the Gazette containing any regulation, order, or notice purporting to have been made or given under any of the provisions of this Act or the regulations, or

(b) a copy purporting to be a true copy of any such regulation, order, or notice certified as such under the hand of the Director or any member of the Board

shall be evidence until the contrary is proved of the due making, existence, confirmation, approval, and giving of such regulation, order, or notice, and of all preliminary steps necessary to give full force and effect to the same.

12. All documents whatever purporting to be issued or written by or under the direction of the Director or the Board, and purporting to be signed by the Director or any member of the Board, shall be received as evidence in all courts and before all persons acting judicially within New South Wales, and shall without proof be deemed to have been issued or written by or under the direction of the Director or the Board, as the case may be, until the contrary is shown.

Evidence of documents issued by the Board or Director.

13. No matter or thing done by the Director or by any officer or other person appointed or employed by the Director other than a supervisor or by an authorised officer if done bona fide in the exercise of his powers or in the performance of his duties under this Act shall subject such Director, officer, or other person to any personal liability in respect thereof.

Protection of Director, officers, etc.

14. The Director and the Board for the purposes of making any assessment or of conducting any investigation or inquiry authorised to be made by or under this Act shall have all the powers and immunities of a commissioner, and the Director shall have the powers of a chairman within the meaning of Division 1 of Part II of the Royal Commissions Act, 1923, and the provisions of that Act with the exception of section thirteen and of Division 2 of Part II shall, mutatis mutandis, apply to any witness or person summoned by or appearing before the Director or the Board.

Powers of the Board and Director in conducting investigations.

THE DIRECTOR.

15. The provisions of the Public Service Act, 1902, or any Act amending that Act, shall not apply to the appointment of the Director, and he shall not be subject to the provisions of the said Act during his tenure of office.

Director not subject to Public Service Acts.

16. The Director shall be the permanent head within the meaning of the Public Service Act, 1902, and any Act amending that Act.

Director to be permanent head.

17. A Director who at the date of his appointment is an officer of the Public Service shall, on the expiration of this Act, or in the event of his office being discontinued other than for misbehaviour,

Director eligible for reappointment in Service.

be

Farmers' Relief Act.**No. 33, 1932.**Rights
accruing
under Public
Service Acts.Saving of
rights, etc.Leave of
absence.Officers
transferred
to Board
eligible for
reappointment
in Service.Rights ac-
crued under
Act No. 31,
1902, etc.Saving of
rights.Disclosure
of official
matters.

be eligible, on the recommendation of the Public Service Board, to be appointed to some office in the Public Service not lower in classification and salary than that which he held at the date of his appointment as a Director.

18. Nothing contained in this Act shall affect the rights accrued or accruing under the Public Service Act, 1902, or under the Superannuation Act, 1916, or any Act amending such Acts, to any officer of the Public Service appointed a Director.

19. Any officer of the Public Service so appointed shall continue to contribute to any fund or account, and shall be entitled to receive any deferred or extended leave, payment, pension or gratuity as if he were an officer or employee within the meaning of the Public Service Act, 1902, or the Superannuation Act, 1916-1930, as the case may be.

20. The Director and such deputy Directors shall be entitled to such leave of absence as may be prescribed.

OFFICERS.

21. Any officer transferred to the service of the Director shall, in the event of his office as an officer of the Director being discontinued or abolished, be eligible for and shall be appointed to an office in the service from which he was transferred not lower in classification and salary than that which he held at the date of his appointment as an officer of the Director.

22. Nothing contained in this Act shall affect the rights accrued or accruing under the Public Service Act, 1902, or the Superannuation Act, 1916-1930, or any Act amending such Acts, to any officer appointed an officer of the Director.

23. Any officer so appointed shall continue to contribute to any fund or account, and shall be entitled to receive any deferred or extended leave, and any privileges, and any payment, pension, or gratuity as if he had remained an officer or employee within the meaning of the Public Service Act, 1902, or the Superannuation Act, 1916-1930, as the case may be, and for such purposes his service under the Director shall be deemed to be service for the purposes of such Acts.

24. Any person who is or has been an officer of the Director or of the Board under this Act or the regulations in force under this Act, and who reveals any information acquired by him in the performance of any duty under such Act or regulations, to any person other than a person to whom he is authorised by the Director or the Board to communicate it, shall be guilty of a misdemeanour, and shall be liable to imprisonment for any term not exceeding two years, with or without hard labour.

DISTRICT