

FACT SHEET

FARM DEBT MEDIATION BILL 2024

The *Farm Debt Mediation Bill 2024* (the Bill) introduces requirements that a creditor invite a farmer to participate in mediation before taking possession of property or other enforcement action under a farm mortgage.

Currently, Tasmania does not have a legislated Farm Debt Mediation (FDM) scheme. Farmers experiencing financial hardship have been provided with financial counselling and informal negotiation services on a voluntary, free-of-charge basis. Organisations such as the Rural Financial Counselling Service have provided these services. The Bill is designed to provide an additional layer of protection for farmers in situations where issues cannot be resolved through informal processes.

The purpose of the scheme is to support farmers in financial stress work constructively with creditors in relation to their debts. Farm debt mediation is a structured negotiation process in which an accredited mediator – a neutral and independent person – assists farmers and their creditors to resolve matters relating to farm debts, and to formalise that resolution in an agreement. The Bill determines that mediation is required before a creditor can take enforcement action under a farm mortgage. Mediation can be initiated by a creditor or the farmer.

Introducing a FDM scheme will bring Tasmania into line with Australian jurisdictions like New South Wales, Victoria, Queensland, and South Australia where FDM schemes are legislated. The Tasmanian scheme is modelled on the New South Wales scheme, with some adjustments made for the Tasmanian context, including the establishment of a Farm Debt Mediation Commissioner.

The Bill will:

- Introduce a requirement that a creditor invites a farmer to mediate before taking enforcement action relating to farm debt.
- Introduce a financial penalty for creditors if they operate outside of the provisions of the Act.
- Allow farmers to initiate formal mediation at any time, even when loans are not in default.
- Establish a Farm Debt Mediation Commissioner.
 - The Commissioner will be responsible for overseeing matters relating to mediator selection and matters of exemption and prohibition certificates. The Commissioner also has the power to require farmers and creditors to provide the necessary information to enable it to determine whether the FDM scheme applies.

- Provide for the issuing of prohibition certificates, which when approved, can be in force for a period of six months and prevent a creditor from taking enforcement action on the farm debt.
- Provide for the issuing of exemption certificates, which when approved, will allow the creditor to undertake enforcement action on the farm mortgage for a period of three years from the date it was issued.

The Bill is to commence on proclamation.