



BRIEFING

Government Farm Debt Mediation Bill – Draft Cabinet paper

Date:	25 September 2018	Priority:	High
Security classification:	In Confidence	Tracking number:	0950 18-19 SUB18-0130

Action sought		
	Action sought	Deadline
Hon Damien O'Connor Minister of Agriculture	Make decisions about the key design features of the proposed farm debt mediation regime.	26 September 2018
Hon Kris Faafoi Minister of Commerce and Consumer Affairs	Provide any other feedback on the attached draft cabinet paper.	

Contact for telephone discussion (if required)				
Name	Position	Telephone		1st contact
Susan Hall	Manager, Business Law, MBIE	s 9(2)(a)		✓
s 9(2)(a)	Principal Policy Advisor, Business Law, MBIE	s 9(2)(a)		
Emma Taylor	Acting Director, Agriculture, Marine, and Plant Policy, MPI	s 9(2)(a)		
s 9(2)(a)	Acting Manager, Animal Sector Policy, MPI	s 9(2)(a)		✓

The following departments/agencies have been consulted (if required)
Treasury, Reserve Bank, Ministry of Justice, Te Puni Kōkiri, Inland Revenue Department

Minister's office to complete:

☐ Approved

☐ Declined

☐ Noted

☐ Needs change

☐ Seen

☐ Overtaken by Events

☐ See Minister's Notes

☐ Withdrawn

Comments:



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Purpose

The purpose of this briefing is to seek decisions on the key features of a statutory farm debt mediation regime and obtain your feedback on the attached draft DEV paper proposing a Government Farm Debt Mediation Bill.

Executive summary

1. Ministers have asked officials to produce a government Farm Debt Mediation Bill (**FDM Bill**) by December 2018. s 9(2)(g)(i)
There may be options other than legislation that would address concerns around farm debt and lender practices.
2. However, as requested, we have prepared the attached draft DEV paper which would seek approvals in relation to the policy of the FDM Bill and a timeline for introducing, enacting and bringing the legislation into force. We have used the *Farm Debt Mediation Act 1994 (NSW)* as amended by the *Farm Debt Mediation Amendment Act 2018 (NSW)* (**NSW Act**) as the starting point, varying it only to the extent needed to fit with New Zealand's circumstances. The changes reflect two types of differences:
 - a. differences in the two countries' primary sectors
 - b. the different approaches that the two countries tend to take in relation to regulation and legislation (i.e. more rules-based in Australia and more principles-based in New Zealand).
3. We summarise the key features of the proposed regime and identify where it departs from the regime in the NSW Act. The key differences relate to:
 - a. The type of farming covered by the proposed regime. We note, in particular, that share milking is excluded in NSW but we propose that it be included in New Zealand.
 - b. The role of the independent regulator. NSW provides for the regulator to issue certificates on application by the farmer or the lender. They are, in effect, punitive orders made against the counterparty if the regulator concludes that the counterparty has not been acting in good faith or is failing to participate in mediation. Parties are also permitted to seek an "internal review" of the decision. We consider that there is no need for a certificate and review system of this type in New Zealand.
4. We met with Federated Farmers and the New Zealand Bankers Association (**NZBA**) on 13 September 2018. This was a constructive meeting and the design features we recommend take their feedback into consideration. Our initial impression is that:
 - a. Federated Farmers and NZBA agree in principle on most high level issues

- b. officials' thinking is mostly consistent with both organisations' views
- c. it is likely that both organisations will wish to carry out more inclusive consultation processes with their members.
5. Both Federated Farmers and the NZBA identified other key stakeholders that they considered would need to be consulted on the development of the FDM Bill.
6. We have also obtained feedback from Te Puni Kokiri, Reserve Bank, Treasury, Ministry of Justice, Ministry of Foreign Affairs and Trade, and the Inland Revenue Department. We have taken into consideration the preliminary views provided to date by Te Puni Kokiri, Reserve Bank and Inland Revenue. The only major issue identified to date relates to a NZBA proposal to exclude large farming operations from the scope of the regime. This proposal would have the effect of excluding many Māori-owned farming operations. Consistent with the NSW Act, we consider that there should be no such exclusion.
7. The deadline for developing the FDM Bill is extremely short. s 9(2)(g)(i)
- we propose that this risk be managed in the following ways:
- a. Some of the policy approvals being sought in the Cabinet paper are described in general rather than specific ways. For example, we are recommending that lifestyle blocks be excluded from the scope of the mediation regime without attempting to explain what this means. We would aim to develop a workable definition of "lifestyle block" during the drafting process or seek to exclude them through other means.
- b. By consulting with Federated Farmers, NZBA and other stakeholders as necessary on specific issues that arise between now and the end of November.
- c. By recommending, in the Cabinet paper, to delegate decisions on matters of detail to the Minister of Agriculture and the Minister of Commerce and Consumer Affairs. However, there is a risk that drafting might prove more difficult than expected, or that issues requiring further Cabinet decisions are identified during the drafting process.
- d. By recommending that the FDM Bill be released as an exposure draft from mid-January to late-February 2019.
8. Officials have prepared a Regulatory Impact Statement, which, given the constraints on the policy development process, has been assessed as not meeting the required quality assurance criteria. This means that the Chair of DEV has discretion as to whether the Cabinet paper should be considered, and that if Cabinet decides to proceed with the proposal, the Minister of Agriculture must provide a Supplementary Analysis Report, the nature and timing of which must be agreed with the Minister for Regulatory Reform. The Regulatory Impact Statement must be published at the time that the Bill is introduced to Parliament, s 9(2)(g)(i)
9. s 9(2)(g)(i)

10. Given the compressed development and consultation time, officials have focused on the development of appropriate legislation s 9(2)(g)(i) [REDACTED] For example, we do not know how many farmers and lenders could be expected to access the regime, and therefore the level of resource and funding that will be required to administer it. It is likely that to administer the regime, MPI will need to seek funding via Budget 2020.

11. We recommend that Ministers give officials permission to speak to a wider group of stakeholders to gather this information. Information on expected levels of use of the regime will also help Cabinet to understand whether the costs of the regime outweigh its benefits.

Recommended action

The Ministry of Business, Innovation and Employment and Ministry for Primary Industries recommend that you:

- a **Agree** that both Ministers meet by no later than 26 September 2018, with officials in attendance, to decide on the key design features discussed in this briefing and provide any other feedback on the draft DEV paper.

Agree / disagree

- b **Note** that Annex 1 provides a checklist of key design issues for your consideration.

Noted

- c **Agree** that officials will send a draft minute of the meeting seeking confirmation that it accurately reflects your decisions.

Agree / disagree

- d **Note** the timeline in the table after paragraph 67 of this briefing.

Noted

- e **Agree** to include, in the Cabinet paper, a request for Cabinet approval to release an exposure draft of the FDM Bill.

Agree / disagree

- f **Agree** to state, in the Cabinet paper, that the exposure draft will be open for comment from mid-January to late February 2019.

Agree / disagree

- g **Agree** to officials undertaking consultation with further stakeholders as needed to inform the design and implementation of the regime.

Agree / disagree

- h s 9(2)(g)(i) [REDACTED]

Noted

- i **Note** that as the attached Regulatory Impact Statement (RIS) has been assessed as not meeting the required quality assurance criteria, the Chair of DEV has discretion as to whether the Cabinet paper should be considered, and that if Cabinet decides to proceed with the proposal, the Minister of Agriculture must provide a Supplementary Analysis Report, the nature and timing of which must be agreed with the Minister of Finance.

Noted

Penny Nelson
**Deputy Director-General, Policy
and Trade, MPI**
September 2018

Susan Hall
**Manager,
Business Law, MBIE**
September 2018

Hon Damien O'Connor
Minister of Agriculture

..... / /

Hon Kris Faafoi
**Minister of Commerce and Consumer
Affairs**

..... / /

Proactive Release


Key features of the Farm Debt Mediation regime

General comments

1. The rationales for many of the key features of the regime are provided in the draft Cabinet paper. We only comment below to the extent that it is useful to elaborate. We have, in particular, indicated below where our proposals materially differ from the NSW Act and, if so, how.
2. We have generally applied the following criteria in designing the regime, particularly in relation to the types of farming that should be included or excluded from the scope of the FDM regime:
 - Criterion 1:** vulnerability to business downturns as a result of susceptibility to conditions outside of the farmer's control (e.g. weather fluctuations, market price volatility and disease or pests).
 - Criterion 2:** the farmer usually lives on the farm.
 - Criterion 3:** whether there is an imbalance in negotiating power between the lender and borrower.
3. These criteria reflect our understanding of the issues that are important to the government. We seek your feedback on whether our understanding is accurate – see Table 1 in the checklist in Annex 1. Other criteria are relevant to specific issues. They are identified and discussed as necessary.
4. Criteria 1-3 are potentially open to criticism as they can apply to many small businesses. For example:
 - a. All businesses are susceptible to downturns as a result of factors outside of their control.
 - b. Lenders often require that the owners of small businesses provide personal guarantees and mortgages over their family homes.
 - c. It is very common for there to be an imbalance of power between small and medium-sized business owners and their lenders.
5. In addition there are existing mechanisms to help farmers manage some of these risks, such as:
 - a. Rural Assistance Payments made during adverse weather events
 - b. government funding for biosecurity readiness and response, and compensation under the Biosecurity Act
 - c. the availability of measures to hedge against market price volatility, such as dairy derivatives.
6. These arguments could be used to claim that:
 - a. the FDM Bill should apply to all small businesses, or
 - b. there is nothing unique about farming which warrants the creation of an FDM regime.
7. However, a counterargument is that farming should be treated differently because the impacts under criteria 1 and 2 can be much greater for farming than most other business operations.

Definition of “farming operation”

Businesses which would be included in the regime

8. Criteria 1 and 2 are the most relevant to making decisions about whether classes of farming operation should be included. We consider that undertakings that primarily involve **agriculture** and **horticulture** should be included on the grounds that criteria 1 and 2 are clearly met.
9. We also recommend that **share milking** be included. Share milkers are vulnerable given their comparatively smaller asset base and the extent of their exposure to conditions outside of the farmer’s control. Share milkers also live on the farm.
10. s 9(2)(g)(i) 
11. In relation to **forestry**, criterion 2 is rarely met and the risks in relation to criterion 1 are not as high. Forestry is a long term investment and is less vulnerable to business downturns. For example, forestry business operators have choices about when to harvest trees. Agricultural and horticultural businesses do not have those same options in relation to their primary production activities.
12. An argument in favour of including forestry is that it seems likely that family farming businesses will increasingly become involved in forestry as the government introduces pro-afforestation policies as part of meeting its obligations under the Paris Agreement on Climate Change.
13. The arguments in relation to **aquaculture** are also less clear than they are for agriculture and horticulture. Criterion 1 is met, but criterion 2 is not.
14. We also make the following recommendations:
 - a. To include any activity involving primary production carried out in connection with any of the included activities. This would avoid the risk that a farming business is excluded because it also undertakes secondary activities e.g. having a plant nursery as part of an orchard.
 - b. To include a business where of two or more of the included farming activities would, taken together, meet a “primarily involved” test, e.g. a farm that is 40 percent dairy, 40 percent horticulture and 20 percent a nursery.

Businesses which would be excluded

15. We recommend that the following categories of businesses be excluded from the scope of the regime:
 - a. Lifestyle blocks, because they are not commercial businesses.
 - b. Wild harvest fishing, and hunting and trapping wild animals because they do not meet criterion 2 and are much less susceptible under criterion 1.

Comparison with NSW

16. There are three differences. The NSW Act includes forestry and aquaculture, but does not include share milking. All other inclusion and exclusion proposals are consistent with the NSW Act.

Definition of “farm property”

17. We are recommending that the FDM regime will apply in relation to loans which are, in substance, secured by assets that are an integral part of the farming operation. We also recommend that the following assets be included:
 - a. farmland
 - b. farm machinery (i.e. vehicles or machines commonly used for farming operation purposes such as tractors, milking equipment and irrigation systems)
 - c. livestock.
18. Consistent with the NSW Act, this would not capture assets such as crops once harvested or wool once shorn. Thus, loans secured against those types of assets would not require the lender to offer to undertake mediation before taking enforcement action.

Comparison with NSW

19. The NSW Act does not apply in respect of “stock mortgages”. We understand that in the context of the NSW Act the term stock mortgage refers to a security interest granted over livestock. We think it is important to include security over livestock in any New Zealand FDM regime because share milkers often borrow against their herd to finance their contractual requirements.
20. It appears that the NSW regime only applies in respect of security interests in the specific types of property listed above. However, Federated Farmers and NZBA have told us that secured lenders in New Zealand are willing to lend against a wide variety of assets (e.g. shares in a stock or land owning company). For this reason we are recommending that the New Zealand regime apply to security interests which are in substance secured against these types of assets. This inclusion will reduce the risk that arrangements which have the same substantive effect are treated inconsistently.

Initiating mediation

21. The Member’s Bill only proposed that mediation could be triggered if a bank or non-bank lending institution was proposing to appoint a receiver. Federated Farmers, the NZBA and officials agree that this approach is problematic for the following reasons:
 - a. It will not promote farm business turnaround goals. It will almost certainly be too late to save the farming business if a secured lender has concluded that a receiver should be appointed.
 - b. All classes of secured creditors need to be included for the regime to be fully effective.
 - c. A farmer may have better knowledge than their bankers or other secured creditors about liquidity and other solvency risks to their farming business.
22. We are, therefore, proposing that mediation would be able to be initiated:
 - a. by any lender that holds a security interest over farm property, when any form of enforcement action is proposed by a secured creditor
 - b. by the farmer without needing to meet any substantive statutory criteria (though a limit will be placed on how frequently farmers will be able to call for mediation).

The process for appointing a mediator

23. The NSW Act provides that the farmer must nominate the mediator. If the lender rejects the nominee, the farmer must nominate a panel of at least three other mediators from which the lender must select one (**Option 1**).

24. We consider that Option 1 could be overly complex and require farmers to make a decision which they might not be well placed to make at a time they are already under considerable stress. We have identified two possible alternatives:
- a. **Option 2 – The farmer and lender have the option to agree but are assigned a mediator if they cannot:** The farmer and lender have up to 10 working days to jointly appoint an accredited mediator. Alternatively, MPI will allocate a mediator if they are unable to reach agreement.
 - b. **Option 3 - Farmer and lender assigned a mediator:** MPI will allocate an accredited mediator after the farmer and lender have agreed to enter into mediation.
25. We consider that Option 1 should not be preferred for the reasons stated in paragraph 0. We do not have a clear preference between Options 2 and 3. It could be argued that Option 2 is better because it provides the parties with more 'ownership' of the appointment process. Alternatively, it could be argued that Option 3 is fairer to farmers because secured creditors are usually likely to have better knowledge about the strengths and weaknesses of individual mediators, including any unconscious biases they may have. We are requesting that Ministers decide between Options 2 and 3.

A major feature of the NSW Act that we are not recommending – prohibition and exemption certificates

26. As noted in the Cabinet paper, there is one major feature of the NSW system that we are not recommending. Under the NSW Act, the NSW Rural Assistance Authority has an active role in considering applications from farmers for "prohibition certificates" and applications by creditors for "exemption certificates". If a prohibition certificate is issued, the creditor is unable to enforce its security for six months. If an exemption certificate is issued, the security holder can exercise its right and the farmer is barred from seeking to commence a new mediation process for three years.
27. The losing party can seek an "internal review" from the NSW Rural Assistance Authority against a decision to issue or not issue a certificate.
28. We consider that this system is not needed in New Zealand for the following reasons:
- a. The regime can be designed to provide farmers and lenders with incentives to act in good faith without needing this system, in particular by making any enforcement action taken in breach of the mediation regime void. This will create an incentive for lenders to comply with the requirements of the regime. A lender that fails to do so will expose itself to considerable legal risk. Farmers have an incentive to comply with the requirements of the regime in order to obtain the benefits that the regime provides.
 - b. It may be burdensome to require farmers to take the additional administrative step of seeking a prohibition certificate, at a time when they are under emotional and financial stress.

Mediator's discretion to end a mediation process

29. In addition, we are proposing that mediators will have the discretion to call an end to a mediation process if they believe that one or both parties are not acting in good faith. This is not a typical function for mediators and there is a risk that it could compromise their perceived independence from farmers and lenders during the mediation process. This is, however, consistent with the NSW Model.

Administration and enforcement of the regime

30. We propose that MPI would be responsible for the administration and enforcement of the regime. Key activities would include:
- a. maintaining a list of approved mediators, and assessing applications to become approved

- b. receiving and holding mediator reports on the outcomes of mediation
 - c. undertaking enforcement action for non-compliance
 - d. issuing, administering, and enforcing regulations made under the regime
 - e. monitoring the effectiveness of the regime.
31. This represents a new function for MPI, although it has parallels with other existing MPI functions. Further work is needed to assess the type and amount of expertise needed to administer the regime. MPI will provide further advice on the implications for its Vote, including a potential bid for additional funding.

Consultation

32. MBIE and MPI are part way through the process of consulting with the Treasury, Reserve Bank, Ministry of Justice, Te Puni Kokiri, Ministry of Foreign Affairs and Trade, and Inland Revenue Department. An earlier draft of the attached draft Cabinet paper was sent to them on Wednesday 19 September.

Te Puni Kokiri

33. We are consulting with Te Puni Kokiri on the issues referred to in the draft Cabinet paper about the implications for collectively owned Māori farm assets, the consistency of the mediation regime with Tikanga Māori and the lack of consultation with Māori.
34. Te Puni Kokiri may have concerns if the Government was to agree to a proposal by the NZBA and the ANZ Bank in their submissions on the Member's Bill to exclude institutional farmers and farming operations. The NZBA proposed that the exclusion could be defined with reference to net assets, debt level (e.g. \$20 million) or annual revenue (\$10 million). Although we do not have any statistical data, our preliminary view is that this could have the effect of excluding a significant proportion of Māori agri-businesses from the scope of the FDM regime.
35. Any meaningful exclusion for larger businesses can be expected to also capture some of these Māori businesses. This could be perceived to be discriminating against those businesses on the basis that their owners hold their assets collectively rather than individually as is the traditional model for other business owners. The Government could also be open to criticism on the basis that the Crown, through the treaty settlement process, has been a major contributor to the collective ownership of assets by Māori.
36. Te Puni Kokiri has also identified that any such size test can reasonably be expected to provide inconsistent outcomes for Māori, based on the size of the business in question, even though criteria 1, 2 and 3 may be equally present. For example one Māori business could fall below the threshold for exclusion from the regime while another would not, even though their might be no difference between the two businesses in terms of the application of the three criteria.
37. There has also been no consultation undertaken with Māori businesses on their view on potentially being excluded from the regime as a result of the scale of their farming operations.

Ministry of Justice (Māori Crown Relations)

38. The Māori Crown Relations Unit in the Ministry of Justice considers that consultation with Māori is crucial given the amount of Māori-owned farmland, and the collective ownership of much of this land. Information obtained through this consultation would help assess the impact of any changes for Māori, in the spirit of a good faith Māori-Crown relationship. They recommend deferring the paper until consultation is complete.

Reserve Bank

39. The Reserve Bank is concerned at the lack of a clear and compelling problem requiring a legislative solution. Banks typically seek to work with farmers to avoid enforcement action where possible. While it might be argued that there is little risk in formalising existing practice, the Reserve Bank is concerned about the potential for unintended consequences. This might drive banks towards earlier enforcement action or risk creating a more adversarial relationship between farmer and banks.
40. Previous consultation took place on a much narrower regime contained in the Member's Bill focused only on receivership. The Reserve Bank would strongly advocate a more comprehensive next stage of consultation with all affected stakeholders to ensure that any unintended consequences are explored and addressed in the detail of the regime.
41. More generally, the Reserve Bank does not consider that there is a compelling case for providing a special regime for farmers and is concerned that the proposal, as now defined, may result in similar arguments being advanced for other groups in the future. Restricting the ability of lenders to enforce contracts may affect the cost and availability of credit for farmers, and potentially impact negatively on the efficiency of the financial system.

Inland Revenue Department

42. Inland Revenue has no concerns with the Cabinet paper's intent, approach or content.
43. In practice, Inland Revenue is very rarely a secured creditor in insolvent businesses. However, Inland Revenue would have significant concerns if the regime's scope was expanded to include unsecured creditors. Because Inland Revenue is an involuntary unsecured creditor, the impact of any moratorium placed on unsecured creditors would need to be fully worked through to determine the likely impact on Inland Revenue's debt collection rules and practices.

Treasury

44. The Treasury's main overall comment is that further policy work is necessary to assess this proposal, particularly in relation to problem definition, which flows through to the uncertainties around the forms of farming that might be included. s 9(2)(g)(i)
[REDACTED]
45. The Treasury has also stated that the proposal may significantly increase financial stability risk in the event of a severe and sustained downturn in the agricultural sector and has pointed to the uncertainties around the fiscal implications for MPI.

Communications and risks

46. The consultation section above identifies three sets of risks. There may be other risks.

Availability of credit

47. Given lenders' (particularly banks) market power, we would expect that these costs will be passed on to farmers through higher interest rates and fees. This could result in some farmers who were only just able to afford to service their debt levels no longer being able to do so.
48. In addition, any restriction on the ability of lenders to take enforcement action can be expected to result in a tightening of the criteria which lenders use to decide whether they would be willing to lend. This could result in farmers who were the subject of more marginal lending decisions no longer being able to obtain credit.

49. s 9(2)(g)(i) [REDACTED] We intend to consult with Federated Farmers and NZBA to get a better understanding of whether there is a risk and, if so, how significant it might be.

More proactive enforcement by lenders

50. We understand that lenders, particularly banks, try to avoid the need to take enforcement action. For example we understand that banks will often continue to lend to a farmer after they have fallen behind in their payment obligations while they explore options.
51. The imposition of a stay on enforcement proceedings can be expected to incentivise lenders to initiate formal enforcement proceedings sooner than they would otherwise. However, this could be regarded as positive from a business turnaround viewpoint.

Lack of consultation

52. We have not yet had the opportunity to test the detailed features of the proposed FDM regime with stakeholders. Accordingly, there is a risk that certain aspects of the design of the regime will be flawed and modifications will be required.
53. s 9(2)(g)(i) [REDACTED]
54. The weight of submissions on the Member's Bill supported the introduction of an FDM regime. This suggests that most stakeholders will welcome a decision to introduce a government FDM Bill. However, the Member's Bill was substantially different from the FDM Bill outlined in the draft DEV paper. Accordingly, submitters will not have had an opportunity to comment on, and identify problems with the FDM Bill.
55. s 9(2)(g)(i) [REDACTED] example, we do not know how many farmers and lenders could be expected to access the regime, and therefore the level of resource and funding that will be required to administer it.
56. We propose that this risk be managed in the following ways:
- a. by consulting with Federated Farmers, NZBA and other stakeholders as necessary during the development of the FDM Bill
 - b. by recommending that Cabinet delegate decisions on matters of detail to the Minister of Agriculture and the Minister of Commerce and Consumer Affairs
 - c. by recommending that the FDM Bill be released as an exposure draft in the new year, to enable all stakeholders to have their voices heard during the design of the FDM Bill.

International trade

57. s 9(2)(h) [REDACTED]
58. s 9(2)(g)(i) [REDACTED]
59. s 9(2)(g)(i) [REDACTED]

Regulatory impact analysis

60. A Regulatory Impact Statement (RIS) on the proposal to establish an FDM regime is attached. In accordance with Cabinet requirements for regulatory impact analysis, the RIS has been reviewed by a joint MPI and MBIE panel.
61. The panel concluded that the RIS does not meet the required quality assurance criteria as there is insufficient evidence that a range of appropriate options (including non-regulatory options) have been considered, or that the impacts of the proposal have been sufficiently quantified. This reflects the compressed timescales for developing the proposal.
62. The consequences of this are set out in Cabinet Office Circular CO (17) 3, at paragraphs 42-46. In summary terms these are that:
- a. the Chair of DEV will have the discretion to decide whether or not your paper will be considered
 - b. Treasury may advise the Minister of Finance and the Minister for Regulatory Reform of this
 - c. if the proposal proceeds to Cabinet discussion and substantive decisions are made, the responsible Minister must provide a Supplementary Analysis Report – the nature and timing of this must be agreed with the Minister for Regulatory Reform.¹ The Supplementary Analysis Report must be quality assured and published alongside the original Regulatory Impact Statement.

Funding

63. s 9(2)(f)(iv)

Communication with stakeholders

64. s 9(2)(f)(iv)

Next steps

65. The key steps through to the introduction of the FDM Bill are outlined in the table below. The steps through to 14 December are in accordance with the option you agreed to in response to our briefing of 7 September (0845 18-19 (MBIE); B18-0739 (MPI)). The post New Year steps are new. They were not outlined in that briefing.
66. Officials continue to advise that allowing officials more time to undertake policy analysis and stakeholder consultation would result in better legislation.
67. All steps are founded on assumptions that:
- a. s 9(2)(f)(iv)
 - b. there is no need to obtain further policy decisions from DEV before seeking approval from LEG to introduce the FDM Bill
 - c. s 9(2)(f)(iv)
 - d. there are no unforeseen difficulties.

¹ The Minister of Finance is responsible for regulatory reform and would need to agree the Supplementary Analysis Report the responsible Minister.

Timeline

No.	Date	Action	Who
1	[REDACTED]	s 9(2)(g)(i) [REDACTED] [REDACTED] [REDACTED]	[REDACTED] [REDACTED]
2	[REDACTED]	[REDACTED]	[REDACTED]
3	[REDACTED]	[REDACTED]	[REDACTED]
4	[REDACTED]	[REDACTED]	[REDACTED]
5	[REDACTED]	[REDACTED]	[REDACTED]
6	[REDACTED]	[REDACTED]	[REDACTED]
7	[REDACTED]	[REDACTED]	[REDACTED]
8	[REDACTED]	[REDACTED]	[REDACTED]
9	[REDACTED]	[REDACTED]	[REDACTED]
10	[REDACTED]	[REDACTED]	[REDACTED]

Annexes

Annex 1: Checklist of key design issues

Annex 2: Draft Cabinet paper 'A Government Farm Debt Mediation Bill'

Annex 3: Regulatory Impact Statement

Annex 1: Checklist of key design issues

Table 1: Criteria for the design of the of the FDM regime (paragraph 2)

Criteria assumed by officials	Is a criterion (yes/no)
s 9(2)(f)(iv)	
Q. Are there any other criteria?	

Table 2: Definition of farming operation (paragraphs 8-16)

Farming operation	Officials' advice	Decision
s 9(2)(f)(iv)		

Table 3: Defining farm property (paragraphs 17-20)

Type of property	Officials' advice	Decision
s 9(2)(f)(iv)		

Type of property	Officials' advice	Decision
s 9(2)(f)(iv)		

Table 4: Initiating mediation (paragraphs 21-22)

Advice on who can initiate mediation	Advice on criteria	Decision: who can initiate	Decision: criteria
s 9(2)(f)(iv)			

Table 5: The process for appointing a mediator (paragraphs 23-25)

Process	Officials' advice	Decision
s 9(2)(f)(iv)		

Table 6: Prohibition and exemption certificates (paragraphs 26-28)

Officials' advice	Decision
s 9(2)(f)(iv)	

Table 7: Other issues (see Annex 1 of the draft Cabinet paper)

No.	Issue	Officials' advice	Decision
1	s 9(2)(f)(iv)		
1			

Annex 2: Draft Cabinet Paper ‘A Government Farm Debt Mediation Bill’

Final Version Proactively Released

Proactive Release

Annex 3: Regulatory Impact Statement

Final Version Proactively Released

Proactive Release