

[Chap6303]CHAPTER 63:03

FARMERS' STOP-ORDER

ARRANGEMENT OF SECTIONS

SECTIONS

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37 of 1955

G.N.22/1963

1/1965

166/1967

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

[3RD JANUARY 1956]

[Ch6303s1]1. Short title

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

[Ch6303s2]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.

[Ch6303s3]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.

[Ch6303s4]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.

[Ch6303s5]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.

[Ch6303s6]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.

[Ch6303s7]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.

[Ch6303s8]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.

[Ch6303s9]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.

[Ch6303s10]10. Bills of Sale Acts not to apply

The Bills of Sale Act shall not apply to any registered stop-order. Cap. 48:03

[Ch6303s11]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).

[Ch6303s12]12. No stamp duty payable

Notwithstanding the Stamps Act, no stamp duty shall be payable on any registered stop-order. Cap. 43:01

[Ch6303s13]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.

[Ch6303s14]14. Government to be bound

This Act shall apply to and bind the Government.

SUBSIDIARY LEGISLATION

APPOINTMENT OF REGISTRATION OFFICER

under s. 4 (1)

G.N. 2/1956

The Registrar General has been appointed to be the registration officer for the purposes of the Act.

FARMERS' STOP-ORDER REGULATIONS

under s. 11

G.N. 1/1956

1/1965

28/1989

22/1997

26/2005

1. Citation

These Regulations may be cited as the Farmers' Stop-Order Regulations.

2. Procedure for registration

(1) Payees of stop-orders shall apply to the registration officer for registration of such orders either in person during the normal office hours or by registered post. The fee for registration of a stop-order shall be K500. G.N. 28/1989, 22/1997, 26/2005

(2) The registration officer, when registering a stop-order, shall endorse thereon the particulars set out in Form A in the Schedule.

3. Particulars to be entered in register

The names of farmers who have executed stop-orders which have been registered shall appear in alphabetical order in the register. The name of not more than one farmer shall appear on any one page of the register. Each page of the register shall be in Form B in the Schedule.

4. Searches

At any time after fifteen days from the commencement of the Act, any person desiring to search the register may apply either in person during the normal office hours or by registered post to the registration officer on Form C in the Schedule, giving full particulars of the name and address of the farmer in respect of whom he desires the search to be made. On payment of a fee of K500 the registration officer shall supply to the applicant a certificate of official search showing all entries in the register in respect of unsatisfied stop-orders executed by such farmer. Such certificate shall be in Form D in the Schedule. G.N. 28/1989, 22/1997, 26/2005

5. Registration of transfers

Any transferee of a valid stop-order may apply to the registration officer to have his name entered on the register as the payee thereof. Such application may be made either in person during the normal office hours or by registered post on Form E in the Schedule. If the registration officer is satisfied that it is proper for him so to do, he shall enter the name of the applicant in the register as the payee of the stop-order, on payment of a fee of K500. G.N. 22/1997, 26/2005

6. Notification of satisfaction or cancellation

Notification of the satisfaction or cancellation of a registered stop-order shall be sent to the registration officer on Form F in the Schedule by registered post on the last day of the month in which the stop-order has been satisfied or cancelled.

7. No fee for Government departments

Notwithstanding these Regulations, no fee shall be payable by any Government department thereunder.

SCHEDULE

GOVERNMENT OF MALAWI

reg. 2 (2) FARMERS' STOP-ORDER REGULATIONS

FORM A

ENDORSEMENT OF STOP-ORDER

I certify that I ata.m. p.m. on the day of, 20....., registered this stop-order, registered number, in the register of stop orders, and that other stop-orders do exist in respect of the crops listed in this stop-order. do not Date:Registration Officer

GOVERNMENT OF MALAWI

FARMERS' STOP-ORDER REGULATIONS reg. 3

FORM B

REGISTER OF STOP-ORDERS

Form No.Drawer's surnamePostal address.....Other names

Date and time Order registeredRegistered No.Date Order executedAmountDrawn onIn favour ofCropName and address of any transferee with date of transferDate satisfaction or cancellation advised

GOVERNMENT OF MALAWI

FARMERS' STOP-ORDER REGULATIONS

FORM C reg. 4

REQUISITION FOR OFFICIAL SEARCH

PURSUANT to regulation 4 of the Farmers' Stop-order Regulations, I, the undersigned, do hereby make application for an official search to be made in the register of stop-orders in respect of stop-orders executed by:

Full name

of Farm in the District of Malawi.

Fee paid 5s.

Date

(Signature)

.....

Address

.....

GOVERNMENT OF MALAWI

FARMERS' STOP-ORDER REGULATIONS

FORM D reg. 4

CERTIFICATE OF OFFICIAL SEARCH

Date and time Order registered Regd. No. Date Order executed Amount Drawn on In favour of Crop Particulars of name and address of transferee with date of transfer

Certified a true copy of all entries in the register of stop-orders relating to unsatisfied stop-orders executed by of

(Signed)

Registration Officer

Date

GOVERNMENT OF MALAWI

FARMERS' STOP-ORDER REGULATIONS

FORM E reg. 5

APPLICATION FOR REGISTRATION OF TRANSFER

Pursuant to regulation 5 of the Farmers Stop-Order Regulations, I, the undersigned, do hereby apply to have my name entered on the register of stop-orders as payee of a stop-order, registered number

..... registered at on the day of19....., transferred to me as payee thereof on the day of 19.....,

Date.....

(Signed)

Address

.....

.....

I, the undersigned, as the previous payee of the stop-order described above, do hereby consent to the granting of the above application.

Date.....

(Signed)

.....

GOVERNMENT OF MALAWI

FARMERS' STOP-ORDER REGULATIONS

FORM F reg. 6

NOTICE OF SATISFACTION OR CANCELLATION

I, the undersigned, hereby give notice that a stop-order, registered number..... drawn upon me, was, on theday of19....., .

To the registration officer
(Signature)

Address

.....

Date

.....