

+ Farm Business Debt Mediation Definitions

These definitions relate to the Farm Business Debt Mediation program administered by the Queensland Rural and Industry Development Authority (QRIDA) under the *Farm Business Debt Mediation Act 2017 (Qld)* (the Act).

Application of act

1. This Act does not apply in relation to a farmer if:
 - a. the farmer is an insolvent under administration under the *Corporations Act*, section 9; or
 - b. the farmer is the subject of a petition presented by a creditor, other than the mortgagee, under the *Bankruptcy Act 1966* (Cwlth) or a corresponding law of another jurisdiction, including a jurisdiction outside Australia; or
 - c. for a farmer that is a corporation—the farmer is a Chapter 5 body corporate within the meaning of the *Corporations Act*, section 9.
2. Also, this Act does not apply in relation to a farmer for a particular farm business debt if:
 - a. the farmer previously defaulted under the farm mortgage for the debt and, because of the farmer's default, the farmer and the mortgagee took part in mediation for the debt under this Act
 - b. the farmer and the mortgagee entered into a contract, mortgage or other document to give effect to a heads of agreement entered into as a result of the mediation and
 - c. the farmer has defaulted under the farm mortgage and the default relates to the contract, mortgage or document.

Default

In relation to a farmer under a farm mortgage, means a ground exists for the mortgagee to take enforcement action against the farmer under the terms of the mortgage.

Examples of default include:

- a failure to perform an obligation under the terms of the farm mortgage
- the ratio of the farm business debt to the value of farm property (commonly referred to as the loan to value ratio or LVR) changes because the value of the farm property secured by the farm mortgage changes.

Enforcement action

Enforcement action, in relation to a farm mortgage, means action to enforce the mortgage, including, for example:

- taking possession of the property under the mortgage; and
- exercising a power of sale under the mortgage; and
- giving a statutory enforcement notice.

Queensland Rural and Industry Development Authority

Farmer

Farmer means:

- a person or entity whose sole or main business is a farming business; or
- a person or entity who is the owner of land the subject of a sharefarming agreement; or
- a person or entity who has applied, and is eligible, for a loan under a program administered by the authority to provide finance to persons in the first years of establishing a farming business; or
- a person who is the personal representative of a dead individual mentioned above.

Farming business

A farming business is:

- an agricultural, apicultural, dairy farming, horticultural, land-based aquacultural, pastoral, poultry keeping or viticultural business; or
- another business that involves cultivating the soil, gathering crops or rearing livestock; or
- a business that involves cutting timber for sale; or
- another business prescribed by regulation to be a farming business; and

It includes:

- a business mentioned in the paragraph above carried out under a sharefarming agreement; and
- providing land for a business mentioned in the paragraph above under a sharefarming agreement.

It does not include a business prescribed by regulation not to be a farming business for this Act.

Farm mortgage

A mortgage of farm property.

Farm property

Farm property is:

- land on which a farmer carries on a farming business; or
- a water allocation under the *Water Act 2000* held by a farmer for carrying on a farming business; or
- a vehicle, machine, tool or other thing of a type that is usually used to carry on a farming business.
 - examples - tractor, milking machine, harvester, beehive.

Farm business debt

Farm business debt is an amount owed by a farmer that:

- was borrowed for the purpose of conducting a farming business; and
- is secured by a farm mortgage.

Mortgage

Mortgage includes a charge on land or an interest in land for securing money or money's worth.

Mortgagee

For a farm mortgage, mortgagee means a person to whom a farmer owes a farm business debt secured by the farm mortgage.

Satisfactory mediation

Mediation for a farm business debt has been satisfactory if:

- as a result of the mediation, the farmer and the mortgagee have entered into a heads of agreement; or
- the mediation has proceeded as far as it reasonably can with the farmer and the mortgagee having participated in good faith, but they have not entered into a heads of agreement.