



Cabinet Economic Development Committee

Minute of Decision

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A Government Farm Debt Mediation Bill

Portfolios **Agriculture / Commerce and Consumer Affairs**

On 5 December 2018, the Cabinet Economic Development Committee (DEV):

General

- 1 **noted** that a statutory regime providing for the mediation of farm debt is consistent with a priority in the New Zealand Labour Party - New Zealand First Coalition Agreement, for the 'examination of agricultural debt mediation as well as receivership fees and charges';

Mediation of farm debt

- 2 **agreed** to establish a statutory regime for the mediation of farm debt, based on the New South Wales Farm Debt Mediation Act 1994;
- 3 **noted** that the Farm Debt Mediation Bill will establish a statutory framework within which farmers and lenders will be able to participate in mediation;
- 4 **agreed** that the mediation regime will apply to farm business that are solely or principally engaged in one or more of:
 - 4.1 agriculture (including sharemilking);
 - 4.2 horticulture;
 - 4.3 aquaculture;
 - 4.4 any activity involving primary production carried out in connection with any of the above activities;
- 5 **agreed** that the following activities will be excluded from the scope of the regime:
 - 5.1 lifestyle farming;
 - 5.2 businesses engaged in:
 - 5.2.1 forestry;
 - 5.2.2 wild harvest fishing;
 - 5.2.3 the hunting or trapping of animals;

- 6 **agreed** that the mediation regime will apply in relation to loans which are secured against the following types of assets:
- 6.1 farmland (including buildings);
 - 6.2 farm machinery (that is, vehicles or machines commonly used for farming operation purposes, such as tractors, milking equipment and irrigation systems);
 - 6.3 livestock;
 - 6.4 harvested crops and wool;
- 7 **agreed** that mediation will be able to be triggered:
- 7.1 by lenders where a farmer is in default and the lender intends to take any form of enforcement action in relation to debt secured over assets of the type described in paragraph 6 above;
 - 7.2 by farmers without any statutory criteria, but subject to restrictions on how frequently farmers can apply to mediate;
- 8 **agreed** that a system such as the prohibition and exemption certificate system used in New South Wales will be used by the relevant authority in New Zealand to provide a structured and transparent method for determining the outcome of mediation while also preserving the independence of mediators;
- 9 **agreed** that decisions made by the relevant authority in relation to the issue of prohibition or exemption certificates be subject to internal review on appeal;
- 10 **agreed** to the detailed design of the mediation regime, as set out in Appendix Two to the paper under DEV-18-SUB-0290;

Financial implications

- 11 **noted** that there are no financial implications *per se* in deciding to establish a farm debt mediation scheme;
- 12 **noted** that the Minister of Commerce and Consumer Affairs and the Minister of Agriculture will bring a fully costed proposal for the implementation of the Farm Debt Mediation Bill back to Cabinet in the same Cabinet paper that seeks approval for the Farm Debt Mediation Bill to be introduced;

Legislative implications

- 13 **noted** that a category 2 priority on the 2019 Legislation Programme is being sought for the Farm Debt Mediation Bill (must be passed in 2019);
- 14 **authorised** the Minister of Agriculture to issue drafting instructions to the Parliamentary Counsel Office to give effect to the above paragraphs;
- 15 **authorised** the Minister of Agriculture and the Minister of Commerce and Consumer Affairs to jointly make any minor and technical policy decisions that may arise during the drafting of the Farm Debt Mediation Bill and in relation to its implementation;
- 16 **noted** that the Farm Debt Mediation Bill should be introduced no later than mid 2019;
- 17 **noted** that the Farm Debt Mediation Bill should be passed no later than the end of 2019;

Exposure draft

- 18 **agreed** that an exposure draft of the Farm Debt Mediation Bill be released prior to finalisation of the Bill for introduction;
- 19 **noted** that the Minister of Agriculture will seek approval of the Attorney-General to release the exposure draft of the Farm Debt Mediation Bill;

Implementation

- 20 **invited** the Minister of Agriculture and the Minister of Commerce and Consumer Affairs to submit a further paper to DEV in May 2019 seeking approval to introduce the Farm Debt Mediation Bill, and detailing implementation options and associated costs;

Publicity

- 21 **noted** that the offices of the Minister of Agriculture and Minister of Commerce and Consumer Affairs will work together to manage communications and media interest as required.

Janine Harvey
Committee Secretary

Present:

Hon Phil Twyford
Hon Dr Megan Woods (Chair)
Hon David Parker
Hon Iain Lees-Galloway
Hon Jenny Salesa
Hon Damien O'Connor
Hon Shane Jones
Hon Willie Jackson
Hon Julie Anne Genter
Hon Eugenie Sage
Fletcher Tabuteau MP

Officials present from:

Office of the Prime Minister
Officials Committee for DEV

Hard-copy distribution:

Minister of Agriculture
Minister of Commerce and Consumer Affairs