

## Article Information

Author: Simon Venus

Sector: Agriculture & Food

---

## Farm Debt Mediation

**On 1 December 2011 the Farm Debt Mediation Act 2011 (VIC) commenced operation. Under the Act, a farm debt mediation scheme is implemented which makes it compulsory for banks and other creditors to offer mediation to farmers before commencing debt recovery proceedings against the farmer on mortgages.**

---

### Key features

Some key features of the new Act (which in many ways mirrors similar legislation in NSW) are as follows:

- The purpose of this Act is “to provide for the efficient and equitable resolution of farm debt disputes by requiring a creditor to provide a farmer with the option to mediate before taking possession of property or other enforcement action under a farm mortgage.”
- Mediation is a structured process of negotiation between a creditor and a farmer in respect to a farm debt.
- It requires a neutral and independent party - “Mediator” to assist the creditor and farmer to reach agreement about current and future debt repayments.
- The scheme only applies to farm mortgages covering a farm (or part of a farm), farm machinery or a water share.
- A farmer is a person (whether an individual or a corporation) who is solely or principally engaged in a farming operation.
- The mediation can be initiated by either the creditor or the farmer.
- Whether the farmer or the creditor initiates the mediation (by offering to mediate by lodging a particular form) the other party has 21 days from the date of the notice to respond to an offer to mediate.
- Farmers are not required to participate in mediation and if they do not do so (or fail to respond) the creditor can immediately proceed with debt recovery.
- If the creditor elects not to mediate and the farmer is in default, the farmer may apply to the Small Business Commissioner for a prohibition certificate. Prohibition can delay enforcement being initiated for up to 6 months.
- There is no compulsion on either party to mediate if the farmer is not in default.
- Creditors are not required to offer debt write downs or concessions as part of the mediation process.
- Further information is also available from the Department of Primary Industries website.