

Malawi

Farmers' Stop-Order Act

Chapter 63:03

Legislation as at 31 December 2014

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Chapter 63:03

Commenced on 3 January 1956

[This is the version of this document at 31 December 2014.]

[Note: This version of the Act was revised and consolidated in the Fifth Revised Edition of the Laws of Malawi (L.R.O. 1/2018), by the Solicitor General and Secretary for Justice under the authority of the Revision of the Laws Act.]

An Act to Provide for the Registration of Farmers' Stop-Orders and for Matters Connected Therewith and Subsidiary Thereto

1. Short title

This Act may be cited as the Farmers' Stop-Order Act.

2. Interpretation

In this Act, unless the context otherwise requires—

“**farmer**” means any person who, as tenant or owner of an agricultural holding, cultivates the holding for profit;

“**registered stop-order**” means a stop-order registered under this Act;

“**registration officer**” means the officer appointed by the Minister under [section 4](#);

“**stop-order**” means any written undertaking entered into by a farmer in which he—

- (a) purports to give any person, as security for debt, any right in or over his growing or future crops, or the proceeds thereof; or
- (b) authorizes any person to pay to a third party, in satisfaction of a debt owed by such farmer to such third party, the proceeds of his growing or future crops, or any part thereof.

3. Validity of stop-orders

Any stop-order not registered in accordance with this Act shall be null and void. Any stop-order so registered shall have effect for such period as may be stated therein.

4. Registration of stop-orders

- (1) The Minister shall appoint a registration officer, who shall keep a register of stop-orders in which he shall, subject to [section 5](#), register all stop-orders presented to him for registration.
- (2) The registration officer shall record on every stop-order registered by him the fact that such stop-order has been registered, and shall sign and date the same. Such record, signature and date shall, for all purposes, be sufficient evidence of registration under this Act.
- (3) Whenever a registered stop-order has been satisfied or cancelled, the person on whom it is drawn shall at the end of each calendar month send written notification of such satisfaction or cancellation to the registration officer. The registration officer shall thereupon note the same in the register.
- (4) Any person presenting a stop-order for registration shall, at the time of presentation, submit three copies of the stop-order to the registration officer.

5. Discretion of registration officer

The registration officer may in his discretion—

- (a) refuse to register any stop-order in which any interlineation, blank, erasure, or alteration appears unless the person executing the stop-order affixes his signature or initials to such interlineation, blank, erasure, or alteration;
- (b) take steps to satisfy himself as to the identity of the person presenting the stop-order for registration and as to his right to present the stop-order for registration; and
- (c) refuse to register any stop-order executed after the commencement of this Act not presented for registration within thirty days of the date of execution thereof.

6. Registration not to cure defect nor to confer validity

Registration shall not cure any defect in a stop-order nor confer upon it any effect of validity which it would not otherwise have had except in so far as provided by this Act.

7. Correction of register

- (1) If the registration officer has, at any time, reason to believe that a stop-order has been or is incorrectly registered, he may call for such evidence as he thinks fit as to the correctness or otherwise of the registration, and if satisfied that a stop-order has been or is incorrectly registered, he shall correct the register and if necessary amend any record on the stop-order and publish such notification of the correction as he shall deem fit.
- (2) On the correction of the register or any record, the former register or record shall cease to have effect.

8. Priority of stop-orders

Stop-orders, whether executed before or after the commencement of this Act, shall, as between themselves, be entitled to priority in order of registration:

Provided that stop-orders executed before such date shall, if registered within fifteen days after the commencement of this Act, be entitled to priority in the order in which executed.

9. Security not to be extinguished by sale, etc., of land whereon crop growing

A registered stop-order shall not be extinguished or otherwise impaired by any sale, mortgage or encumbrance, subsequent to the date of registration, of or upon the land whereon the crop is growing or situate, nor by the death of or insolvency of the person who executed such stop-order, and such registered stop-order may be enforced notwithstanding that the crop may be, at the date of enforcement, in the possession of a person who has acquired such crop for value without actual notice of the existence of such registered stop-order.

10. Bills of Sale Acts not to apply

The Bills of Sale Act shall not apply to any registered stop-order.

[Cap. 48:03]

11. Regulations

- (1) The Minister may make Regulations for carrying this Act into effect.

- (2) In particular and without prejudice to the generality of the foregoing power such Regulations may—
- (a) prescribe the procedure to be followed on registration;
 - (b) prescribe the particulars to be entered in the register in respect of every stop-order;
 - (c) prescribe indices to be kept by the registration officer;
 - (d) permit searches to be made in the register, and prescribe the times at which such searches may be made;
 - (e) prescribe the fees payable in respect of registration and searches: Provided that no such fees shall be payable by the Government or by any person acting on behalf of the Government;
 - (f) require the registration officer to publish lists of stop-orders registered, in such manner and at such times as may be prescribed;
 - (g) provide for the registration of any transfer of a stop-order from one payee to another;
 - (h) provide for the issue of certified copies of stop-orders and the fees chargeable therefor; and
 - (i) provide for the fees payable to persons on whom stop-orders are drawn and who report in accordance with [section 4](#) (3).

12. No stamp duty payable

Notwithstanding the Stamps Act, no stamp duty shall be payable on any registered stop-order.

[Cap. 43:01]

13. Penalties for offences in connexion with stop-orders

- (1) Any person who executes a stop-order knowing, or having reasonable cause to believe, that the same will not be honoured, shall be liable to a fine of £200 and to imprisonment for three years. The burden of proving that he knew or had reasonable cause to believe that the stop-order would be honoured shall lie on the person charged with an offence under this section.
- (2) Any farmer, who having executed a stop-order, sells or delivers the crop to which it relates without the written consent of the registered payee of such stop-order, or who by any other means deprives such payee of the crop or the proceeds thereof, or who directly or indirectly defeats, invalidates or impairs the security of such payee shall be liable to a fine not exceeding treble the amount of the loss sustained by such payee or to imprisonment for a term not exceeding three years or to both such fine and imprisonment.

14. Government to be bound

This Act shall apply to and bind the Government.