



ANNO SECUNDO

GEORGI VI REGIS.

A.D. 1938.

No. 2412.

An Act to enact certain provisions with respect to the supply of cornsacks to farmers.

[Assented to 8th December, 1938.]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

- Short title.** 1. This Act may be cited as the "Cornsacks Act, 1938".
- Incorporation.** 2. This Act is incorporated with The Bills of Sale Act, 1886-1935, and that Act and this Act shall be read as one Act.
- Interpretation.** 3. In this Act, unless the context otherwise requires—
- “crop” means crop of wheat, barley, oats, or rye, and any such crop cut for hay, and includes the grain harvested from any such crop :
- “farmer” means any person who cultivates land for the production of wheat, barley, oats, or rye, or is a party to any share-farming agreement pursuant to which land is cultivated for the production of wheat, barley, oats, or rye, and the executors, administrators, and assigns of any such person :
- “farmer’s crop” means all crops growing or harvested or in process of being harvested on land occupied by the farmer, or on land worked under a share-farming agreement to which he is a party, and where the farmer is entitled only to some share of such crops the term shall mean the share of such crops to which the farmer is entitled :
- “memorandum” means memorandum of lien under this Act :

“ price ” includes the price, or the balance of the price, of any cornsacks, together with any money due by the buyer to the seller for interest on the price, or any part thereof, or for the cost of transport or delivery of the cornsacks :

“ Registrar-General ” means Registrar-General of Deeds :

“ seller ” means a person who sells cornsacks on credit to a farmer, and the executors, administrators, and assigns of any such person.

4. (1) Where, after the commencement of this Act, a person sells cornsacks to a farmer on credit, the seller may file in the General Registry Office at Adelaide a memorandum of lien in the form set out in the schedule to this Act, with any modifications which circumstances require, and completed and executed as indicated in the said schedule.

Registration of charge to cover cost of cornsacks.

(2) Upon the filing of such a memorandum—

- (a) the seller shall for the purpose of securing payment of the price of the cornsacks at the time when it becomes payable have a preferential lien over the whole of the farmer's crop existing at the time of filing the memorandum :
- (b) the said lien shall have priority over the claims of all other persons to or in respect of the said crop :
- (c) the seller entitled to the said lien may, on default by the farmer in payment of any moneys secured thereby, exercise any remedy available to the holder of an equitable lien over chattels :
- (d) in addition to the foregoing provisions the farmer mentioned in the memorandum shall be deemed to have covenanted with the seller to observe all the covenants set out in section 11 of The Bills of Sale Act, 1886-1935, as if he were the grantor of a valid and duly registered bill of sale, and the seller were the grantee thereof, and the price of the cornsacks were moneys secured thereby, and the said crop were personal chattels comprised in the said bill of sale :
- (e) the seller may, on default by the farmer, exercise in relation to the said crop, all or any of the powers which he could exercise under the said section 11 of The Bills of Sale Act, 1886-1935, if he were the grantee of a valid and duly registered bill of sale over the said crop, and the said price were moneys secured thereby, and the farmer were the grantor thereof :

(f) the said farmer shall not thereafter during the continuance of the lien, and with knowledge thereof, deliver the said crop to any person or suffer it to be delivered to any person without the consent in writing of the seller, and if any farmer acts in contravention of this provision he shall be guilty of a misdemeanour.

Effect of lien.

5. A lien under this Act on the crop of any farmer shall not be in any way extinguished, suspended, impaired, or otherwise prejudicially affected by any subsequent sale, transfer, mortgage, or other encumbrance whatever, of the land on which the crop exists, or any part of the land.

Consent of other persons having interest in crop.

6. If, at the time when a memorandum is produced to the Registrar-General for filing, a bill of sale or prior memorandum in favour of some other person over all or any of the crops of the farmer mentioned in the memorandum has already been registered or filed the memorandum shall not be filed unless the consent of that other person is signified in writing on the face of the memorandum.

Duty of Registrar-General.

7. (1) The Registrar-General shall receive into his office and file, on payment of a fee of one shilling, any memorandum which complies with this Act and is produced to him for filing. A memorandum in proper form shall be deemed to have been filed on the day on which it was produced to the Registrar-General for filing.

(2) The Registrar-General shall keep an index showing, in alphabetical order, the name of every farmer in respect of whom a memorandum is filed under this Act, and his address.

(3) The said index, and any document filed under this Act, shall be available for inspection by any person during the office hours of the General Registry Office.

Transfer and discharge.

8. A memorandum may be transferred or discharged by a document in writing, stating the date and particulars of the transaction, and filed in the office of the Registrar-General. A fee of one shilling shall be payable for filing any such document.

Operation of Act.

9. No memorandum shall be filed under this Act in respect of the price of any cornsacks supplied after the thirty-first day of March, nineteen hundred and thirty-nine.

Exemption from stamp duty.

Non-application of Act to farmers obtaining relief.

10. No stamp duty shall be payable on any memorandum.

11. No memorandum filed under this Act shall operate so as to create any lien on any crop if that crop has been assigned to any public authority administering any laws for the relief or protection of farmers.

12. Any person who files any memorandum under this Act for any amount other than the price of cornsacks sold by him to the person whose crop is subject to the memorandum shall be guilty of an offence punishable summarily, and liable to a fine not exceeding fifty pounds.

Penalty for
filing false
memorandum.

In the name and on behalf of His Majesty, I hereby assent
to this Bill.

W. DUGAN, Governor.

Cornsacks Act, 1938.

THE SCHEDULE.

MEMORANDUM OF LIEN ON CROP.

I (or we) of.....hereby certify that on theday of....., 1938, I (or we) supplied to.....of.....cornsacks for which the said.....owes me (or us) the sum of £....., which sum includes all interest payable on the said price, and all moneys due to me (or us) for transport and delivery of the said cornsacks, and is payable on or before the.....day of19....

I (or we) claim, pursuant to the Cornsacks Act, 1938, a lien on all crops within the meaning of that Act, which at the date of the filing of this memorandum, are growing or harvested or in process of being harvested on land owned by the said.....or on land worked under a share-farming agreement to which he is a party; and if the said.....is entitled only to a share of such crops I (or we) claim a lien over that share.

Dated this.....day of.....19....

[Signature of person supplying the cornsacks, or, if the cornsacks are supplied by a company, the signature on behalf of the company of the secretary, manager, or some other officer of the company.]

Witness.

CONSENT OF BILL OF SALE HOLDER OR OF PERSON ENTITLED TO A PRIOR LIEN UNDER THE CORNSACKS ACT, 1938.

I (or we).....of.....being the grantee of the registered Bill of Sale, No.....(or the holder of a lien under a memorandum duly filed under the Cornsacks Act, 1938) over a crop of.....on land occupied by the said.....or on land worked under a share-farming agreement to which he is a party, hereby consent to the filing of this memorandum.

Signature

[Signature of person giving consent, or if consent is given by a company, signature on behalf of the company of the secretary, manager, or some other officer of the company.]

Witness