

South Australia

# Stock Mortgages and Wool Liens Act 1924

An Act to make better provision with respect to security taken over live stock and wool; and for other purposes.

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## Legislative history

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## The Parliament of South Australia enacts as follows:

### Part 1—Preliminary

#### 1—Short title

This Act may be cited as the *Stock Mortgages and Wool Liens Act 1924*.

#### 2—Incorporation with Act No. 389 of 1886

This Act is incorporated with the *Bills of Sale Act 1886* and that Act and this Act shall be read as one Act.

#### 4—Interpretation

In this Act—

*business day* means any day except a Saturday or a Sunday or other public holiday;

*lienee* means the person entitled by virtue of a registered agreement to a preferable lien on wool, and includes his executors, administrators, and assigns;

*lienor* means the person giving by means of a registered agreement a preferable lien on wool, and includes his executors, administrators, and assigns;

*mortgagee* means the person to whom a stock mortgage is given, and includes his executors, administrators, and assigns;

*mortgagor* means the person giving a stock mortgage, and includes his executors, administrators, and assigns;

*PPS Act* means the *Personal Property Securities Act 2009* of the Commonwealth;

*registration commencement time* has the same meaning as in the PPS Act;  
*stock* includes sheep, cattle, horses, pigs, goats, camels, mules, and donkeys.

## **Part 2—Stock mortgages**

### **5—Stock mortgages**

- (1) Subject to this section, every mortgage of stock made *bona fide* and for valuable consideration in the form in Schedule 1 before the registration commencement time and duly registered in the general registry office at Adelaide within sixty days from the date thereof shall be valid in law to all intents and purposes, whether the money secured by the said mortgage is payable presently or not, and notwithstanding that the mortgaged stock are not delivered over to the mortgagee but remain and continue in every respect, as theretofore, in the possession, order, and disposition of the mortgagor, and though the mortgagor afterwards takes the benefit of any law for the time being in force in South Australia for the relief of insolvent debtors.
- (2) A mortgage of stock is not to be registered in the general registry office following the last business day before the registration commencement time.

### **6—Stock to include increase of stock etc**

- (1) A stock mortgage shall, unless the contrary is expressed therein, be deemed to include not only the stock comprised therein, but also the natural increase of such stock, and all stock of every kind (whether of the classes described in the mortgage or not) the property of the mortgagor branded, earmarked, or marked as specified in the mortgage, or which the mortgagor has covenanted or agreed by the mortgage to so brand, earmark, or mark, and which after the execution of the mortgage are depasturing or are on any lands or premises mentioned in the mortgage or in the Schedule thereto, or any lands or premises used and worked in conjunction with or as part of the first-mentioned lands or premises, or any other lands or premises acquired or used and worked by the mortgagor in addition to or in substitution for the first-mentioned land or premises, or any other lands or premises whatsoever, whether owned or occupied or used by the mortgagor or not.
- (2) The mortgagee shall have the same legal property and right in all stock which by force of this section are deemed to be included in the mortgage as he has in the stock actually described in the mortgage or in the Schedule thereto.

### **7—How stock to be described in mortgage**

The stock comprised in a stock mortgage shall be described or referred to therein or in the Schedule thereto by some brand or brands, earmark or earmarks, or other mark or marks upon them, or shall be so described or referred to by sex, age, name, colour, or other mode of description as to be reasonably capable of identification; and the land or premises on which such stock are or are intended to be depastured or kept shall be described or mentioned in such mortgage or the Schedule thereto.

### **8—Advances without limit may be made under mortgage in certain cases**

If a stock mortgage is taken as security for the loan of a specified sum and further advances and no maximum amount of the further advances to be secured by the mortgage is stated therein, advances may be made from time to time on the security thereof without limit as to amount and without regard being had to any repayments made by or sums credited to the mortgagor.

### **9—Security may not be given without consent to third party over wool of mortgaged sheep**

The mortgagor under any stock mortgage comprising sheep shall not, except with the consent in writing of the mortgagee, and then only so far as is authorised by such consent, give to any third person any security on the next ensuing clip of the wool of such sheep. Any such security given without such consent shall be void to all intents and purposes.

### **10—Mortgage may provide for mortgagee to have wool from mortgaged sheep**

- (1) If under any stock mortgage the mortgagee is from time to time entitled to require the mortgagor to execute and give to the mortgagee a lien or other instrument by way of security over the wool growing, or to grow, upon the sheep for the time being subject to such mortgage, or be entitled to require the mortgagor to deliver to the mortgagee the wool shorn from such sheep in each year during the continuance of such mortgage, then and in such case the mortgagee shall, during the subsistence of the registration of such mortgage, be deemed, notwithstanding the provisions of sections 14 and 15 of this Act, to possess a preferable lien over each clip in the same degree and manner as if an agreement in respect of the wool had been actually executed by the mortgagor and registered under this Act, and such lien shall have the consequences mentioned in sections 14, 15, and 16 hereof.
- (2) In every stock mortgage comprising sheep there shall be implied (unless such implication is expressly negatived) a covenant by the mortgagor to deliver to the mortgagee the wool shorn from such sheep in each year during the continuance of the mortgage.

### **11—Mortgagor may sell mortgaged stock in the ordinary course of business**

Any mortgagor under a stock mortgage who in the ordinary course of his business buys and sells stock may, subject to anything contained in the mortgage, from time to time, as he thinks fit, sell in the ordinary course of his business any of the stock comprised in the mortgage or for the time being subject thereto, but shall in every such case either apply the proceeds of the sale to the purchase of further stock in substitution for the stock so sold or pay the same to the mortgagee to be credited to the mortgagor's account secured by the mortgage.

## 12—Contents of stock mortgage

A stock mortgage shall not be registered unless it contains or states—

- (a) the names of the mortgagor and the mortgagee, their residences or places of business, and descriptions: Provided that it shall be sufficient to state the names by which the mortgagor or mortgagee is usually known, and in the case of a corporation it shall be sufficient to state the corporate name with the place or one of the places where the business of the corporation is usually carried on; and
- (b) where the consideration is for an antecedent debt or contemporaneous advance, the amount of such debt or advance; and
- (c) a description sufficient to satisfy the requirements of this Act of the stock comprised therein; and
- (d) where the stock comprised therein is depastured or is intended to be depastured.

## 13—Bill of sale may include limited number of horses and cattle

Notwithstanding anything in this Act, there may be included with other personal chattels in any bill of sale granted after the commencement of this Act not more than ten horses and not more than ten head of cattle.

## Part 3—Preferable liens on wool

### 14—Owner of sheep may grant preferable lien on wool

- (1) Any owner of sheep may, by agreement made in the form in Schedule 2 to this Act and duly registered in the general registry office at Adelaide within sixty days from the date thereof, grant to any person a security (hereinafter called a *preferable lien*) over the wool of the next ensuing clip to be shorn from the sheep of such owner described or referred to in such agreement and then depasturing upon the lands mentioned therein.
- (2) Such preferable lien shall entitle the lienee to the wool of such sheep, not only while growing, but afterwards when shorn from the sheep, and wherever such wool may be.
- (3) An agreement conferring a preferable lien on wool is not to be registered in the general registry office following the last business day before the registration commencement time.

### 15—Wool to continue subject to lien notwithstanding subsequent sale or mortgage

A subsisting registered preferable lien shall not be in any way extinguished, suspended, impaired, or otherwise prejudicially affected by any subsequent sale, bailment, mortgage, or other disposition or encumbrance whatsoever of or affecting the sheep referred to in the registered agreement conferring such preferable lien, nor by the subsequent insolvency of the lienor, but shall be as valid and effectual to all intents and purposes whatsoever against any subsequent purchaser, bailee, mortgagee, encumbrancee, or other claimant, or possessor of such sheep, or against the assignee or trustee in insolvency of the lienor, as it is against the lienor.

## **16—Lienee may take possession and shear sheep subject to the lien if lienor neglects to do so**

If the lienor or any subsequent purchaser, bailee, mortgagee, or encumbrancee of the sheep whose wool is subject to the lien, or any assignee or trustee in insolvency of the lienor, or any other subsequent claimant or possessor of such sheep neglects or refuses to shear and deliver the wool of any such sheep in pursuance of the provisions in that behalf contained in the registered agreement conferring the lien, it shall be lawful for the lienee to take possession of all or any of such sheep for the purpose of shearing the same, and all expenses attending such shearing and the conveyance of the wool to the place mentioned in that behalf in the said registered agreement shall be added to and be deemed to be part of the amount secured by the lien.

## **Part 4—Miscellaneous**

### **17—Stock mortgages and wool liens not protected on insolvency in certain cases**

Notwithstanding anything in this Act a stock mortgage or an agreement conferring a preferable lien on wool shall not protect the stock or wool subject to such mortgage or agreement upon the insolvency of the mortgagor or lienor as against the assignee or trustee in insolvency of the mortgagor or lienor unless the mortgage or agreement (as the case may be) was duly registered, as prescribed by this Act, at least ninety days before the date of the filing of the insolvency petition, except in so far as the same may be a security for an advance made at the time of the execution of the mortgage or agreement and any further advances subsequently made pursuant to the terms of the mortgage or agreement.

### **18—Implied covenants in stock mortgages and agreements for wool liens**

The provisions of section 11 of the *Bills of Sale Act 1886* (except paragraph (e) thereof) shall apply to and in respect of stock mortgages and agreements conferring a preferable lien on wool and to the stock and wool respectively subject thereto as if the words "stock mortgage or agreement conferring a preferable lien on wool" appeared in the said section instead of the words "bill of sale" wherever those words appear therein, and as if the words "stock or wool" appeared in the said section instead of the words "personal chattels" wherever those words appear therein.

### **18A—Standard terms and conditions in stock mortgages and agreements for wool liens**

Section 11A of the *Bills of Sale Act 1886* applies in relation to stock mortgages and agreements conferring a preferable lien on wool as if—

- (a) a reference to a bill of sale were a reference to a stock mortgage or an agreement conferring a preferable lien on wool; and
- (b) the reference in subsection (3) of that section to the grantee of a bill of sale were a reference to the mortgagee under a stock mortgage or the lienee under an agreement conferring a preferable lien on wool; and
- (c) a reference in that subsection to the grantor of a bill of sale were a reference to the mortgagor under a stock mortgage or the lienor under an agreement conferring a preferable lien on wool.

**19—Other implied covenants in stock mortgages and agreements for wool liens**

- (1) There shall be implied in every stock mortgage executed before the registration commencement time the powers, covenants, and provisions set out in Schedule 3.
- (2) There shall be implied in every agreement conferring a preferable lien on wool executed before the registration commencement time the power set out in Schedule 4.
- (3) Such implied powers, covenants, and provisions shall, subject to subsection (4) hereof, have the same effect as if the same were respectively set out at length in every stock mortgage and agreement conferring a preferable lien on wool.
- (4) Every power, covenant, and provision by this Act implied in a stock mortgage or an agreement conferring a preferable lien on wool may be negated or modified by express words in the mortgage or agreement.

**20—Meaning of abbreviated expressions**

Such of the expressions defined in Schedule 5 hereto as are used in any stock mortgage or agreement conferring a preferable lien on wool executed before the registration commencement time, or in any of the covenants, provisos, agreements, or powers implied therein by this Act shall, unless the contrary is expressed in such mortgage or agreement, or unless manifestly inconsistent with the context, have the meanings given to the same in the said Schedule 5, and such meanings shall be implied in such mortgage or agreement as fully and effectually as if the same were set out therein.

**21—Covenants to be several as well as joint**

Where there are two or more mortgagors or lienors or two or more mortgagees or lienees under any stock mortgage or agreement conferring a preferable lien on wool executed before the registration commencement time, then any covenants, conditions, provisos, agreements, and powers expressed in such mortgage or agreement, or implied therein by this Act, and imposing an obligation on such persons, or enuring for their benefit, shall, except in so far as a contrary intention appears, be deemed to impose such obligation, or confer such benefit, as the case may be, severally as well as jointly.

**22—Covenants to bind executors**

Except in so far as a contrary intention appears, all covenants, conditions, provisos, agreements, and powers expressed in any stock mortgage or agreement conferring a preferable lien on wool executed before the registration commencement time, or implied therein by this Act, shall bind the executors, administrators, and assigns of the person or the successors and assigns of a company or corporation upon whom such covenants, conditions, provisos, agreements, and powers impose an obligation, and shall operate for the benefit of the executors, administrators, and assigns of the person or the successors and assigns of the company or corporation for whose benefit the same enure.

**23—Execution**

Every stock mortgage and agreement conferring a preferable lien on wool shall be executed in duplicate and when registered shall have the effect of and be deemed to be a deed duly executed by the parties who have signed the same.

## 24—Attesting witness

- (1) The execution of a stock mortgage or agreement conferring a preferable lien on wool, or any transfer or discharge thereof—
  - (a) shall be attested by at least one credible witness, not being a party thereto.

## 25—Certain provisions of Bills of Sale Act to apply to mortgages and agreements for liens

- (1) Subject to subsection (2), the provisions of Parts 3, 4, and 6 of the *Bills of Sale Act 1886* and of Schedules 3, 4 and 5 to the said Act shall apply, *mutatis mutandis*, to stock mortgages and agreements conferring a preferable lien on wool under this Act as if the same were bills of sale and the stock and wool subject thereto were personal chattels: Provided that the registrar shall keep a separate alphabetical index with respect to registered stock mortgages, and a separate alphabetical index with respect to registered agreements conferring a preferable lien on wool.
- (2) A provision of the *Bills of Sale Act 1886* that will cease to have effect at the registration commencement time will, at that time, also cease to have effect in its application to stock mortgages and agreements conferring a preferable lien on wool under this Act.

## Part 5—Provisions relating to PPS Act

### 26—Certain provisions of Act to cease to have effect

The following provisions of this Act will cease to have effect at the registration commencement time:

- (a) sections 6 to 13 (inclusive);
- (b) sections 15 to 17 (inclusive);
- (c) sections 23 and 24.

### 27—Provision of information to Commonwealth

- (1) The Registrar-General may provide the PPS Registrar, or any other officer of the Commonwealth, with such information concerning stock mortgages and agreements conferring a preferable lien on wool registered under this Act, and any other information recorded by the Registrar-General in connection with registration under this Act, as the Registrar-General considers appropriate in order to assist the Commonwealth in establishing the PPS Register.
- (2) The Registrar-General may provide the information referred to in subsection (1) in such form (including by means of electronic data or in a form approved for the purposes of the PPS Act) as the Registrar-General considers appropriate.
- (3) In this section—

***PPS Register*** means the Personal Property Securities Register established under the PPS Act;

***PPS Registrar*** means the Registrar of Personal Property Securities under the PPS Act.

## 28—Immunity

The State, or an officer, employee or agent of the State, does not incur liability for anything done or omitted to be done in good faith by the State, officer, employee or agent—

- (a) in the exercise of a power or the discharge of a duty under section 27; or
- (b) in the reasonable belief that the act or omission was in the exercise of a power or the discharge of a duty under section 27.

## 29—Registrar-General may refuse to exercise functions

- (1) The Registrar-General may refuse to exercise a function under this Act during the pre-PPS transitional period.
- (2) Without limiting subsection (1), the Registrar-General may refuse to exercise a function during the pre-PPS transitional period in relation to a matter that was not finally determined or concluded immediately before the commencement of that period.
- (3) In this section—

*migration time* has the same meaning as in the PPS Act;

*pre-PPS transitional period* means the period—

- (a) commencing at the migration time or such earlier time as may be prescribed by the regulations; and
- (b) ending at the registration commencement time.

## 30—Registrar-General may dispose of certain documents

The Registrar-General may, following the registration commencement time, destroy or otherwise dispose of any stock mortgage or agreement conferring a preferable lien on wool kept in the Registrar-General's office, or any document or record kept in connection with such a mortgage or agreement, if, in the opinion of the Registrar-General, retention of the mortgage, lien or other document or record would serve no useful purpose.

## 31—Regulations

The Governor may make regulations containing provisions of a savings or transitional nature—

- (a) consequent on the enactment of the *Personal Property Securities (Commonwealth Powers) Act 2009* or on the commencement of specified provisions of that Act; or
- (b) relevant to the interaction between this Act and the PPS Act.

## Part 6—Repeal of Act

### 32—Repeal of Act

- (1) After the registration commencement time, the Governor may, by proclamation, fix a date for the repeal of this Act.
- (2) On the date fixed under subsection (1), this Act is repealed.

## Schedule 1—Stock mortgage

I [state the full or usual Christian names of the mortgagor, his proper surname, residence or place of business, and occupation], in consideration of [here state amount of antecedent debt or contemporaneous advance (if any)] lent to me by [here state the full or usual Christian names of the mortgagee, his proper surname, residence or place of business and occupation] (the receipt whereof I do hereby acknowledge) and further advances, do hereby transfer and assign unto [the mortgagee] all and singular the stock described in the Schedule hereto which are (or are intended to be) depastured or kept at [describe the land or premises], and all my right, title, claim, and demand to the same, to have, hold, take, and receive the said stock unto [the mortgagee], subject to the provisos, terms, covenants, conditions, and agreements herein expressed or implied: Provided that if I shall pay to the said [mortgagee] the sum of \$        on the        day of        20        (or on demand or at such other time as provided for by the stock mortgage), and interest thereon, or on so much as may be due in respect thereof, at the rate of \$        per centum per annum, payable in payments on        during this security, and also all other moneys for the time being due and owing on the security hereof, then these presents shall become void.

[Herein insert any other necessary covenant]

And it is agreed that, upon payment of the moneys hereby secured, the said [mortgagee] will, at my cost and my request, execute a discharge to me of this security, and that it shall be lawful for me to retain possession of the said stock until default shall be made in the expressed or implied terms, covenants, conditions, and agreements of this security. In witness thereof I have hereunto subscribed my name the        day of        , 20

Signed by the said [mortgagor]  
in the presence of

### Schedule

Stock comprised in this stock mortgage

[Here give a description of the stock assigned, describing them severally by brand or earmark or by sex, age, name, colour, or other mode of description, so as to be reasonably capable of identification.]

## Schedule 2—Agreement conferring preferable lien on wool

I [state the full or usual Christian names of the lienor, his proper surname, residence or place of business, and occupation], in consideration of the sum of        bona fide value, which I acknowledge to have received in cash or negotiable securities or chattels from        of        (hereinafter referred to as the *lienee*), and of further advances (if any) hereafter made by the lienee, I do hereby give to the lienee a preferable lien (to the extent of the said sum and further advances (if any) and the interest, discount, commission, and charges payable in respect thereof or of the wool hereinafter mentioned) on the wool of the ensuing clip to be shorn from my flock of sheep consisting in number of        or thereabouts comprising        and now depasturing at        in the State of South Australia under the superintendence of        together with the wool of the ensuing clip of all or any additions to such flocks that may be made by purchase, natural increase or otherwise.

IT IS AGREED that the lienee shall be entitled to interest at \_\_\_\_\_ per centum per annum from the time of each advance on the amount from time to time owing hereunder with half-yearly rests, and that the lienee shall not be obliged nor compellable to receive payment of the moneys hereby secured until the said wool shall have been sold by him, and the proceeds thereof received and placed to my credit by the lienee. AND IT IS FURTHER AGREED that the said sheep and increase and additions (if any) shall be shorn by me or at my expense, and that the wool thereof shall be delivered by me at \_\_\_\_\_ in the said State to the order of the lienee on or before the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, and that the lienee may sell all the said wool and apply the proceeds of such sale in payment of the charges and expenses thereof, and of all moneys due or owing by me to the lienee on this security. AND IT IS FURTHER AGREED that the wool may be insured by the lienee from sheep's back until arrival at \_\_\_\_\_ aforesaid at my expense. I hereby declare that the said sheep and wool are in all respects unencumbered, and that I have power to give this security.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ two thousand and \_\_\_\_\_

Witness—

Lienor

Address

Description

### **Schedule 3—Powers, covenants, and provisions to be implied in stock mortgages**

- 1 That, during the continuance of this security, the mortgagee, his agents or servants, may from time to time, at reasonable times for that purpose, enter into and upon the said lands or premises, or any other lands or premises whereon the stock for the time being subject to this security are depasturing, for the purpose of viewing the state and condition of the same; and that the mortgagor will, upon receiving seven days' previous notice in writing delivered to him personally or addressed to him through the ordinary course of post or otherwise at his last-known place of abode in South Australia, give and afford to the mortgagee, his agents or servants, all reasonable assistance to enable the mortgagee, his agents or servants, to view the same accordingly.
- 2 That there are now depasturing upon the said lands and premises all the stock herein respectively mentioned as depasturing thereon. And that the mortgagor will not, during the continuance of this security, without first obtaining the mortgagee's consent in writing in each case, further encumber the stock for the time being subject to this security or change the general quality, character, or description of the same, or remove the same from the said lands or premises, or sell the same or any part thereof so as to reduce the value of the stock for the time being subject to this security to less than the market value of the stock originally covered by this security.

And that the mortgagor will, during the continuance of this security, at the usual and convenient season for so doing, well and properly brand, earmark, and mark, with the brand, earmark, and mark herein specified, all stock for the time being subject to this security, so that all such stock shall bear and continue to bear the brands, earmarks, and marks herein specified.

And will not without the leave in writing of the mortgagee brand, earmark, or mark, or permit to be branded, earmarked, or marked, any stock for the time being subject to this security with any brands, earmarks, or marks other than the brands, earmarks, and marks herein specified.

And will at all times during the continuance of this security take, use, and adopt all due and proper means for keeping and maintaining all stock now depasturing or that may during the continuance of this security be brought upon the said lands or premises or any part thereof, free from disease, and in clean and healthy condition: And will, during the continuance of this security, at the usual and convenient season for so doing, tail all lambs for the time subject to this security which are untailed: And will, at all times during the continuance of this security, pay and defray all expenses in and about the good and proper conduct and management of the said lands, stock, and premises, and employ and maintain on the said lands or premises efficient and proper assistance to assist in the said conduct and management: And will at least twice in every year, on demand by the mortgagee, render and deliver to him a return or account in writing setting forth the number, ages, and sexes of the stock for the time being subject to this security and the places where the same are depasturing or kept.

- 3 That all stock belonging to the mortgagor, branded, earmarked, or marked as aforesaid, of which possession has been taken, under the power in that behalf herein contained, shall be subject to the same powers, provisions, declarations, and agreements as are herein expressed or implied of and concerning the stock and increase of stock herein expressed to be assigned, and may be dealt with in the same manner in all respects as if the stock of which possession is taken as aforesaid had formed part of the stock hereby assigned: And that the mortgagor will, at his own cost and charges, do and execute all such deeds, matters, and things as may be necessary, or as the mortgagee may think proper, for the further, better, and more perfectly assigning and assuring to the mortgagee the stock and increase of stock, and all and singular other the premises hereby assigned or intended so to be, or the stock for the time being on the said lands or premises, and any stock branded, earmarked, or marked as aforesaid, of which possession has been taken as aforesaid, so that the same may be held by the mortgagee upon and for the same end, intents, and purposes, and with, under, and subject to the same powers, provisos, agreements, and declarations, as are herein expressed or implied of and concerning the stock and premises herein expressed to be assigned: That in case the mortgagee exercises any power of entry or taking possession vested in him hereunder, then he, or any person or persons appointed by him for the purpose, may continue in possession of the said stock and of the lands or premises whereon the same are depasturing or kept until the sale thereof, and manage, conduct, and carry on the said lands and stock, and employ servants and assistants, and provide all necessary stores in that behalf in all respects as the mortgagor could do if such power had not been exercised; and the mortgagee for any such purpose shall be entitled without any interference by the mortgagor to use all branding, earmarking, marking and other implements and plant on or used in connection with the said lands or premises; and, further, that the costs, charges, and expenses of so doing, from the time of such entry and taking possession until the sale and delivery of the said stock and premises to any purchaser thereof, shall, together with interest thereon after the rate aforesaid, until payment, be a charge upon the stock for the time being subject to this security.

## **Schedule 4—Power to be implied in agreement for lien on wool**

If the lienor does not pay to the lienee the moneys hereby secured, with interest and commission thereon and other customary and proper charges as herein mentioned, at the time herein mentioned for payment of the same, the flock of sheep mentioned in this agreement and the increase thereof, and all other sheep which, if this agreement were a stock mortgage comprising sheep, would be included therein, shall be shorn either by the lienor or by the lienee, at the option of the lienee, but in either case at the expense of the lienor, at the usual and proper season for so doing; and the wool of such sheep shall with all convenient speed be properly sorted and packed in good bales, marked with the proper brand of such wool, and shall be delivered by the lienor to the lienee or his order at the place of delivery herein mentioned [*or, if no such place is mentioned in the agreement, at such place as the lienee directs*]; and the lienee may either sell the same in South Australia, in one or more lots, by public auction or private contract, or partly in the one way and partly in the other, and upon such terms and conditions as to credit and otherwise as he thinks fit, or may cause the same to be shipped or exported to any place or places out of South Australia, to be sold by his agents in the manner and on the terms aforesaid, without being responsible for any loss or deficiency occasioned either by the shipment of the said wool or by any sale or sales thereof, whether in South Australia or elsewhere, or by the act, neglect, or default of any agent, broker, or other person; and may from the proceeds pay himself the moneys hereby secured, and any rent payable to any landlord, and any moneys payable to any mortgagee or other person that he may be compelled to pay in order to protect his security over the said wool, and all costs, mercantile and other charges, and expenses incurred in and about the shearing of the said sheep, and the packing, carrying away, sale, and shipment of the said wool, or on any other account connected with the realisation thereof, and shall pay over the balance, if any, to the lienor.

## **Schedule 5—Meaning of abbreviated expressions**

- 1 The words "upon demand" mean upon demand being made by notice in writing signed by the person entitled to make the demand, or any agent or clerk or servant of such person, served upon the person upon whom the demand is to be made, either personally or by posting the same in a duly registered letter addressed to him at his usual or last-known place of abode in South Australia.
- 2 The words "further advances" mean such further sum or sums of money as may be advanced or paid by the mortgagee or lienee to the mortgagor or lienor after the execution of this instrument, and include also such sums as may become owing by the mortgagor or lienor to the mortgagee or lienee during the continuance of this security for goods supplied, for bills and notes discounted and paid, and for other loans, credits, and advances that may during the continuance of this security be made by the mortgagee or lienee to or for the accommodation or at the request of the mortgagor or lienor.

- 3 The words "will, upon demand, pay the balance due upon the account-current between them" mean that the mortgagor or lienor will, on demand, pay to the mortgagee or lienee the balance on the account-current of the mortgagor or lienor with the mortgagee or lienee for the time being owing for and on account of the moneys advanced on the execution hereof, or intended to be hereby secured, and for further advances as defined by the *Stock Mortgages and Wool Liens Act 1924*, and for interest, commission, and other lawful charges from the day of such demand being made till the actual payment thereof, at the rate mentioned in this instrument without any deduction; and it is hereby declared and agreed that the said account-current shall be made up with half-yearly rests on the half-yearly days mentioned for that purpose in this instrument, in each year [*or if no such days are mentioned in the instrument, then on the 31st day of March and the 30th day of September in each year*], until the final balance of account is fully paid; and that this instrument shall be a continuing security for all moneys for the time being owing by the mortgagor or lienor, notwithstanding that the current account between them may have at any time theretofore been in credit by payments, settlement of account, or otherwise; and also that upon every such half-yearly day interest shall be considered as converted into principal, and the balance shall be chargeable with interest as aforesaid as upon further advances, and also that in making up such account interest at the rate specified in this instrument shall be calculated on the daily debtor balances; and also that, upon any such demand as aforesaid, all bills of exchange or promissory notes given by the mortgagor or lienor to the mortgagee or lienee and then current may, at the option of the mortgagee or lienee, and shall in case of entry into possession or sale by the mortgagee or lienee, be considered as matured or become due, subject to a rebate of interest upon the amount thereof for the time during which the same have to run, to be calculated at the rate at which interest is payable under this instrument, and that the amount of such bills or promissory notes, subject to such rebate, may be charged to the mortgagor or lienor in such account at the time of making such demand.
- 4 The words "will brand, earmark, and mark" mean that the party liable to brand, earmark, and mark will keep all the stock subject to this security at all times while this instrument remains in force distinctly branded, earmarked, and marked with the brands, earmarks, and marks specified in this instrument, failing which it shall be lawful for, but not imperative on, the other party hereto to enter upon any lands or premises where any stock subject to this security are, and to take possession of the same, and brand, earmark, and mark the same with the brands, earmarks, and marks specified in this instrument, with the right to use all branding, earmarking, marking, and other implements and plant requisite therefor, and all costs, charges, and expenses occasioned to him by so doing, shall be recoverable from the party liable to brand, earmark, and mark as if the same had been advanced by way of loan as a further advance on the security of this instrument.
- 5 The words "stock subject to this security" mean and include not only the stock described or referred to in this instrument or in any inventories or Schedules hereto, but also all stock which are by the provisions of the *Stock Mortgages and Wool Liens Act 1924*, or otherwise deemed to be comprised and included in this instrument.

## Legislative history

### Notes

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of this Act (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

### Repeal of Act

The *Stock Mortgages and Wool Liens Act 1924* will be repealed by proclamation.

After the registration commencement time, the Governor may, by proclamation, fix a date for the repeal of this Act: s 32.

### Legislation repealed by principal Act

The *Stock Mortgages and Wool Liens Act 1924* repealed the following:

*An Act to give a preferable lien on wool, from season to season, make mortgages of sheep, cattle, and horses valid, without delivery to the mortgagee (No. 4 of 1855)*

### Legislation amended by principal Act

The *Stock Mortgages and Wool Liens Act 1924* amended the following:

*Bills of Sale Act 1886*

### Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
1924	1649	<i>Stock Mortgages and Wool Liens Act 1924</i>	24.12.1924	1.1.1925: s 3
1935	2246	<i>Statute Law Revision Act 1935</i>	19.12.1935	19.12.1935
1975	32	<i>Statutes Amendment (Miscellaneous Metric Conversions) Act 1975</i> as amended by 118/1975	3.4.1975	15.1.1976 ( <i>Gazette 15.1.1976 p174</i> )
1975	118	<i>Statute Law Revision Act (No. 2) 1975</i>	4.12.1975	4.12.1975
1983	115	<i>Stock Mortgages and Wool Liens Act Amendment Act 1983</i>	22.12.1983	10.5.1984 ( <i>Gazette 5.4.1984 p841</i> )
2003	44	<i>Statute Law Revision Act 2003</i>	23.10.2003	Sch 1—24.11.2003 ( <i>Gazette 13.11.2003 p4048</i> )

2008	12	<i>Statutes Amendment (Real Property) Act 2008</i>	8.5.2008	Pt 5 (s 72)—1.6.2009 ( <i>Gazette</i> 28.5.2009 p1843)
2011	11	<i>Statutes Amendment (Personal Property Securities) Act 2011</i>	14.4.2011	<b>Pt 24 (ss 56—64)—16.6.2011</b> ( <i>Gazette</i> 16.6.2011 p2610)

## Provisions amended since 3 February 1976

- Legislative history prior to 3 February 1976 appears in marginal notes and footnotes included in the consolidation of this Act contained in Volume 10 of The Public General Acts of South Australia 1837-1975 at page 576.

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
Long title	amended by 44/2003 s 3(1) (Sch 1)	24.11.2003
Pt 1	heading inserted by 44/2003 s 3(1) (Sch 1)	24.11.2003
s 3	<i>deleted by 44/2003 s 3(1) (Sch 1)</i>	24.11.2003
s 4		
<b>business day</b>	<b>inserted by 11/2011 s 56(1)</b>	<b>16.6.2011</b>
<b>PSS Act</b>	<b>inserted by 11/2011 s 56(2)</b>	<b>16.6.2011</b>
<b>registration commencement time</b>	<b>inserted by 11/2011 s 56(2)</b>	<b>16.6.2011</b>
Pt 2	heading preceding s 5 deleted and Pt 2 heading inserted by 44/2003 s 3(1) (Sch 1)	24.11.2003
s 5		
s 5(1)	s 5 amended by 115/1983 s 3	10.5.1984
	<b>s 5 amended and redesignated as s 5(1) by 11/2011 s 57(1)—(3)</b>	<b>16.6.2011</b>
s 5(2)	<b>inserted by 11/2011 s 57(3)</b>	<b>16.6.2011</b>
s 6		
s 6(1)	s 6 first sentence redesignated as s 6(1) by 44/2003 s 3(1) (Sch 1)	24.11.2003
s 6(2)	s 6 second sentence redesignated as s 6(2) by 44/2003 s 3(1) (Sch 1)	24.11.2003
Pt 3	heading preceding s 14 deleted and Pt 3 heading inserted by 44/2003 s 3(1) (Sch 1)	24.11.2003
s 14		
s 14(1)	amended by 115/1983 s 4	10.5.1984
s 14(3)	<b>inserted by 11/2011 s 58</b>	<b>16.6.2011</b>
Pt 4	heading preceding s 17 deleted and Pt 4 heading inserted by 44/2003 s 3(1) (Sch 1)	24.11.2003
s 18A	inserted by 12/2008 s 72	1.6.2009
s 19		
s 19(1)	<b>amended by 11/2011 s 59(1)</b>	<b>16.6.2011</b>
s 19(2)	<b>amended by 11/2011 s 59(2)</b>	<b>16.6.2011</b>
s 20	<b>amended by 11/2011 s 60</b>	<b>16.6.2011</b>

<b>s 21</b>	<b>amended by 11/2011 s 61</b>	<b>16.6.2011</b>
<b>s 22</b>	<b>amended by 11/2011 s 62</b>	<b>16.6.2011</b>
s 23	amended by 115/1983 s 5	10.5.1984
s 24		
s 24(1)	amended by 115/1983 s 6(a)	10.5.1984
	(b) deleted by 115/1983 s 6(a)	10.5.1984
s 24(2)	<i>deleted by 115/1983 s 6(b)</i>	<i>10.5.1984</i>
s 25		
s 25(1)	s 25 amended by 115/1983 s 7	10.5.1984
	<b>s 25 amended and redesignated as s 25(1) by 11/2011 s 63(1), (2)</b>	<b>16.6.2011</b>
<b>s 25(2)</b>	<b>inserted by 11/2011 s 63(2)</b>	<b>16.6.2011</b>
<i>Heading preceding s 26</i>	<i>deleted by 44/2003 s 3(1) (Sch 1)</i>	<i>24.11.2003</i>
<i>ss 26—31</i>	<i>deleted by 44/2003 s 3(1) (Sch 1)</i>	<i>24.11.2003</i>
<b>Pt 5</b>	<b>inserted by 11/2011 s 64</b>	<b>16.6.2011</b>
<b>Pt 6</b>	<b>inserted by 11/2011 s 64</b>	<b>16.6.2011</b>

## Historical versions

Reprint No 1—15.1.1992

Reprint No 2—24.11.2003

1.6.2009