

# BILL

No. 49 of 1923.

An Act to facilitate the Adjustment of Agricultural Debts.

(Assented to , 1923.)

**H**IS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

1. This Act may be cited as "*The Debt Adjustment Act.*"

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## PART I.

2. Part 1 of this Act shall be of general application.
3. In this Act, unless the context otherwise requires—
  - (a) "Judge" shall mean a judge of the District Court exercising the jurisdiction of the judge of the district in which a resident as herein defined resides;
  - (b) "Resident" shall mean a person who is an actual resident of and personally *bona fide* engaged in farming operations in the Province.
4. The Lieutenant Governor in Council may by order—
  - (a) Appoint a director to have the general supervision and administration of this Act, and one or more assistant directors for the whole or any part or parts of an area, and provide for all necessary clerical assistance and office and other equipment;
  - (b) make and prescribe from time to time rules and regulations for the due administration of this Act, and as to any matter of procedure in respect of any proceeding whatsoever under this Act; and prescribe and fix a tariff of fees to be taken or received by any person for any service performed by any such person in connection with any proceeding as aforesaid.
5. Upon application being made to the director by or on behalf of any resident or the creditor of any resident, the director shall confer with and advise the resident or his creditor and shall endeavour to bring about an amicable

arrangement for the payment of the resident's indebtedness without unnecessary recourse being had to legal proceedings, and for that purpose the director shall inquire into the validity of the claims made against the resident and the ability of such resident to pay his just debts either presently or in the future, and shall endeavour to effect an agreement between the resident and creditors to provide for the settlement of the resident's debts, either in full or by a composition.

**6.** In making any inquiry or otherwise carrying out the provisions of this Act the director shall have the power of summoning witnesses before him, and of requiring such witnesses to give evidence on oath, orally, or in writing, or on solemn affirmation (if they are persons entitled to affirm in civil matters), and to produce such documents and things as he may deem requisite for the full investigation of the matters into which he is authorized to inquire.

**7.** This part of this Act shall apply only to such part or parts of the portion of the Province described in part I of the schedule hereto as may from time to time be defined by order in council as is hereinafter provided.

**8.** In this part of this Act, unless the context otherwise requires—

- (a) "area" shall mean any part of the Province to which this part applies;
- (b) "resident" shall mean a person who is an actual resident of and personally *bona fide* engaged in farming operations in an area.

**9.** The Lieutenant Governor in Council may by order,—

- (a) from time to time declare the whole or any part or parts of the portion of the Province described in the schedule hereto to be an area or areas;
- (b) from time to time prescribe the method of distribution of the proceeds of the sale of property seized under the provisions of this Act, and, in such areas as are defined from time to time by order in council, may add to the property exempt from seizure under any writ of execution, may protect such property against seizure in any other proceedings or for any other reason:

Provided always that no such exemptions shall exceed the exemptions permitted by *The Exemptions Act* and a further exemption from seizure under any writ of execution or from any cause whatsoever of such part of the crop or other produce of any resident which has been raised within any area, and the proceeds of sale thereof

as may be required to provide necessary food and clothing for the resident and his family for a period of three months in addition to the period allowed by *The Exemptions Act*, and such extended period may be anterior or subsequent to the period mentioned in *The Exemptions Act*.

**10.**—(1) Upon the application of any resident who has any interest in a growing crop, the director may if from inquiries made by him he is satisfied that it is in the interests of the resident and his creditors so to do, file in the office of the Clerk of the Court of the judicial district in which the resident resides, a certificate in form B in part II of the schedule to this Act, and shall file a copy thereof in the land titles office for the land registration district in which the resident resides, and shall cause a notice to be inserted in *The Alberta Gazette* to the effect that a certificate has been filed by him in respect of such resident, in pursuance of the provisions of this Act.

(2) Every such application shall be in writing in form A in part II of the schedule to this Act, and shall be signed by the applicant and shall be attested and shall be accompanied by an affidavit of the attesting witness as to the execution hereof.

(3) Upon the filing of the said certificate no proceeding in the nature of an execution, or proceedings leading to the sale or foreclosure of real property, and no proceeding of any sort, either in Court or extra judicial, which may lead to the seizure or sale of the property of any resident, shall be taken or continued without the leave of a judge or the requisition in writing of the director as is hereinafter provided.

(4) As soon as conveniently may be after the filing of any certificate the director shall take such steps as he deems proper to acquaint the creditors of the financial position of the resident.

**11.**—(1) In any case where a certificate has been filed a creditor of such resident may apply to a judge upon notice in writing to the director, and such notice shall be deemed to be served upon proof that the same was sent from some post office within the Province of Alberta in a duly prepaid cover by registered mail addressed to the director, or to the assistant director having an office in the judicial district in which the resident resides at least four clear days before the date of hearing mentioned in the notice.

(2) Every such application shall be made to a judge of the District Court exercising jurisdiction as judge of the district in which the resident resides.

(3) Every such application shall be heard in a summary manner and the judge may receive evidence by affidavit or

*viva voce* or otherwise as he may think fit, and the judge shall have an absolute discretion as to the granting or refusing of any leave, having regard to the circumstances of the resident and of the creditor and the purpose and objects of this Act, and may make any order he thinks proper for the interim presentation of the property of the resident situate within any area, and particularly may, as a condition of refusing such leave, impose upon the resident any terms and conditions he deems advisable as to the disposition and sale of any property of the resident situate within any area and the application of the proceeds of sale, and upon granting any such leave may cancel the certificate filed under this part and may at the time of granting such leave or by subsequent order give all requisite directions for the removal and sale of the whole or any part of the property of the resident situate in any area which may become liable to seizure and sale in consequence of the granting of such leave or the cancellation of the certificate and for the distribution of the proceeds of sale thereof, and the provisions of *The Extra-judicial Seizures Act* shall not apply in any such case.

**12.** In any case where it is made to appear to the director by any creditor or creditors of a resident in respect of when a certificate has been filed, that it is advisable so to do, the director may, in his sole discretion, cancel such certificate by filing with the clerk and registrar with whom the original certificate was filed a cancellation in form C in part II of the schedule to this Act, and thereupon such certificate shall cease to have any effect whatsoever.

**13.** In any case where a certificate under this Act has been filed, and it is made to appear by any creditor to the director that the property of the resident therein named is for any reason whatsoever in jeopardy, the director may by writing under his hand directed to the sheriff of the judicial district in which such property is situated require such sheriff to seize such designated property and to hold and deal with the same for him in such manner as the director may in writing direct; and thereupon the sheriff shall proceed forthwith to seize such property and to deal with the same in such manner as the director may from time to time by writing under his hand direct, and the proper fees and expenses incurred by the sheriff in respect of such property shall be a charge upon the said property.

**14.** The director is hereby empowered, in any case where he has filed a certificate, to direct the resident named in such certificate to deal with all or any part of his property in such manner as the director may in his discretion deem expedient, and every such direction shall be in writing and signed by the director, and it shall be the duty of such resident to comply with every such direction.

**15.** If any resident in respect of whom a certificate has been filed under this Act makes default in complying with any direction given by the director under the provisions of the last preceding section, or in complying with any order, direction or condition given or imposed by a judge under the provisions of section 10 hereof, then and in every such case the resident shall be guilty of an offence and shall be liable upon summary conviction to a fine of not exceeding \$250.00 and in default of payment thereof to a term of imprisonment with hard labor not exceeding three months, or to both.

**16.** All the powers and authority by this Act conferred upon the director shall be deemed to be conferred upon every assistant director and may be exercised by the assistant director in the absence of the director, or within the area for which such assistant director is appointed.

**17.** Every clerk of the court and every registrar of land titles shall receive and file every certificate filed pursuant to this part and every judge's order cancelling any certificate, without fee, and shall keep a record thereof.

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PART I.

That part of the Province of Alberta described as follows:

Commencing at the intersection of the north boundary of the 34th townships with the eastern boundary of the Province; thence westerly along the said boundary of the 34th townships to the line between ranges 15 and 16 west of the 4th meridian; thence southerly along the said line between said ranges 15 and 16 to the north boundary of the 21st townships; thence westerly along the north boundary of the 21st townships to the line between ranges 25 and 26 west of the 4th meridian; thence southerly along the said line between said ranges 25 and 26 to the north boundary of the 9th townships; thence westerly along the north boundary of the 9th townships to the western boundary of the Province; thence southerly following the western boundary of the Province to the point of intersection of the north boundary of the 6th townships; thence easterly along the north boundary of the 6th townships to the line between ranges 26 and 27 west of the 4th meridian; thence southerly along the said line between said ranges 26 and 27 to the north boundary of the 5th townships; thence easterly along the north boundary to the 5th townships to the Belly River; thence south-westerly, following the course of the Belly River up-stream as far as it forms the boundary of the Blood Indian Reserve; thence easterly and north-easterly following the boundary of the said Reserve to the north boundary of the 3rd townships; thence easterly along the north boundary

of the 3rd townships to the line between ranges 21 and 22 west of the 4th meridian; thence southerly along the said line between said ranges 21 and 22 to the southern boundary of the Province; thence easterly along the southern boundary of the Province to the eastern boundary of the Province; and thence northerly along the eastern boundary of the Province to the point of commencement.

PART II.

FORM A.

To the Director under *The Debt Adjustment Act*.

I, the undersigned, do hereby certify—

1. That I reside at . . . . .
2. That I am personally *bona fide* engaged in farming operations at . . . . .
3. That I have the following, and no other land, in crop:

Description of Land	Acres in Crop	Kind of Crop

4. That my interest in such crop is as follows: . . . . .

5. That I am indebted in the sum of \$. . . . ., and am unable presently to pay such debts, and that I apprehend that I may be sued by one or more of my creditors.

Therefore I apply to you and request you to file a certificate concerning me under the provisions of section 9 of the said Act.

And further, I undertake and agree that I will, upon the filing of such certificate, obey any direction which may be given by you as to the disposition of my said crop as may be given pursuant to section 14 of the said Act, and hold my property as bailee for you.

Dated at . . . . . in the Province of Alberta, this . . . . . day of . . . . ., 192 . . . . .

Signed in the presence of: }  
 . . . . . }  
 . . . . . }

CANADA }  
 PROVINCE OF ALBERTA. }

I, . . . . ., of . . . . ., in the Province of Alberta, . . . . . make oath and say:

1. That . . . . . of . . . . .  
named in the above written application is personally known  
to me, and that the said application was signed by him in  
my presence, and that the signature . . . . .  
thereto is my signature and that the same was signed as a  
witness thereto.

Sworn at. . . . . in }  
the Province of Alberta, this }  
. . . . . day of . . . . . 192. . }

Before me, . . . . .  
*A Commissioner for Oaths.*

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FORM B.

(Section 9.)

*The Agricultural Debt Adjustment Act.*

To the Clerk of the Court for the Judicial District of . . . . .  
and to the Registrar for the . . . . . Alberta Land  
Registration District.

This is to certify that . . . . .  
of . . . . . , a resident within the meaning of  
section 7 of the said Act, is a person entitled to the benefit  
of the provisions of subsection 6 of section 9 of the said Act.

Dated at . . . . . this . . . . . day of . . . . . 19. . . . .  
*Director.*

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FORM C.

(Section 11.)

In the matter of *The Debt Adjustment Act.*

To the Clerk of the Court, Judicial District of . . . . .

This is to certify that the certificate filed by me under the  
provisions of the above Act in respect of . . . . .  
of . . . . . in your office on the . . . . . day  
of . . . . . , 192. . , is hereby cancelled.

Dated this . . . . . day of . . . . . 192. . . . .  
*Director.*

No. 49.

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THIRD SESSION  
FIFTH LEGISLATURE  
13 GEORGE V  
1923

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BILL

An Act to Facilitate the Adjustment  
of Agricultural Debts.

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Received and read the

First time.....

Second time.....

Third time.....

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HON. MR. BROWNLEE.

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EDMONTON:  
J. W. JEFFERY, KING'S PRINTER  
A.D. 1923