

Facts



Information

www.consumer.tas.gov.au

Hotline : 1300 65 44 99



Stock Wool and Crop Mortgages Act 1930

If you borrow money, you will usually be asked to provide something as security so that, should you default, the lender can sell it to recover the debt. There are a number of arrangements to which lenders and borrowers may agree. The following information describes the arrangements relating to mortgages that fall under the *Stock Wool and Crop Mortgages Act 1930*.

Mortgages and Liens

A mortgage is created when an owner of property pledges or 'mortgages' the property to a lender such as a bank or financial institution as security for a loan. The property owner is the 'mortgagor' and the lender the 'mortgagee'. Some lenders take security over livestock, wool clips and crops although these are less common compared with the real-estate mortgage.

The mortgage document will include a range of conditions under which the loan is made. Breach of any of these conditions will probably allow the lender to call in or 'foreclose' on the loan. The *Consumer Credit (Tasmania) Act 1996* contains the relevant provisions where the borrower defaults on payments.

A lien is another form of property right relating to security for a debt. It authorises a person to keep property pending the payment of a debt or, if the debtor still has possession of the property, to seize it and keep it until the debt is paid, or sell it to recover the debt. If, for example, you take a mare to a stud to be serviced by their stallion, the stud may keep the mare (and its foal) until the service fee and all stud fees have been paid. Many breeding contracts contain such a lien clause.

A lien may be exercised by selling the property in question (the mare and foal in the example above). In that case the creditor may retain the amount owed and any costs incurred in exercising the lien, but must refund to the debtor any money received in excess of that owed.

Lien on stock, crops or wool

Liens specific to crops, wool and livestock are still used today, though more by pastoral houses and rural trading companies than by banks and finance houses. If, as a farmer, you incur large debts, your creditor may require you to execute a lien over your next wool clip or crop. Provisions relating to these stock, wool and crop mortgages are contained in the *Stock Wool and Crops Mortgages Act 1930*.



Administrative Processes

For a lien to be effective it must be registered by the Commissioner for Corporate Affairs within 30 days of the agreement. The administrative requirements are as follows:

- An affidavit must be completed in the format specified in Schedule 1 of the Act and signed before a Justice of the Peace or Commissioner for Declarations.
- If a photocopy of "Schedule 1" is lodged, a further affidavit, signed before a Justice of the Peace or Commissioner for Declarations is required, stating that it is a true copy of the original.
- The documents are to be forwarded to Consumer Affairs and Fair Trading within 30 days of the date that the Mortgage was made and given.
- The documents are then lodged with this office with a filing fee and show evidence of having been assessed for duty by the State Revenue Office.

Stock, wool and crop mortgages expire within the following time frames and need to be renewed **prior** to date of expiration:

Mortgages on stock - **two years**
Mortgages on wool or crop - **twelve months**

Further Information

Visit the Business Affairs pages at www.consumer.tas.gov.au, or contact Business Affairs on (03) 6233 2225