

MEDIA RELEASE

Important changes to farm debt mediation set to strengthen Victorian farmers' rights

19 October 2022

To strengthen farmers' rights to farm debt mediation and streamline the process, important changes to the [Farm Debt Mediation Act 2011 \(the Act\)](#) will soon take effect.

Under the Act, a farmer has the right to be offered mediation by their creditor before the creditor can start debt recovery on their farm mortgage. At mediation, an independent mediator helps a farmer and their creditor to confidentially reach an agreement about farm debt arrangements – without the high costs, stress and lengthy delays that come with legal recovery proceedings.

From 31 October 2022, the changes that will take effect include the following:

- **The definition of 'farming operation' will include aquaculture and forestry and timber production, ensuring more farmers are protected.**
- The Victorian Small Business Commission (VSBC) will take on administrative responsibilities for the Farm Debt Mediation Scheme from Agriculture Victoria. This means that **guidance, processes and forms for farm debt mediation will be available on the VSBC website and the VSBC will be the first point of contact for any queries.**
- **Farmers will have greater rights, as creditors will be required to obtain an exemption certificate in all instances before taking enforcement action (recovering debt on a farm mortgage), including when a farmer hasn't responded to their offer to mediate.**
- **The VSBC will have some discretion when it comes to issuing exemption certificates** and prohibition certificates (which stop creditors from taking enforcement action). For example, the VSBC could refuse to issue an exemption certificate if they're satisfied that the farmer is justified in not having undertaken mediation and intends to do so within a reasonable timeframe.

The VSBC will keep providing early help to farmers and creditors, which includes discussing rights and obligations when it comes to mediation, informing farmers about the free and independent support offered by the [Rural Financial Counselling Service](#) and arranging a suitable time and place for mediation to happen.

More information will be made available on the [VSBC website](#) from 31 October 2022. For media enquiries, contact Chris Harris on 0436 698 132 or at christine.harris@vsbc.vic.gov.au.

OFFICIAL

The [Victorian Small Business Commission](#) is an independent government agency that advocates on issues affecting people in small business, raises awareness of their rights and responsibilities, and helps them to avoid or resolve disputes.

Fast facts: farmers' ongoing rights in Victoria

Under the *Farm Debt Mediation Act 2011* (the Act), farmers have the right:

- to be offered mediation before a creditor can start enforcement action
- to consider an offer of mediation from their creditor and respond within 21 days
- to request mediation with their creditor whether or not they're in default under their farm mortgage
- to be issued a prohibition certificate (which prevents creditors from taking enforcement action for six months or until the day the farmer and creditor enter into mediation) if:
 - they're in default and
 - have requested mediation and
 - the creditor has refused to mediate or three months have passed since the farmer made the request *N.B. the VSBC will have some discretion in the issuing of these certificates from 31 October 2022.*

Attributable quotes

Quote from RFCS Victoria West Senior Coordinator Sarah Moncrieff

"The Rural Financial Counselling Service strengthens the ability of local farmers to actively manage change, adjust to challenges and plan for the future. We offer free expert financial support to farmers before, during and after farm debt mediation, which can include providing wellbeing and decision-making support, help in understanding their financial position, and guidance on options for resolving their matter."

Quote from Victorian Small Business Commissioner Lynda McAlary-Smith

"It's vital that Victorian farmers are aware of their greater rights and protections that will take effect this month, and what creditors will be required to do before they can start to recover debt on a farm mortgage. The Victorian Small Business Commission is here to answer any questions farmers might have about the benefits of mediation and what these important changes mean."