

TASMANIA.

THE FARMERS' DEBT ADJUSTMENT ACT 1936.

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TASMANIA.



1936.

ANNO PRIMO

EDWARDI VIII. REGIS ET PRIMO GEORGII VI. REGIS.

No. 48.



AN ACT to provide for the Adjustment of Debts of Farmers and for the Application of Moneys granted to the State for that purpose.

[23 December, 1936.]

A.D.

1936.

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

PART I.

PRELIMINARY.

1 This Act may be cited as the *Farmers' Debt Adjustment Act 1936*, and shall come into force on a date to be proclaimed.

Short title
and com-
mencement.

2 The *Farmers' Debt Adjustment Act 1935* and the *Farmers' Debt Adjustment Act (No. 2) 1935* are hereby repealed: Provided, however, that such repeal shall not, except as otherwise provided by this Act, affect the operation

Repeal of 26
Geo. V. No.
32 and 26
Geo. V. No.
67.

Farmers' Debt Adjustment.

A.D. 1936. — of any protection certificate or relief order granted or made under the *Farmers' Debt Adjustment Act 1935.*

Interpreta-
tion.

3—(1) In this Act, unless the contrary intention appears—

- “ Adjustment ”, used in relation to any debt, includes the cancellation or reduction of such debt, the postponement of the payment thereof or of any instalment or part thereof, and any other concession or forbearance given or suffered by the creditor with respect to such debt, or any obligation arising therefrom or connected therewith :
- “ Assets ”, used in relation to a farmer, includes goods and chattels in respect of which the farmer is the hirer under a hire-purchase agreement, but does not include a policy of life assurance or endowment effected by a farmer on his own life :
- “ Board ” means the Farmers' Debt Adjustment Board constituted under this Act :
- “ Debt ” means any debt or liability due or accruing due by a farmer, whether liquidated or unliquidated, secured or unsecured, but does not include a debt which is barred by any statute of limitations :
- “ Determination ” means a determination made by the Board under section thirty-eight :
- “ Farm ”, used in relation to a farmer, means the land on which the farmer carries on farming operations :
- “ Farmer ” means any person who, being a resident of this State and being the owner, lessee, or occupier of land in this State, is personally engaged otherwise than as an employee in farming operations on that land, and includes the owner, lessee, or occupier of any land on which farming operations are being carried on under a share-farming agreement to which he is a party, and the personal representatives of a deceased farmer :
- “ Farming operations ” means farming, agricultural, horticultural, pastoral, or grazing operations, and, without affecting the generality of the foregoing provisions, includes dairy farming, poultry farming, and bee farming :
- “ Land ” includes any estate or interest in land :
- “ Plan ” means a plan of debt adjustment under Part III. :

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“Protection certificate” means a protection certificate issued under Part III. : A.D. 1936.

“Proxy” includes a duly and appropriately authorised attorney under power and a proxy of such attorney :

“Secured creditor” includes an owner of goods or chattels comprised in a hire-purchase agreement :

“The Act of 1935” means the *Farmers' Debt Adjustment Act 1935* : 26 Geo. V.
No. 32.

“The Bank” means the Agricultural Bank of Tasmania :

“The Commonwealth Act” means the *Loan (Farmers' Debt Adjustment) Act 1935* of the Commonwealth. No. 23 of
1935 (Com.).

(2) The provisions of this Act shall extend and apply to any debt of a farmer secured on a policy of life assurance or endowment effected by the farmer on his own life notwithstanding that such a policy is excluded from the interpretation of “Assets” in subsection (1) hereof. Application
of Act to
debt secured
on life assurance
policy.

PART II.

FARMERS' DEBT ADJUSTMENT BOARD.

4—(1) For the purposes of this Act there shall be a board to be called “The Farmers' Debt Adjustment Board”. Constitution
of Board.

(2) The Board shall consist of five members, who shall be appointed by the Governor.

(3) Of the members to be so appointed, two shall be persons who are members of the Board of Management of the Bank, one shall be a farmer, one a legal practitioner, and the remaining member a person of practical business experience.

(4) Any officer of the Public Service who is otherwise qualified in that behalf shall be eligible for appointment as a member of the Board, and he may hold office in conjunction with his office as such officer.

(5) Each member of the Board shall be appointed for a term of three years.

(6) The members of the Board shall not as such be subject to the provisions of the *Public Service Act 1923*. 13 Geo. V.
No. 26.

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(7) Each member of the Board shall be entitled to receive—

- i. Such remuneration for his services as is fixed by the Governor: and
- ii. Such travelling expenses as are prescribed.

(8) The appointment of the Board shall be notified in the *Gazette*, and on publication of the notification the Board shall be deemed to be duly constituted.

Chairman.
Deputy-
Chairman.

5—(1) The Governor may appoint a Chairman and a Deputy-Chairman of the Board.

(2) A Deputy-Chairman, while acting under such appointment, shall have and exercise such of the powers and duties of the Chairman as shall be set out in the instrument of his appointment: Provided, however, that nothing in this subsection shall operate so as to prevent the Chairman at any time from exercising any of his powers or functions under this Act.

(3) At every meeting of the Board the Chairman, or in his absence the Deputy-Chairman, or if neither the Chairman nor the Deputy-Chairman is present, a member elected by the members present to act as Chairman at such meeting, shall preside.

(4) Subject to this Act, the Board may regulate its own procedure.

Board to be
a body
corporate.

6 The Board shall be a body corporate by the name of "The Farmers' Debt Adjustment Board", with perpetual succession and a common seal, and shall by that name be capable in law of suing and being sued, and, subject to and for the purposes of this Act, of doing or suffering all such other acts and things as bodies corporate may by law do or suffer.

Quorum.

7—(1) Any three members of the Board shall form a quorum.

(2) In the case of an equality of votes upon any matter at any meeting of the Board, the matter shall be postponed until the next meeting at which all the members are present.

Validity of
proceedings
of Board.

8 No proceeding of the Board shall be invalid by reason of any defect in the appointment of any member of the Board or, so long as a quorum remains, by reason of there being any

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vacancy in the number of members of the Board at the time of such proceeding. A.D. 1936.

9 The Board shall cause proper minutes of its proceedings to be kept. Minutes.

10—(1) The Board shall cause true and correct accounts to be kept of all its receipts and expenditure under this Act. Such accounts shall be subject to the *Audit Act* 1918. Audit of accounts.
9 Geo. V.
No. 3.

(2) For the purpose of enabling the Auditor-General of the Commonwealth to comply with section eight of the Commonwealth Act, access shall be given to such Auditor-General to all such buildings, places, documents, and papers of the State as shall be necessary, and he may make extracts from, or copies of, any such books, documents, or papers.

11 Judicial notice shall be taken of the constitution and appointment of the Board and of its seal, and of the appointment of the Chairman and of the Deputy-Chairman, and of their respective signatures. Judicial notice of appointment of Board.

12—(1) The Governor may appoint a Secretary to the Board, whose duties shall be as directed by the Board. Secretary.

(2) The Secretary may, on behalf of the Board, accept service of any document to be served on the Board. Service of documents.

(3) Any document requiring authentication by the Board shall be sufficiently authenticated if signed by a member of the Board and by the Secretary. Authenticat-
ion of
documents.

13—(1) Subject to the direction of the Board, the Agricultural Bank Department shall be charged with the administration of this Act. Administra-
tion of Act.

(2) For the purposes of such administration the Director of Agriculture shall, if and when required by the Board so to do, make available to the Agricultural Bank Department the services of all such officers and employees of the Department of Agriculture as the Public Service Commissioner shall approve.

(3) The Board may, with the consent of the Minister having the administration of the department concerned, make use of the services of any officer or employee of any department of the Public Service.

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Board to
furnish
reports, &c.

14 The Board shall, upon the request of the Minister, furnish him with all such—

- i. Reports, documents, papers, and minutes relating to the affairs of the Board as may be required pursuant to any order of either House of Parliament: and
- ii. Particulars as to the transactions of the Board as—
 - (a) May be necessary to enable the Minister to furnish answers to questions asked in Parliament concerning the administration of this Act, or to furnish returns required by Parliament in connection with such administration: or
 - (b) The Minister may require for his own information.

Power to
summon and
examine
witnesses.

15 The Board, when making any investigation or inquiry under this Act, shall have the same powers and authorities as if a commission in respect thereof had been issued by the Governor to the Board under Division II. of Part II. of the *Evidence Act* 1910.

1 Geo. V.
No. 20.Board
appointed
under 26
Geo. V. No.
82 to be
dissolved.

16 On the day (hereinafter referred to as “the appointed day”) on which the notification of the appointment of the Farmers' Debt Adjustment Board under this Act is, pursuant to this Part, published in the *Gazette*—

- i. The Farmers' Debt Adjustment Board appointed under the Act of 1935, and which is hereinafter referred to as “the predecessor Board”, shall be dissolved and cease to exist: and
- ii. The members thereof shall go out of office.

Board
appointed
under this
Act deemed
to be suc-
cessor in law
of old Board.

17 On, from, and after the appointed day—

- i. The Farmers' Debt Adjustment Board appointed under this Act shall be deemed to be the successor in law of the predecessor Board:
- ii. All property, real or personal, and all powers, authorities, immunities, rights, privileges, functions, obligations, and duties which immediately before the appointed day were vested in, exercisable by, or imposed upon the predecessor Board

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under any Act shall be transferred to, vested in, exercisable by, imposed upon, and executed by the Board appointed under this Act : A.D. 1936.

- iii. Any reference in any Act or document to the predecessor Board shall, unless inconsistent with the context or subject-matter, be deemed and taken to refer to the Board appointed under this Act :
- iv. No proceeding which immediately before the appointed day is pending or existing before or by or against the predecessor Board shall abate, be discontinued, or be in any way prejudicially affected by reason of anything in this Part, and the same may be continued, prosecuted, and enforced before or by or against the Board appointed under this Act as it might have been before, or by, or against the predecessor Board if this Act had not passed, but not further or otherwise.

PART III.

ADJUSTMENT OF FARMERS' DEBTS.

18—(1) Any farmer (other than a farmer in respect of whom a memorandum of an agreement for a composition in satisfaction of his unsecured debts has been sealed and filed pursuant to section twenty-two or twenty-three of the Act of 1935) may make an application to the Board in the prescribed form for adjustment of his debts. Application
for debt
adjustment.

(2) Every such application shall be accompanied by a statement (verified as prescribed) in the prescribed form, setting forth—

- i. A description of the land on which the farmer is carrying on his farming operations :
- ii. The names and addresses of all creditors and debtors of the farmer :
- iii. Particulars of the assets and liabilities of the farmer : and
- iv. Such other particulars as are prescribed.

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Issue of
protection
certificate.

(3) If, after consideration of the application, the Board is of opinion that—

- i. A plan of debt adjustment is necessary to ensure that the farmer will continue to carry on farming operations and to give him a reasonable prospect of carrying on those operations successfully :
- ii The farmer will have, as a result of a plan of debt adjustment, a reasonable prospect of successfully carrying on his farming operations : and
- iii. The application is not frivolous or made by the farmer for the purpose of delaying or defeating his creditors, and the statement accompanying such application does not contain any wilful misrepresentation—

the Board shall issue to the farmer a protection certificate, which shall take effect from the date of the issue thereof.

(4) If, after such consideration as aforesaid, the Board is not of the opinion aforesaid, it shall reject the application, and no further steps shall be taken in respect thereof.

Notification
of issue of
protection
certificates to
be gazetted,
&c.

19—(1) Immediately upon the issue of the protection certificate, the Board shall, by notice in the prescribed form, notify all known creditors of the farmer of such issue, and shall, as soon as may be, cause a notification of such issue to be published in the *Gazette* and a copy of the protection certificate to be forwarded to the Registrar of Deeds, and, where the farmer is—

- i. The registered proprietor of any land under the *Real Property Act* 1862—to the Recorder of Titles: and
- ii. The holder of any land under a contract with the Commissioner of Crown Lands, for the purchase thereof from the Crown under the *Crown Lands Act* 1935—to the Secretary for Lands.

25 Vict.
No. 16.26 Geo. V.
No. 35.Registers of
protection
certificates.

(2) The Board, the Registrar of Deeds, the Recorder of Titles, and the Secretary for Lands shall each keep a register of protection certificates, and any such register shall be open for inspection by any member of the public on payment of a fee of one shilling.

(3) The Board, on payment of a fee of two shillings and sixpence, shall supply to any member of the public a certified copy of any protection certificate or any order cancelling the

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same, or a certificate that no protection certificate has been issued in respect of any specified person. A.D. 1936.

(4) The Registrar of the Court of Requests at Launceston and the council clerk of every municipality shall each keep in his office a register of all protection certificates which have been issued and gazetted, and of all subsequent cancellations thereof which have been gazetted. Every such register shall be open to public inspection at all reasonable times upon payment of a fee of one shilling, which fee shall, in the case of a municipality, belong to the municipality.

20—(1) Every protection certificate shall, notwithstanding the death, lunacy, or unsoundness of mind of the farmer to whom it was issued, continue in force until the publication of a notice of cancellation thereof in the *Gazette* as hereinafter provided.

Duration of protection certificates.

(2) A protection certificate may, by an order in the prescribed form, be cancelled by the Board for any reason the Board thinks proper.

Cancellation.

(3) The Board shall cancel any protection certificate issued to a farmer if the Board is satisfied that the statement accompanying the application in respect of which the protection certificate was issued contained any wilful misrepresentation.

(4) Upon the cancellation of a protection certificate, the Board shall cause notice of such cancellation to be published in the *Gazette* and to be given to all known creditors of the farmer and to the appropriate officers mentioned in subsection (1) of section nineteen.

(5) Notwithstanding anything in this Act to the contrary other than as hereinafter provided, the Board shall cancel every protection certificate at the expiration of six months from the issue thereof, if it has not been previously cancelled under the provisions of this Act: Provided, however, that in the case of any farmer with respect to whose affairs there are special circumstances which have, in the opinion of the Board, rendered it impracticable for the Board to effect an adjustment of his debts within the said period of six months, the Board may, if it thinks fit so to do, defer the cancellation of the protection certificate for a further period not exceeding six months from the expiration of the aforesaid period of six months: Provided, further, that for the pur-

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poses of section twenty-two the operation of a protection certificate shall be deemed to have ceased at the expiration of six months from the issue thereof, and no such extension as aforesaid shall have any effect in relation to those purposes.

Effect of protection certificate.

21—(1) Subject as otherwise provided in this Act, during the operation of the protection certificate—

- i. No action, execution, or proceeding, whether judicial or extra-judicial, on default or for or upon breach of any covenant under, or provision in, any mortgage or other security or any agreement for the sale or purchase, including hire-purchase, of property : and
- ii. No other action, execution, process, or proceeding, whether judicial or extra-judicial, in respect of any debt of the farmer incurred by him before the issue of the protection certificate—

shall, except with the consent of the Board, be commenced or proceeded with, or put in force against the farmer or any property, estate, interest, effects, or assets of the farmer :

Provided, however, that nothing in this section shall prevent any person from—

- (a) Instituting and proceeding to judgment in any action, suit, or other proceeding against the farmer (but so that no further proceedings shall be taken thereon) for the purpose of determining his liability in respect of any—
 - (i) Tort committed by him :
 - (ii) Injury suffered by a worker in his employ :
 - (iii) Unliquidated demand other than a demand arising out of any breach of, or default in the observance or performance of, any covenant or provision in any mortgage or other instrument of security, or in any agreement for the sale or purchase, including hire-purchase, of property :
- (b) Instituting, or continuing, or prosecuting any proceeding, or enforcing any remedies against the farmer in respect of his liability for the maintenance or support of his wife or any of his children : or

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- (c) Prosecuting any suit or other proceeding against the farmer for the administration of the trusts of any will, deed, or other instrument, or for any breach of any such trust, or for the removal of such farmer from the position of executor, or administrator, or trustee— A.D. 1936.

nor shall any such protection certificate be a bar to the recovery from the farmer of any penalty, with or without costs, imposed upon him by any court, or of any sum of money due by him to the Crown upon any recognisance or bond, or to the enforcement against the farmer of any liability to the Commonwealth, or to any person or body representing the Commonwealth.

(2) Any such action, execution, process, or proceeding, which is commenced or proceeded with, or put in force, in contravention of the provisions of subsection (1) hereof, shall be void and of no effect.

22—(1) During the operation of any protection certificate issued to a farmer, no action, execution, process, or proceeding as aforesaid shall without the consent of the Board be commenced or proceeded with or put in force—

Protection of guarantors and predecessors in title, &c., during operation of protection certificate.

- i. Against a guarantor of such farmer as his guarantor : or
- ii. Where the farmer is carrying on farming operations under a share-farming agreement on any land, or is a lessee of any land, or is the purchaser of any land under a contract of sale (whether with or without a transfer or conveyance to him), and the other party to the share-farming agreement or the lessor of the land or the vendor of the land under the contract of sale, as the case may be, or any predecessor in title of such other party, lessor, or vendor remains liable to any mortgagee under any mortgage or to any vendor under any contract of sale (whether with or without a transfer or conveyance), as the case may be, or to any predecessor in title of any such mortgagee or vendor—
 - (a) Against the said other party, as mortgagor or purchaser, to the share-farming agreement : or

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- (b) Against the said lessor (as mortgagor or purchaser): or
- (c) Against the said first-mentioned vendor (as mortgagor or purchaser): or
- (d) Against any predecessor in title (as mortgagor or purchaser) of the said other party, lessor, or first-mentioned vendor: or
- (e) (Without affecting the generality of the provisions of subsection (1) of section twenty-one) against the farmer or any property, estate, interest, effects, or assets of the farmer.

Certain actions, &c., commenced or proceeded with void.

(2) Any such action, execution, process, or proceeding which is commenced or proceeded with or put in force in contravention of the provisions of subsection (1) hereof shall, be void and of no effect.

(3) For the purposes of subsection (1) hereof, "guarantor", used with reference to a farmer, means a person who has guaranteed or undertaken to answer for the debt or default of such farmer and any person who has indorsed any promissory note given by such farmer in respect of any debt of such farmer.

Computation of time where remedies suspended.

23 In computing the time limited by any statute of limitations in relation to any right, claim, or remedy affected by any protection certificate, no period of time during which any action, execution, process, or proceeding relating to such right, claim, or remedy, is prohibited from being commenced or proceeded with or put in force shall be taken into account.

Board to arrange for a valuation of farmer's assets.

24—(1) Upon receipt of an application by a farmer under section eighteen for adjustment of his debts, the Board shall—

- i. Obtain from a competent person a report upon the manner in which the farmer has managed his farm and his affairs generally:
- ii. Arrange for a competent valuator to value the assets of the farmer: and
- iii. Furnish such valuator with a copy of the statement accompanying such application.

(2) Such valuation shall be in the prescribed form, and shall include a valuation of the several assets of the farmer.

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Farmer to submit proposal for plan of debt adjustment.

Cancellation of protection certificate where proposal not submitted.

25—(1) Upon receipt of such valuation, the Board shall require the farmer to prepare and submit a proposal as hereinafter provided for a plan of debt adjustment with his creditors.

(2) In the preparation of such proposal, the Board shall render the farmer all assistance in its power.

(3) If the farmer fails to prepare and submit to the Board such proposal within thirty days (or such longer period as the Board in any particular case allows) after being required so to do, the Board shall cancel the protection certificate.

(4) Every such proposal shall—

- i. Be in the prescribed form :
- ii. Set forth the names and addresses of all creditors and debtors of the farmer :
- iii. Contain a statement of—
 - (a) The assets and liabilities of the farmer : and
 - (b) The income and expenditure of the farmer over such period as is required by the Board :
- iv. Specify the debts which the farmer asks should be adjusted and the extent to which the farmer proposes that those debts or any of them should be adjusted in order to afford him a reasonable prospect of successfully carrying on his farming operations : and
- v. Contain such other particulars, if any, as are prescribed.

26—(1) After receiving such proposal, the Board shall—

- i. By notice in the prescribed form, call a meeting of the farmer and his creditors : and
- ii. Furnish the farmer and each creditor known to the Board with a copy of the proposal for the plan of debt adjustment and a copy of such valuation.

Board to call meeting and furnish creditors with copy of proposal and valuation.

(2) The meeting shall be held at such convenient time and place, having regard to the interests of the persons concerned, as is appointed by the Board.

(3) Any creditor may attend the meeting, either personally or by proxy.

(4) No creditor of a farmer who was not such creditor at the date of the issue of the protection certificate to the farmer shall be entitled to attend or vote at any meeting of the farmer and his creditors under this Part, nor shall any such creditor be bound by any plan of debt adjustment in respect of such farmer confirmed under this Part.

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Objections to valuations by farmer or any creditor.

27—(1) The farmer or any creditor may, within fifteen days after receipt by him of a copy of such proposal and valuation, by notice in writing to the Board, object to the valuation or any portion thereof.

(2) Every such objection shall be supported by the reasons therefor.

(3) If the Board thinks that the reasons given in support of the objection are reasonable, the Board shall—

- i. Arrange for a valuation as aforesaid by another competent valuator :
- ii. Consider any valuation which the farmer or such creditor, as the case may be, has furnished to the Board with the notice of objection : and
- iii. Itself determine the valuation.

Meetings of farmer and his creditors.

28—(1) At the meeting of the farmer and his creditors —

- i. Some member or officer of the Board shall preside as chairman of the meeting :
- ii. The proposal for the plan of debt adjustment shall be considered :
- iii. The chairman shall endeavour to promote an agreement between all or the greatest possible number of the creditors with respect to a plan of debt adjustment as the result of which the farmer will have a reasonable prospect of successfully carrying on his farming operations :
- iv. The meeting may take into consideration—
 - (a) The interests of all parties concerned :
 - (b) The relative rights of secured and unsecured creditors :
 - (c) The nature and value of the farmer's assets :
 - (d) The manner in which the farmer has managed his farm and his affairs generally :
 - (e) A reasonable living standard for the farmer and his dependants :
 - (f) Any adjustments already made by any creditor in respect of any debt of the farmer : and
 - (g) Any other circumstances which the meeting deems relevant :

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v. The chairman may suggest what amounts may be paid by the Board to creditors pursuant to this Part in consideration of such creditors agreeing to the plan of debt adjustment. A.D. 1936.

(2) The chairman may adjourn the meeting to such time and place as he thinks fit. Power to adjourn meetings.

29 Any agreement at such meeting to a plan of debt adjustment by any creditors— Agreement at meeting may be subject to payments by Board.

i. May be made subject to—

(a) Such payments by the Board to creditors under this Part: and

(b) Such cancellation, either in whole or in part, of debts of the farmer to the Crown—

as are provided for in the plan: and

ii. Shall be subject to confirmation by the Board.

30 The chairman of the meeting shall, as soon as may be, submit the plan to the Board with a report thereon. Chairman to transmit plan to Board with report thereon.

31 The Board may—

i. Confirm the plan so submitted:

ii. Refuse to confirm the plan: or

iii. Refuse to confirm the plan and formulate a modified plan. Power to Board to confirm or refuse to confirm or to so refuse and formulate a modified plan.

32—(1) The Board shall not, where the plan provides for the cancellation in whole or in part of— Conditions governing confirmation or refusal of confirmation.

i. Any debt to the Board of Management of the Bank—except with the consent of such Board:

ii. Any debt to the Hydro-Electric Commission—except with the consent of the Commission: or

iii. Any other debt to the Crown, or to any governmental authority of the State not hereinbefore mentioned—except with the consent of the Governor, or such governmental authority, as the case may be—

confirm the plan.

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(2) The Board shall refuse to confirm the plan unless in the opinion of the Board—

- i. The farmer will have, as a result of the plan, a reasonable prospect of successfully carrying on his farming operations : and
- ii. Such plan is necessary to ensure that the farmer will continue to carry on farming operations and to give him a reasonable prospect of carrying on those operations successfully.

Effect of confirmation of plan.

(3) If the plan is confirmed by the Board, it shall be binding upon the farmer and all the creditors who have agreed thereto.

Procedure on refusal to confirm plan.

(4) If the Board refuses pursuant to subsection (2) hereof to confirm the plan, the Board shall forthwith cancel the protection certificate issued to the farmer.

(5) For the purposes of subsection (1) hereof, "governmental authority of the State" includes any body, corporate or unincorporate, constituted by or under the law of the State, and whose funds have been provided, in whole or in part, by the State, or whose obligations are guaranteed, in whole or in part, by the State ; but does not include a municipal corporation or other local governing body.

Matters to be taken into consideration by Board in formulating modified plan.

33—(1) Where the Board refuses to confirm the plan submitted and formulates a modified plan of debt adjustment, the Board shall consider what adjustment of the debts of the farmer is necessary to give him a reasonable prospect of carrying on his farming operations successfully, having regard to—

- i. The interests of all parties concerned :
- ii. The relative rights of secured and unsecured creditors :
- iii. The nature and value of the farmer's assets :
- iv. The manner in which the farmer has managed his farm and his affairs generally :
- v. A reasonable living standard for the farmer and his dependants :
- vi. Any adjustment already made by any creditor in respect of any debt of the farmer : and
- vii. Any other circumstance which the Board deems relevant.

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(2) The Board shall not formulate a plan of debt adjustment unless in the opinion of the Board such a plan is necessary to ensure that the farmer will continue to carry on farming operations and to give him a reasonable prospect of carrying on those operations successfully.

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When Board
not to
formulate
plan.

34—(1) When a modified plan is formulated by the Board, the Board shall—

- i. By notice in the prescribed form, call a meeting of the farmer and his creditors : and
- ii. Furnish the farmer and each creditor known to the Board with a copy of the modified plan.

Where modified plan
formulated
meeting of
farmer and
creditors to
be called.

(2) The meeting shall be held at such convenient time and place, having regard to the interests of the persons concerned, as is appointed by the Board.

(3) Any creditor may attend the meeting either personally or by proxy.

(4) At such meeting—

- i. Some member or officer of the Board shall preside as chairman of the meeting : and
- ii. The modified plan shall be considered.

(5) The chairman may adjourn the meeting to such time and place as he may think fit.

35—(1) Such modified plan shall make provision for—

- i. Such adjustment of the debts of the farmer as is in the opinion of the Board necessary to give the farmer a reasonable prospect of carrying on his farming operations successfully : and
- ii. Payments by the Board to creditors in consideration of the adjustment of the debts of the farmer.

Matters to be
provided for
in modified
plan.

(2) The modified plan may, subject to the like consents as are provided with respect to the confirmation of plans, make provision for the cancellation, either in whole or in part, of the debts of the farmer to the Crown or to any governmental authority of the State as defined by subsection (5) of section thirty-two.

36 If the modified plan is agreed to by all the creditors present, either personally or by proxy, at the meeting, the plan shall—

- i. Be confirmed by the Board : and

Binding effect
of modified
plan where
all creditors
present have
agreed.

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- II. Be binding on all creditors of the farmer, whether or not the same were present, either personally or by proxy, at the meeting

Procedure where modified plan not agreed to by all creditors present.

37—(1) If the modified plan is not agreed to by all the creditors present, either personally or by proxy, at the meeting, the chairman shall—

- I. Adjourn the meeting: and
 II. Make a report to the Board—

and the Board may, after receiving such report, amend or refuse to amend such modified plan.

(2) If the modified plan is so amended, the plan as so amended shall become the modified plan.

(3) When a modified plan is so amended, the Board shall arrange for a meeting of the farmer and his creditors at the adjourned meeting, and the provisions of section thirty-four shall, with such adaptations as are necessary, extend and apply to such meeting.

Binding effect of plan. Where all creditors have agreed.

38—(1) If at such meeting such modified plan is agreed to by all the creditors present, either personally or by proxy, at the meeting, the plan shall—

- I. Be confirmed by the Board: and
 II. Be binding on all creditors of the farmer, whether or not the same were present, either personally or by proxy, at the meeting.

Where all creditors present do not agree but majority in number and value of unsecured creditors present agree.

(2) If at such meeting such modified plan is not agreed to by all the creditors present, either personally or by proxy, at the meeting, but is agreed to by a majority in number and value of the unsecured creditors present, as aforesaid, and is confirmed by the Board, the plan shall be binding on—

- I. All unsecured creditors of the farmer, whether or not the same were present as aforesaid: and
 II. All secured creditors present as aforesaid who have agreed to the plan.

(3) A creditor whose unsecured debt does not exceed five pounds shall, in computing the votes at such meeting, be counted as to value, but not as to number.

(4) For the purpose of subsection (3) hereof, the amount of any unsecured debt shall be its value as determined by the chairman.

Farmers' Debt Adjustment.

(5) If the plan is confirmed by the Board under subsection (2) hereof—

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Provision as
to secured
creditors
who do not
agree.

1. The Board may, as from a date specified in a determination of the Board setting forth the names of any secured creditors who were not present at the meeting referred to in that subsection, or who, being present thereat, have not agreed to such plan, suspend all rights and remedies of whatever nature of such secured creditors against the farmer or any property, estate, interest, effects, or assets of the farmer for such period, not exceeding five years, as is specified in the determination of the Board, and such determination shall, during that period, operate in respect of such creditors, the farmer, and, so far as appropriate, the persons referred to in section twenty-two in all respects as if the same were a protection certificate:

Provided that the Board may at any time, if it thinks fit so to do, by an order in the prescribed form—

- (a) Cancel the determination :
 - (b) Extend the period specified therein, but so that the period as so extended shall not exceed a period of five years from the date specified in the determination : or
 - (c) Vary the determination in any other respect :
- ii. During the period of the suspension of any secured creditor's rights as aforesaid, the Board shall guarantee the payment by the farmer of interest at a rate determined by the Board, but not exceeding the rate of five per centum per annum and not less than four pounds per centum per annum on the principal sum of the secured debt or the value, as ascertained as hereinbefore provided, of the asset or assets of the farmer upon which the same is secured, whichever is the less and shall also guarantee the payment to the landlord of the farmer of all rent accrued or accruing due by the farmer after the date of the issue of the protection certificate to him :

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- iii. Where payment of interest under any such guarantee is made or tendered by the Board, it shall be deemed to constitute a payment in full discharge, or a tender of the full amount, as the case may be, of the interest payable by the farmer to the creditor in respect of the whole of the secured debt and in respect of the period for which such payment is so made or tendered :
- iv. At the termination of the period aforesaid, or, with the consent of the farmer and the secured creditor, at any earlier date, the principal sum of the secured debt shall, unless the Board otherwise determines, be reduced by the amount, if any, by which it then exceeds the value, as determined by the Board (after having obtained a valuation by a competent valuator appointed for the purpose by the Board), of the assets of the farmer upon which the same is secured, and the debt, to the extent of the excess, shall be and be deemed to be extinguished, and no interest shall thereafter be payable by the farmer in respect of such excess amount :

Provided that, for the purposes of this paragraph, where the Board is of opinion that such assets—

- (a) Are necessary for working the farm and are required by the farmer for use in the production of income: and
- (b) Are of a wasting nature—

the value of such assets shall be the value thereof as ascertained by the Board upon receipt of the application of the farmer for adjustment of his debts : and

- v. The Board may, after considering any aspects which it thinks relevant, reduce for any period beginning with the date specified in the determination and ending with such date not being later than five years after the beginning of the period as the Board determines—

- (a) The rate of interest payable in respect of any secured debt of the farmer to any such creditor as aforesaid to such rate as the Board determines, being not less

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than four pounds per centum per annum : A.D. 1935.

- (b) The rent which was payable by the farmer at the date of the determination in respect of any land occupied by him as a lessee or tenant, by such an amount as the Board determines, not being more than twenty per centum of such rent—

and any such reduction as aforesaid shall be binding on the secured creditor or the lessor or landlord of the farmer, as the case may be.

(6) Where, in the opinion of the Board, the assets upon which a debt is secured—

- i. Are necessary for working the farm and are required by the farmer for use in the production of income : and
- ii. Are of a wasting nature—

the Board shall, before exercising any power conferred upon it by subsection (5) hereof, take such matters into consideration.

(7) Nothing in this section shall limit or affect any rights, remedies, or powers of any mortgagee in possession of any land, where—

- i. Possession thereof was taken by the mortgagee before the coming into operation of this Act : and
- ii. Such mortgagee is in actual occupation of the land, either by himself or some tenant or agent of his.

(8) The provisions of section twenty-seven shall, with such adaptations as are necessary and so far as applicable, extend and apply to any valuation made under paragraph iv. of subsection (5) hereof :

Objections
to valuations.

Provided that any farmer or creditor who objects to any valuation under the said paragraph may submit to the Board any valuation made by a competent valuator at his request.

(9) If, as a result of the operation of the foregoing provisions of this Part, no plan of adjustment of the debts of the farmer has been confirmed by the Board, the Board shall cancel the protection certificate issued to him, and no further steps shall be taken by the Board in respect of the application of the farmer for such adjustment.

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Notification of determination to be gazetted, &c.

39—(1) The Board shall cause a notification of every determination, and of any cancellation, extension, or variation thereof made under section thirty-eight, to be published in the *Gazette*, and a copy of every such determination, cancellation, extension, and variation to be forwarded to the Registrar of Deeds and, where the farmer is—

25 Vict. No. 16.

i. The registered proprietor of any land under the *Real Property Act 1862*—to the Recorder of Titles : and

26 Geo. V. No. 35.

ii. The holder of any land under a contract with the Commissioner of Crown Lands for the purchase thereof from the Crown under the *Crown Lands Act 1935* - to the Secretary for Lands

Register of determinations.

(2) The Board, the Registrar of Deeds, the Recorder of Titles, and the Secretary for Lands shall each keep a register of such determinations, cancellations, extensions, and variations, and any such register shall be open for inspection by any member of the public on payment of a fee of one shilling.

Certified copies, &c.

(3) The Board, on payment of a fee of two shillings and sixpence, shall supply to any member of the public a certified copy of any such determination, cancellation, extension, or variation, or a certificate that no such determination has been made in respect of any specified person.

(4) The Board shall keep a register of all plans of debt adjustment confirmed under this Part, and such register and any such plan shall be open for inspection, without payment of any fee, by any creditor affected by such plan or by the authorised agent of such creditor.

Board may guarantee interest on any debt of farmer.

40 The Board may, in connection with any plan of debt adjustment, guarantee payments by a farmer to a creditor in respect of interest on any debt of the farmer to such creditor.

Board may require farmer to furnish statement of assets and liabilities of his wife.

41 For the purposes of this Act the Board may require any farmer who has made an application to it for the adjustment of his debts to furnish a statement verified as prescribed of the assets and liabilities of his wife.

Power to Board to annul plan on ground of fraud or non-disclosure of material facts.

42—(1) The Board may at any time annul a plan on the ground—

- i. Of fraud on the part of the farmer : or
- ii. That substantial and material facts as to his affairs have not been disclosed to the Board by the farmer.

Farmers' Debt Adjustment.

(2) The Board shall cause to be published in the *Gazette* notice of any annulment of a plan of debt adjustment.

(3) Any moneys paid to a creditor of a farmer by the Board prior to the annulment of a plan may, notwithstanding the annulment, be retained by the creditors to whom they were paid, and shall be deemed to have been accepted by them on account of the debts in respect of which they were paid.

43—(1) Every farmer to whom a protection certificate has been issued shall, during the operation of the certificate and during the operation of any determination of the Board suspending the rights and remedies of any secured creditor of that farmer, keep a record truly setting forth his receipts and expenditure.

(2) Such record shall be produced for the examination of, and, if so required, the temporary retention by, any officer of the Board authorised, whether generally or in any particular case, by the Board in that behalf.

(3) Any creditor of the farmer or any representative of such creditor duly authorised by him in that behalf may inspect at the office of the Board such record or any copy thereof available at such office, but, if such record or a copy thereof is not so available, the Board shall take the necessary steps to ensure that such record or a copy thereof will, within a reasonable time, be available for inspection as aforesaid by such creditor or representative.

(4) During the operation of the protection certificate or any such determination, the Board may, of its own motion, and, upon application by any creditor of the farmer, shall, take or cause to be taken such steps as it thinks desirable to satisfy itself that the assets of the farmer are being maintained in reasonable order and repair and that the farm is being worked in a competent manner.

(5) If—

- i. Such record of receipts and expenditure is not kept as aforesaid or is not produced as aforesaid : or
- ii. The Board is not satisfied that—
 - (a) The receipts of such farmer are being applied in a proper manner :
 - (b) The assets of the farmer are being maintained in reasonable order and repair :
 - (c) The farm is being worked in a competent manner : or

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Gazettal of notice of annulment. Moneys paid to creditor before annulment.

Farmer to keep record of receipts and expenditure during operation of protection certificate and determination of Board.

Record to be produced.

Inspection of record by creditors of farmer.

Power to Board to satisfy itself that assets being maintained and farm competently worked.

Power to Board to cancel protection certificate in certain circumstances.

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(d) (In the case where a plan of debt adjustment in respect of the debts of the farmer has been confirmed by the Board) the farmer is making every effort to comply with the plan—

the Board shall cancel the protection certificate or such determination as the case may be.

Protection of trustees.

44—(1) No trustee shall be chargeable with a breach of trust by reason only of his agreement to, or failure to oppose, any plan of debt adjustment, or of his failure to attend any meeting of the farmer and his creditors under this Part.

"Trustee."

(2) In this section "trustee" includes the legal personal representative of a deceased person.

Re-opening of composition under 26 Geo. V. No. 32.

45—(1) Any farmer in respect of whom a memorandum of an agreement for a composition in satisfaction of his unsecured debts has been sealed and filed pursuant to section twenty-two or twenty-three of the Act of 1935, may, at any time before the thirty-first day of December, one thousand nine hundred and thirty-seven, make, in the prescribed manner, an application to the Board for the re-opening of such composition.

(2) Upon the receipt of such application, the Board may, in its absolute discretion—

- i. Reject the application : or
- ii. By an order of the Board, annul such memorandum and treat the application as an application under section eighteen for the adjustment of the farmer's debts.

(3) The Board shall cause a notification of any such order to be published in the *Gazette*, and a copy of such order to be forwarded to the Registrar of the Supreme Court.

(4) The Board and the said Registrar shall cause such order to be noted in the appropriate register.

(5) The Board and the said Registrar, on payment of a fee in each case of two shillings and sixpence, shall supply to any member of the public a certified copy of any such order, or a certificate that no such order has been made or received by him, as the case may be.

(6) Any moneys paid to a creditor of a farmer by the Board or by the predecessor Board in respect of a composition under the Act of 1935, may, notwithstanding such order, be

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retained by the creditor to whom they were paid, and shall be deemed— A.D. 1936.

- i. In the event of a plan of debt adjustment coming into operation under this Act in substitution for the annulled composition, to have been received under such plan of debt adjustment : and
- ii. In any other case to have been accepted by the creditor in satisfaction, to such extent as the Board may decide, of the debt in respect of which they were paid.

(7) The Board shall, upon any such order as aforesaid, forthwith discharge any operative protection certificate or relief order relating to the farmer issued under the Act of 1935, and shall take such further action in relation thereto as may in the circumstances of the case seem to it to be necessary or desirable consequent upon the provisions of the last-mentioned Act.

46 All expenses incurred in the administration of this Act shall be paid out of moneys to be provided by Parliament for that purpose.

Administra-
tion expenses.

47—(1) For the purposes of this Part, there shall be kept in the Treasury an account to be called “the Farmers’ Debt Adjustment (Federal Aid) Suspense Account” (hereinafter referred to as “the suspense account”).

Suspense
Account.

(2) Into the suspense account there shall be paid—

- i. All moneys which on the appointed day referred to in section sixteen are standing to the credit of Federal Aid (Debt Adjustment) Advances Account kept in the Treasury under the Act of 1935 :
- ii. All moneys received by the State from the Treasurer of the Commonwealth pursuant to the grants made to the State under the Commonwealth Act : and
- iii. All repayments made by farmers pursuant to this Part.

(3) The Treasurer shall make available from the suspense account to the Board all such moneys as the Board may require for making payments pursuant to this Part to creditors of farmers and to meet guarantees given by the Board pursuant to this Part.

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Payments
by Board to
creditors of
farmers and
to meet
guarantees.

48—(1) The Board may, out of moneys made available to it under section forty-eight, make—

1. Payments to any creditor of a farmer in consideration of the adjustment under a plan of adjustment of any debt of the farmer to such creditor: and
- ii. Such payments as are necessary to meet guarantees given by the Board pursuant to this Part.

(2) No payment under any plan of debt adjustment shall be made to any creditor of a farmer who has not sent to the Board, before the expiration of two months from the confirmation by the Board of such plan, full particulars of his claim as such creditor.

Repayments
to Board.

49—(1) Subject as provided in subsection (2) hereof, where any payment is made by the Board to any creditor of a farmer under this Part, such portion of the sum so paid as is in excess of twenty-five per centum of the debt or part thereof in respect of which such payment was made, shall be deemed to constitute a loan by the Board to the farmer, free of interest, and as such shall be repayable by the farmer to the Board in such manner as the Board shall in any particular case determine.

(2) Where any such payment as first aforesaid has been made by the Board to meet any guarantee given by it pursuant to this Part, the full amount of such payment shall be deemed to constitute a loan by the Board to the farmer and shall be repayable by the farmer to the Board in manner aforesaid.

(3) The Board may, if it thinks fit, require the farmer to give security for the payment of any such loan as aforesaid.

Security
taken by
Board.

(4) Any security taken by the Board under this Act in respect of any crops, wool, stock, poultry, plant, machinery, implements or other chattels shall be by mortgage to the Board, and sections thirty-eight, thirty-nine, forty, and forty-two of the *State Advances Act 1935* shall apply to every such mortgage as if the same had been a mortgage such as is referred to in those sections, and for the purposes of such application the Board referred to in such sections shall be deemed to be the Board constituted by this Act.

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(5) No stamp duty shall be payable in respect of—

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- i. Any mortgage or other document given or entered into by a farmer under this Act to secure the repayment by him to the Board of any loan by the Board to the farmer under this Act : or
- ii. Any reconveyance, release, discharge, or certificate of satisfaction of any such mortgage or other document as aforesaid.

No stamp duty or fees chargeable on certain documents.

(6) No fee shall be payable in respect of the registration, filing, or lodging in any office or registry of any of the documents mentioned in subsection (1) hereof, or of any protection certificate, or determination.

(7) If, in the opinion of the Board, it would be in the interests of the farmer so to do, the Board may consent to the postponement of any security given by the farmer to the Board under this Act in favour of any person who has agreed in writing with the Board, in consideration of such postponement, to make an advance to the farmer for the purpose of assisting him to carry on his farming operations.

50 Where any payment has been made by the predecessor Board, or the Board constituted under this Act, to any creditor of a farmer in respect of a memorandum of an agreement for a composition in satisfaction of his unsecured debts which has been sealed and filed pursuant to section twenty-two or section twenty-three of the Act of 1935, the Board shall remit the repayment of such portion of the sum so paid as is equal to twenty-five per centum of the debt or part thereof in respect of which such payment was made.

Remission in respect of payments made by predecessor Board.

51—(1) No payment shall be made under this Act by the Board in respect of any debt due or accruing due to the Commonwealth or a State or to any governmental authority.

No payment by Board in respect of debts to Crown or governmental authorities.

(2) For the purposes of subsection (1.) hereof "governmental authority" includes any body, corporate or incorporate, constituted by or under the law of the Commonwealth or a State whose funds have been provided, in whole or in part, by the Commonwealth or a State, or whose obligations are guaranteed, in whole or in part, by the Commonwealth or a State ; but does not include a municipal corporation or other local governing body.

"Governmental authority."

Farmers' Debt Adjustment.

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Provision for
advances to
farmers.**52** In order to enable a farmer—

- i. To whom a protection certificate has been issued to carry on his farming operations pending the confirmation or refusal of confirmation by the Board of a plan of debt adjustment: or
- ii. In respect of whose debts a plan of debt adjustment has been confirmed by the Board—

temporarily to carry on his farming operations, the Board may recommend the appropriate authority to make or guarantee advances to such farmer under any Act providing for advances to farmers, and the said authority shall have regard to any such recommendation.

PART IV.

DETERMINATION OF DISPUTED QUESTIONS.

Power of
judge to
decide ques-
tions referred
to him by
Board.

53—(1) If any question arises in the administration of this Act as to the rights of any creditor or farmer or the validity of any proceeding or act which has been taken or done under this Act or the powers of the Board or of any valuator, or as to the amount of any valuation determined by the Board under paragraph iv. of subsection (5) of section thirty-eight, the Board or the farmer or any creditor of the farmer affected by such valuation, may in its or his absolute discretion, apply to a judge in chambers for the determination of such question, and the decision of such judge thereon shall be final and conclusive

(2) Every such application shall be by way of summons, and the judge shall have full power and authority to regulate the procedure to be followed, to direct what parties are to be served, and generally to give such directions and make such order, including any order as to payment of costs, as to the judge shall seem just, and in the case of any valuation determined by the Board under paragraph iv. aforesaid, the judge shall have full power and authority to hear the evidence of any valuator tendered at the hearing of the application by the Board or by any party concerned in such application and for the purposes of the said paragraph, to determine the value of the property to which such valuation relates.

Farmers' Debt Adjustment.

PART V.

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OFFENCES.

54—(1) If any farmer to whom a protection certificate has been issued under this Act disposes of or encumbers any of his land without the consent in writing of the Board while the protection certificate is in operation—

Effect of disposal or encumbrance of property during operation of protection certificate without consent of Board.

- i. The Board may cancel the protection certificate forthwith: and
- ii. The instrument or act disposing of or encumbering, or purporting to dispose of or encumber, such land shall be void and of no effect, unless the instrument or act disposing of or encumbering the same shall have been executed or performed by the farmer before the protection certificate is entered in the register kept by the Registrar of Deeds, the Recorder of Titles, or the Secretary for Lands, as the case may be.

(2) Any farmer who, in contravention of subsection (1) hereof, disposes of or encumbers any of his land, shall be liable to a penalty of fifty pounds or to imprisonment for six months.

Penalty.

(3) Every security given by a farmer while the protection certificate is in force without the consent of the Board, over or in respect of any goods or chattels of the farmer, shall be void and of no effect.

55 Any farmer who is guilty of any false representation or other fraud for the purpose of obtaining the benefit of any plan of debt adjustment under Part III. shall be liable to a penalty of one hundred pounds or to imprisonment for twelve months.

False representation by farmer.

56 Any farmer to whom a protection certificate has been granted and who, during the continuance of the protection certificate—

Protection certificate to be disclosed by farmer.

- i. Either alone or jointly with any other person, obtains credit from any person without informing him that he is a person to whom a protection certificate has been granted: or

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- ii. Trades under an assumed name or in the name of any other person, or in the name of a firm, without disclosing to every person with whom he deals his true name and the fact that he is a person to whom a protection certificate has been granted—

shall be liable to a penalty of one hundred pounds or to imprisonment for twelve months.

Concealment
of prop rty.**57** Any person who—

- i. Wilfully conceals from the Board any property of a farmer to whom a protection certificate has been granted :

False claims
or accounts.

- ii. With intent to defraud, in any proceeding under this Act, makes any false claim, or furnishes the Board with any account, declaration, or statement of account, which is untrue in any material particular : or

- iii. Without reasonable excuse, fails or neglects to comply with any lawful requirement of the Board, as and when required by the Board—

shall be liable to a penalty of one hundred pounds or to imprisonment for twelve months.

General
penalty.

58 Any person who contravenes, or without reasonable excuse fails or neglects to comply with, any provision of this Act in respect of which contravention, failure, or neglect, no special penalty is herein provided, shall be liable to a penalty of twenty pounds.

PART VI.

MISCELLANEOUS.

Power of
Board to
order non-
application
of Act to
specific asset
of farmer.

59 The Board may order that the provisions of this Act are not to apply, with respect to any specified asset of a farmer ; and, upon such order being made, the said provisions shall cease to apply accordingly.

Farmers' Debt Adjustment.

60—(1) A protection certificate may be issued under this Act to a farmer notwithstanding that the farmer is already the holder of a stay order under any enactment (hereinafter called a "Rehabilitation Act"), providing for the rehabilitation of the affairs of farmers

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Protection certificate may be issued to holder of stay order under any Rehabilitation Act. Stay order to cease to operate on confirmation of plan of debt adjustment.

(2) When a plan of debt adjustment has been confirmed by the Board under this Act in respect of the debts of a farmer who was, at the time of such confirmation, the holder of a stay order under any Rehabilitation Act, such stay order shall thereupon cease to have effect.

Eligibility of farmer to hold stay order.

(3) A farmer in respect of whose debts a plan of debt adjustment has been confirmed by the Board under this Act, shall be eligible to become the holder of a stay order under any Rehabilitation Act.

61 Notwithstanding anything in this Act to the contrary, the Board may, as a condition to the confirmation of any plan of adjustment of the debts of a farmer, require the farmer to submit his affairs for rehabilitation under any Rehabilitation Act.

Farmer may be required to submit himself to provisions of Rehabilitation Act.

62 Upon the issue under any Rehabilitation Act of a stay order to, or in respect of, any farmer in relation to whom a protection certificate under this Act is in force, such protection certificate shall cease to operate.

Cesser of operation of protection certificate.

63 The provisions of this Act with respect to protection certificates shall bind the Crown: Provided that, where a plan of debt adjustment in respect of the debts of a farmer to whom a protection certificate has been issued has been confirmed by the Board under this Act, such provisions shall not thereafter bind the Crown in respect of that farmer.

Protection certificates to bind the Crown.

64—(1) No person shall publish in any newspaper any particulars relating to any plan of debt adjustment, or in any newspaper, not being a trade gazette, any particulars relating to any application or protection certificate under this Act, other than the fact of the issue of such protective certificate, the date of such issue, and the name and address of the farmer to whom the same has been issued; but nothing in this subsection shall prevent the Board or any person authorised by it from publishing in any manner which it deems necessary any notice required for the due administration of this Act.

Restriction on publication of certain particulars.

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(2) For the purposes of subsection (1) hereof "trade gazette" means any newspaper, circular, or other document published for the sole or main purpose of affording to persons engaged in trade, business, or manufacture information as to the financial position and dealings of members of the public.

Penalty.

(3) Any person who contravenes the provisions of subsection (1) hereof shall be liable to a penalty of fifty pounds.

No agree-
ment to
prevent
farmer from
obtaining
benefit of
this Act.

65 Subject to sections sixty-six and sixty-seven—

- i. No provision in any agreement shall operate so as to prevent a farmer from obtaining or seeking to obtain the benefit of the provisions of this Act :
- ii. Any provision in any agreement to the extent to which such provision—
 - (a) Prevents or purports to prevent any farmer from obtaining or seeking to obtain the benefit of the provisions of this Act : or
 - (b) Imposes or purports to impose any burden on or detriment to any farmer in the event of this Act being passed or in the event of the farmer obtaining or seeking to obtain the benefit of the provisions of this Act—

shall be void and of no effect.

Certain debts
not to be
affected by
provisions of
this Act.

66—(1) If after the commencement of this Act—

- i. A farmer enters into an agreement with any person to advance to the farmer any moneys, or to extend to him any credit for the purpose of enabling him to carry on his farming operations, or for the maintenance of the farmer or his family while such operations are being carried on :
- ii. There is stated in such agreement the amount of the advance made at the time of the same being entered into, the limit of the credit to be extended to the farmer thereunder, and the purpose for which the advance is to be made or the credit extended :
- iii. The agreement expressly negatives the operation of this Act in respect of the moneys or credit agreed to be so advanced or given : and

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- iv. The agreement is lodged at the office of the Board A.D. 1936.
 within twenty-one days after the execution
 thereof—

the provisions of this Act shall not apply to any debt incurred by the farmer to such person as aforesaid in respect of the moneys so advanced or the credit so given.

(2) Where any moneys are received from, or on behalf of, the farmer by any person with whom such agreement has been entered into by the farmer, and such person has applied, or is entitled to apply, such moneys in the discharge or reduction of any indebtedness of the farmer to him, such moneys shall be deemed to have been appropriated by such person, to the extent of the moneys so advanced or the credit so given as aforesaid, in or towards repayment of those moneys or satisfaction of the amount of such credit, as the case may be.

67—(1) The repeal by this Act of the Act of 1935 shall not affect the operation of any agreement such as is referred to in the second proviso to subsection (1) of section thirty-eight of the lastmentioned Act and which was, before the commencement of this Act, entered into by a farmer with any person to the effect mentioned in that proviso, and such agreement shall continue to be binding on the farmer in accordance with the terms thereof, save and except that, for the purposes of such continuance, any reference in such agreement to a protection certificate shall be deemed to be a reference to a protection certificate under this Act; and no protection certificate to be hereafter issued to the farmer under this Act shall operate so as to affect any remedy of such person under such agreement as aforesaid.

Repeal of
26 Geo. V.
No. 32 not to
affect certain
agreements
referred to
in that Act.

(2) No determination made in respect of any farmer to whom a protection certificate has been issued under this Act shall be so made as to relate or extend to any real or personal property in respect of which the farmer —

Determination
to be subject
to certain
restrictions.

- i. After the commencement of the Act of 1935 and before the commencement of this Act, became a mortgagor, lessee, purchaser under a contract of sale (in the case of any land), grantor of a charge, bill of sale or lien, hirer under a hiring or hire-purchase agreement, or grantor of any other form of security, if such mortgage, lease, contract, charge, bill of sale, lien, agreement, or

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other form of security negated the operation of the provisions of the Act of 1935 in respect of the property comprised in or affected by such security or lease, and, in the case of any security, if the same was given or made for some valuable consideration no part of which was a past debt, and gave rise to an obligation of the farmer unrelated to any obligation of the farmer existing at the point of commencement of the Act of 1935 :

- ii. After the commencement of this Act became a mortgagor, lessee, purchaser under a contract for sale (in the case of any land) grantor of a charge, bill of sale or lien, hirer under a hiring or hire-purchase agreement or grantor of any other form of security if such mortgage, lease, contract, charge, bill of sale, lien, agreement, or other form of security negates the operation of this Act in respect of the property comprised in or affected by such security or lease, and, in the case of any security, if the same is given or made for some valuable consideration, no part of which is a past debt, and gives rise to an obligation of the farmer unrelated to an obligation of the farmer existing at the commencement of this Act.

Notices, &c.

68 Where any notice or other document is required by this Act to be sent, given, or delivered to any person, it shall be sufficient compliance with such requirement if such notice or document is sent by post to such person.

Board
may dis-
charge
protection
certificates
and revoke
relief orders
made under
the Act of
1935.

69—(1) The Board may, in its discretion, by order in the prescribed form —

- i. Discharge any protection certificate granted to a farmer under the Act of 1935 :
- ii. Revoke or vary any relief order made under that Act :
- iii. Vary the terms of repayment of any advance made to a farmer under section twenty-seven of that Act.

(2) Where any such protection certificate as aforesaid has been discharged under subsection (1) hereof, the Board

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shall forthwith take such proceedings with respect to such discharge as were required by section forty-three of the Act of 1935 to be taken by the predecessor Board, consequent upon a discharge by it under that Act of a protection certificate granted thereunder. A.D. 1936.

(3) In any case in which the Board has by order as aforesaid, revoked or varied any such relief order as aforesaid, the Board shall forthwith—

- I. Cause a copy of such firstmentioned order to be served by post on every mortgagee, lessor, or other person to whom the same relates :
- II. Cause such firstmentioned order to be registered in the office of the Registrar of Deeds, at Hobart, by lodging in such office a copy of such order, certified by the Chairman or Secretary of the Board to be a true copy thereof : and
- III. Where such firstmentioned order relates to any land held under the provisions of the *Real Property Act* 1862, cause a copy of such order, certified as aforesaid, to be deposited with the Recorder of Titles, and, in any appropriate case withdraw, either wholly or in part, any caveat entered by the predecessor Board in respect of such land.

25 Vict. No. 16.

(4) Where a relief order has been varied under subsection (1) hereof, the relief order as so varied shall be deemed to be substituted for the original relief order.

(5) In any case in which no payment has been made before the commencement of this Act by a farmer or the predecessor Board, under or in respect of a memorandum of agreement for a composition which has been sealed and filed under the Act of 1935 in respect of the unsecured debts of such farmer, the Board may, by order in the prescribed form, annul such memorandum of agreement, and in such event the Board shall cause the order of annulment to be filed in the office of the Registrar of the Supreme Court.

Annulment of compositions.

70 A copy of—

- I. A protection certificate or determination :
- II. An order cancelling a protection certificate or determination :

Evidence of issue of protection certificate. &c.

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- iii. An order extending or varying a determination ; or
 iv. An order made under section forty-six—

certified, or purporting to be certified, by the Chairman, or Deputy-Chairman, or Secretary of the Board, to be a true copy thereof, shall be *prima facie* evidence of the issue or making of such protection certificate, determination, or order, as the case may be.

Costs of valuations, &c.

71 The costs and expenses of the Board of obtaining for the purposes of this Act any valuation of the property or assets of the farmer, and of the taking of security from a farmer for any loan to him by the Board under this Act, shall be repaid by the farmer to the Board at such time and in such manner as the Board may, in the particular case, determine.

Annual report.

72 As soon as practicable after the closing of each financial year, the Board shall furnish the Minister with a report of its proceedings under this Act for that year, and the Minister shall cause the same to be laid before each House of Parliament.

Regulations.

73 The Governor may make regulations for the purposes of this Act.