

FINANCIAL EMERGENCY.

24° GEO. V., No. XLVII.

No. 1 of 1934.

AN ACT to make necessary provision for the continuance of the carrying out of a Plan agreed on by the Commonwealth and the States for meeting the grave Financial Emergency existing in Australia, re-establishing Financial Stability, and restoring Industrial and General Prosperity.

[Assented to 10th February, 1934.]

Preamble.
See Preamble
No. 20 of 1931.

WHEREAS at a conference between Ministers of the Commonwealth and Ministers of the States convened in Melbourne on the twenty-fifth day of May, one thousand nine hundred and thirty-one, to devise measures for meeting the grave financial emergency existing in Australia and thereby averting disastrous consequences, a Plan was agreed upon for re-establishing the financial stability of the Commonwealth and States and restoring industrial and general prosperity by means involving a common sacrifice, including, amongst other things, certain reductions in the expenditure of the Commonwealth and State Governments and the conversion of the internal public debts of the Commonwealth and States on the basis of a reduction of the interest payable: And whereas, for carrying out a part of the Plan certain legislation by the State of Western Australia was heretofore and is still necessary: And whereas, for the purpose aforesaid, the Financial Emergency Act, 1931 (No. 20 of 1931), was passed and continued in operation until the thirty-first day of December, one thousand nine hundred and thirty-three, when the said Act expired by effluxion of time: And

whereas further legislation by the said State of Western Australia is now necessary for the purpose of continuing the carrying out of a part of the said Plan: Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the *Financial Emergency Act*, 1934. Short title.

2. This Act shall have effect as from and including the first day of January, one thousand nine hundred and thirty-four. Operation.

3. This Act is divided into Parts, as follows:—

PART I.—SECTION 4—PRELIMINARY.

PART II.—SECTIONS 5-6—SALARIES.

PART III.—SECTION 7—SUPERANNUATION AND RETIRING ALLOWANCES.

PART IV.—SECTION 8—GRANTS.

PART V.—SECTIONS 9-13—REDUCTION OF MORTGAGORS' INTEREST.

PART VI.—SECTIONS 14-18—MISCELLANEOUS.

THE SCHEDULE.—RATES OF REDUCTION.

PART I.—SCALE.

PART II.—FORMULA FOR ASCERTAINING RATE.

PART I.—PRELIMINARY.

4. In this Act, subject to the context—

“Grant,” except as hereinafter mentioned, means any payment, subsidy, contribution or grant of money which is either directly or indirectly provided for by any Act of Parliament and is payable to any State instrumentality, institution, association, fund, body corporate or incorporate, or person out of public moneys of the State, and whether fixed by any annual or special or permanent appropriation of such moneys.

The term does not include any payment made to a local authority under paragraph (c) of subsection (2) of section thirteen of the Traffic Act, 1919-1931.

Act divided
into Parts.
See No. 20 of
1931, s. 4.

Interpretation.
See No. 20 of
1931, s. 5.

“Magistrate” means a police or resident magistrate or a magistrate of the Local Court.

“Mortgage,” except as hereinafter mentioned, means any deed, memorandum, instrument, agreement, or transaction whereby security for payment of money is granted over any real or personal property or any interest therein, and includes—

- (a) an equitable mortgage by deposit of title deeds;
- (b) any document whereby the duration of a mortgage is extended; and
- (c) an agreement for the sale and purchase of real or personal property which has not been completed by conveyance or transfer, and under which the purchase money is payable by instalments.

The term shall not include or apply to—

- (a) any mortgage given to or by the Crown, or to or by any State instrumentality; or
- (b) any mortgage given to a bank to secure a bank overdraft, unless the Governor by proclamation made at any time after the commencement of this Act, declares that any such mortgage shall be subject to the provisions of this Act.

“Mortgagor” means the person who is liable under the provisions of a mortgage or entitled to redeem it, or is a purchaser under an agreement for sale and purchase, which is a mortgage within the meaning of this Act.

“Mortgagee” means the person entitled to the benefit of the security of a mortgage, or is a vendor under an agreement for sale and purchase, which is a mortgage within the meaning of this Act.

“Officer,” except as hereinafter mentioned, means every person whomsoever employed by or performing personal service for the State, or employed by or performing personal service for any State instrumentality, whether as a member, servant, or agent thereof, and any other person, including a member of the Legislative Council and a member of the Legislative Assembly who is in receipt of salary as defined by this Act.

Wherever the term "officer" is used in Part II. of this Act, such term shall not include or apply to any person holding any office mentioned in Schedule IV. to the Constitution Acts Amendment Act, 1899, but otherwise the term shall include such persons.

"Retiring allowance" means any payment other than a superannuation allowance authorised by any Act, regulation, or by-law, and payable to any person out of the public moneys of the State in respect of personal service rendered upon such person retiring from his employment or ceasing to perform such personal service.

"Salary," except as hereinafter mentioned, means and includes the salary, wages, allowances, fees, commission and every emolument, whether in one sum or several sums, provided for or fixed by any annual or special or permanent appropriation of the Consolidated Revenue Fund, or the Loan Fund Account, or any trust or special fund made by or under the authority of any Act of Parliament or provided for and paid out of the revenue of any State instrumentality as payment, remuneration, or allowance for personal service rendered, or in relation thereto, and whether such payment, remuneration, or allowance or the amount or rate thereof is prescribed by or specified in any Act as aforesaid, or in any regulation or by-law or in any classification, determination, or industrial award or industrial agreement made under the provisions of the Industrial Arbitration Act, 1912-1925, or is fixed indirectly in relation to any such industrial award or industrial agreement, or otherwise howsoever, and whether the person receiving such payment, remuneration, or allowance is employed or performs personal service in one office or position or in several offices or positions.

The term does not include—

- (a) district allowance or travelling allowance and transfer allowance, or any allowance which the Governor may in that behalf determine; or
- (b) superannuation or retiring allowance; or
- (c) any salary prescribed in Schedule IV. to the Constitution Acts Amendment Act, 1899.

“State instrumentality,” except as hereinafter mentioned, means and includes any department, public institution, trust, board, commission, association, body corporate or incorporate, or person created, established or appointed under the authority of any Act of Parliament, and any State trading concern and any State hotel.

The term does not include any governing body constituted under any law relating to local government, or any body or person aforesaid created, established, or appointed for its or his own private benefit, and which is not subject to the control of a Minister of the Crown in the administration of its or his business.

“Superannuation allowance” means and includes any pension, superannuation allowance or payment as and by way of pension or compensation for previous service payable under the provisions of the Superannuation Act, 1871, or of any other Act or regulation out of public moneys of the State.

PART II.—SALARIES.

5. In computing the amount of salary for the purposes of this Act, the value of board and lodging, or of board, or of lodging, or of rent of premises provided free of charge to an officer, or of any other similar privilege, shall be included in the salary of an officer having the benefit thereof. Such value shall be assessed in accordance with the provisions of any relative industrial award or industrial agreement for the time being in force, but otherwise shall be assessed by the Public Service Commissioner, or any other person authorised in writing in that behalf by the Treasurer: Provided that, for the purpose of this section, the value of any such privilege as aforesaid shall be assessed at a sum twenty per cent. below the value thereof if assessed and computed as on the thirtieth day of June, one thousands nine hundred and thirty.

Computation of salary.
See *ibid* s. 3.

6. (1.) Notwithstanding anything contained in any Act, regulation or by-law, or in any State industrial award or State industrial agreement, or in any other award, determination, or agreement to the contrary, but subject as in this section and in this Act hereinafter provided, the rate of salary payable to every officer shall be reduced to a rate

Salaries to be reduced.
See *ibid* s. 7.

which will be either eighteen per cent., twenty per cent., or twenty-two and one-half per cent., as the case may be, in accordance with the scale set forth in Part I. of the Schedule to this Act below the rate of salary prescribed or fixed for the position or for the work as on the thirtieth day of June, one thousand nine hundred and thirty. The rate of reduction to be applied shall, when necessary, be ascertained in accordance with the provisions of Part II. of the said Schedule.

Provided that, for the purposes of this section—

- (i) (a) If the rate of salary of an officer shall have been reduced at any time during the period between the thirtieth day of June, one thousand nine hundred and thirty, and the date of the commencement of this Act by reason of his transfer to an inferior or lower salaried position, or by reason of the fact that the particular position held by him has been reclassified at a lower salary owing to decreased duties or responsibilities, the rate of salary which is payable at the commencement of this Act shall be the rate of salary to be reduced in pursuance of this section.
- (b) If the rate of salary of an officer holding an office or position prior to the thirtieth day of June, one thousand nine hundred and thirty, and continuing to hold such office or position at the commencement of this Act, is reduced by reason of any cause other than those mentioned in paragraph (a) above at any time during the period between the said first-mentioned date and the commencement of this Act, the present rate of salary of such officer shall be deemed to be increased by the amount of such reduction, but such amount shall be included as part of the reduction to be made in pursuance of this section.
- (c) Where the rate of salary has for any reason been increased since the thirtieth day of June, one thousand nine hundred and thirty, the increased rate of salary shall be the rate of salary to be reduced in pursuance of this section.
- (d) When an officer is holding a position which he did not hold on the thirtieth day of June, one thousand nine hundred and thirty, the rate of

salary actually received by him at the commencement of this Act, plus any reduction such as is mentioned in paragraph (b) above, shall be the rate of salary to be reduced in pursuance of this section.

- (ii) The rate of salary of an adult male officer shall not be reduced under this Act below a rate of one hundred and eighty-five pounds per annum, and the rate of salary of an adult female officer shall not be reduced under this Act below a rate of one hundred pounds per annum.
- (iii) Where the salary consists of fees or commission, the amount of the fee or the rate of the commission shall be reduced by twenty per centum.
- (iv) Where in the case of classified officers engaged under the Commissioner of Main Roads grade increments were withheld, or reduction was made in salary between the thirtieth day of June, one thousand nine hundred and thirty, and the thirtieth day of June, one thousand nine hundred and thirty-one, solely on account of financial emergency, the present salary shall be deemed to be increased by the amount of such withheld increments or of such reduction for the purpose of computing the salary to be reduced under this Act.
- (v) The Governor may by notice in the *Government Gazette* exempt any officer from the provisions of this section, or vary the rate of reduction prescribed in respect of the salary of any officer where it is shown to his satisfaction that there are special circumstances which warrant such exemption or variation.

(2.) Subject to subsection (3) of this section the amount of the reduction shall be distributed as far as may be equally over the periodical payments of salary by which salary is paid to the officer during the year in respect whereof the salary is payable.

(3.) In so far as any periodical payment of salary may have been made to an officer between the first day of January, one thousand nine hundred and thirty-four, and the date of the commencement of this Act, the amount by which each of such periodical payments would have been reduced if this Act had been in operation on the first-mentioned date shall be

a debt owing by such officer to the Crown, and the Treasurer may deduct the amount of such debt, either in one sum or several sums, as he may determine, from the periodical payments of salary payable to such officer after the date of the commencement of this Act.

(4) Notwithstanding anything to the contrary contained elsewhere in this section or in this Act, the officers hereinafter mentioned shall, as from and including the first day of January, one thousand nine hundred and thirty-four, be exempt from the provisions of this Act to the extent hereinafter specified, that is to say—

- (a) In the case of an officer employed on the salaried staff, as distinguished from wages men, either in the Railways Branches or in the Tramways and Electricity Branch of the Department of Government Railways in any position in respect of which the rate of salary as fixed on the thirtieth day of June, one thousand nine hundred and thirty, did not exceed £293 per annum, and also in the case of any other officer employed in any position or work, in respect of which the rate of salary is not subject to basic wage adjustments and which, as fixed on the thirtieth day of June, one thousand nine hundred and thirty, did not exceed £293 per annum, the rate of salary of such officer shall, subject to paragraph (c) hereof, be reduced only by an amount equivalent to the aggregate amount (to the nearest pound) of any variation in the male basic wages declared since the said last-mentioned date, whether prior to or after the commencement of this subsection:

Provided that the rate of salary of such officer shall not be reduced under this paragraph below the rate to which it was subject to reduction under subsection (1) of section seven of the Financial Emergency Act, 1931, as in force on the thirty-first day of December, one thousand nine hundred and thirty-three:

Provided also, that this paragraph shall not entitle or be construed to entitle any officer to whom this paragraph applies to receive a rate of salary higher than that to which he would have been entitled if this Act had not been passed;

- (b) Subsection (1) of this section shall not apply to any officer (other than an officer in the Police Force appointed by the Governor under section six of the Police Act, 1892, and other than an officer employed on the salaried staff, as distinguished from wages men, either in the Railways Branches or the Tramways and Electricity Branch of the Department of Government Railways) whose rate of salary is ordinarily subject to variation in accordance with variations in the basic wage from time to time declared under the Industrial Arbitration Act, 1912-1925;
- (c) Where the application of the provisions of subsection (1) or of paragraph (a) of this subsection would result in the rate of salary of an officer classified in one grade being reduced below the rate of salary (as reduced under this Act) of an officer classified in a lower grade, then, in such case the rate of salary of such first-mentioned officer shall not be reduced below the said rate of salary of such last-mentioned officer.

PART III.—SUPERANNUATION AND RETIRING ALLOWANCES.

7. (1.) Notwithstanding anything contained in any Act or regulation to the contrary, but subject as in this section and in this Part of this Act hereinafter provided, the amount of every superannuation allowance and every retiring allowance payable, or to become payable, to any person whomsoever under the provisions of any other Act or regulation or by-law, shall be subject to reduction at the rates respectively prescribed in Part I. of the Schedule to this Act. For the purposes of ascertaining the rate of such reduction, the superannuation allowance or retiring allowance shall be deemed to be the annual salary:

Provided that:—

- (i) where any officer retires or otherwise leaves the service during the operation of this Act, and is entitled on such retirement or leaving to a superannuation or retiring allowance, such allowance shall be calculated in accordance with the Act or regulation under which it is granted, save and except that such allowance shall not be calculated in

Superannuation
and retiring
allowances to
be reduced.
See *ibid* s. 8.

any event at an amount lower than the amount of such allowance if it had been calculated as on the thirtieth day of June, one thousand nine hundred and thirty-one;

- (ii) the next preceding proviso shall not entitle an officer to an allowance greater than would have been payable to him if this Act had not been passed;
- (iii) the Governor may by notice in the *Government Gazette* exempt any person from the provisions of this section, or decrease the rate of reduction prescribed in respect of the superannuation or retiring allowance of any person to whom this section applies, where it is shown to his satisfaction that there are special circumstances which warrant such exemption or decrease.
- (iv) no superannuation or retiring allowance shall be reduced under this Part below a rate of one hundred and eighty-five pounds per annum in the case of any male person or a rate of one hundred pounds per annum in the case of any female person.

(2.) Subject to subsection (3) of this section, the amount of the reduction shall be distributed as far as may be equally over the periodical payments by which the superannuation allowance or the retiring allowance is payable during the year in respect whereof the same is payable.

(3.) In so far as any periodical payment of superannuation allowance or retiring allowance may have been made to the person entitled thereto between the first day of January, one thousand nine hundred and thirty-four, and the date of the commencement of this Act, the amount by which each of such periodical payments would have been reduced if this Act had been in operation on the said first-mentioned date shall be a debt due by such person to the Crown; and the Treasurer may deduct the amount of such debt either in one sum or several sums, as he may determine, from any payments of superannuation allowance or retiring allowance payable to such person after the date of the commencement of this Act.

PART IV.—GRANTS.

8. (1.) Notwithstanding anything to the contrary contained in any other Act or regulation, it shall be lawful for the Treasurer to reduce the amount of any annual or other grant at a rate not exceeding twenty per centum of the amount

Grants may be reduced.
See *ibid* s. 9.

(4.) An order may be made by the Commissioner for payment by either party of any costs in connection with any such application, if the Commissioner shall be of opinion that such party has been guilty of unreasonable conduct in connection with the matter, and any costs so ordered may be recovered as a debt by action in any court of competent jurisdiction.

Effect of order.
See *ibid* s. 22.

12. (1.) The obligation of any mortgagor to pay interest accruing or to accrue due and payable during the operation of this Part of this Act, at any higher rate than that allowed by or under this Act is hereby extinguished:

Provided that, for the purpose of this Part of this Act, interest shall be deemed to accrue due and payable from day to day.

(2.) Every order made under the authority of section eleven of this Act shall apply only in respect of interest accruing due after the date of the application in pursuance whereof such order is made.

(3.) During the continuance of an order made under the authority of section eleven of this Act, it shall not be lawful for the mortgagee to demand, sue for, or enforce payment of interest in respect of any period to which such order relates, at a rate in excess of that allowed by such order.

(4.) In cases where the mortgage, in relation to which an order as aforesaid is made, provides for the periodical payments of a fixed sum which is wholly or partly in payment of interest, the interest on the principal sum due shall be calculated at the rate allowed by such order, and the periodical payments to be made thereafter shall be reduced accordingly.

(5.) For the purposes of the preceding provisions of this section the limitation imposed by section eleven shall be deemed to have been imposed by an order of a Commissioner.

(6.) Every order made by a Commissioner under the authority of section eleven of this Act shall be final and conclusive, and shall continue in force during the operation of this Act or for such shorter period as may be specified in the order.

Orders made
under section
twenty-one of
the Financial
Emergency Act,
1931, to con-
tinue to operate
under this Act.

13. (1.) Where in respect of a mortgage subject to the provisions of Part VI. of the Financial Emergency Act, 1931, an order had been made by a Commissioner under the authority of section twenty-one of the said Act, and such

order was subsisting and in force on the thirty-first day of December, one thousand nine hundred and thirty-three, and the said mortgage is subject to the provisions of this Part of this Act, then, notwithstanding anything in the Financial Emergency Act, 1931, or anything in the said order or otherwise in law or in equity to the contrary, such order shall, until a Commissioner under this Act on the application of the mortgagor otherwise directs, be deemed to have continued in operation after the said thirty-first day of December, one thousand nine hundred and thirty-three, and as from such last-mentioned date shall, with such modifications or variations in the terms thereof as may be necessary, remain in operation and have effect to the same extent and for the same purposes as an order made under the authority of section eleven of this Act as if it were an order made under the authority of the said section eleven pursuant to an application made by the mortgagee under the said section on the first day of January, one thousand nine hundred and thirty-four. In any such case such order as aforesaid shall continue in force during the operation of this Part of this Act, or for such shorter period after the commencement of this Part of this Act as a Commissioner under this Act may specify by order made on the application of the mortgagor.

(2.) The mortgagor under any mortgage to which this section applies may make application in the prescribed manner to a Commissioner under this Act for an order cancelling or otherwise modifying or varying an order previously made under the authority of section twenty-one of the Financial Emergency Act, 1931, in respect of such mortgage, and which by virtue of this section is operating and has effect as an order made under the authority of section eleven of this Act, or for an order specifying a shorter period than the period of the operation of this Act during which such first-mentioned order shall continue to operate and have effect; and the Commissioner hearing such application may make such order in the circumstances as to him may seem just.

PART VI.—MISCELLANEOUS.

14. Judicial notice shall be taken of all orders made under the authority of this Act.

Judicial notice
of orders.

15. Any moneys required for the administration of this Act shall be paid out of such moneys as may be appropriated by Parliament for the purpose.

Financial pro-
vision.

Regulations.

16. The Governor may make such regulations as it may be necessary or convenient to make for prescribing fees to be paid in connection with applications made to a Commissioner under this Act, and all necessary forms, and in order to provide for the effective operation of this Act, or to facilitate the carrying out of the objects thereof.

Duration of this Act.

17. This Act shall continue in force until the thirty-first day of December, one thousand nine hundred and thirty-four, and no longer.

Provision for application to the Arbitration Court for amendment of certain awards and industrial agreements.

18. (1.) In the case of every award and industrial agreement existing at the commencement of this Act and which had been varied by an order of the Arbitration Court under the authority conferred by the provisions of Part V. of the Financial Emergency Act, 1931, upon the application of an employer for an order of the Court to vary such award or industrial agreement under the said Act, it shall be lawful for any employer or employers who employ either singly or in the aggregate a majority of the employees engaged in the particular industry to which such award or industrial agreement relates, within one month after the date this Act is assented to, to apply to the Arbitration Court by a notice in writing signed by such employer or employers for an order amending such award or industrial agreement under and in accordance with the provisions of the Industrial Arbitration Act, 1912-1925, and in such case the following conditions shall apply:—

- (a) A copy of such notice shall be served by the applicant or applicants upon the industrial union concerned in such application;
- (b) Upon receipt of the notice the Court shall appoint a day for hearing the application not less than fourteen days after the receipt of the notice, but otherwise as soon thereafter as possible, having regard only to other specially urgent matters then pending in the Arbitration Court, and shall cause not less than seven days' notice thereof to be given in writing to the applicant or applicants and the industrial union concerned;
- (c) On the hearing of the application, the parties concerned may appear, either personally or by their agents, in accordance with the provisions of the Industrial Arbitration Act, 1912-1925.

(2.) The provisions of subsection (1) hereof shall apply and have effect notwithstanding anything to the contrary contained in the Industrial Arbitration Act, 1912-1925, or the regulations made thereunder.

(3.) It shall be competent for the Arbitration Court to hear and determine any such application and to make such order in respect of the industrial award or agreement to which the application relates, as it may think fit, under the provisions of the Industrial Arbitration Act, 1912-1925, in the same manner and to the same extent and for the same purpose as if such application had been made under and in accordance with the provisions of the said Act and the regulations made thereunder and not under the authority of this section.

THE SCHEDULE.

PART I.—RATES OF REDUCTION.

Salary.	Rate of Reduction.
Annual salary not exceeding £250 per annum	Eighteen pounds per centum.
Annual salary exceeding £250 but not exceeding £1,000	Twenty pounds per centum.
Annual salary exceeding £1,000 	Twenty-two pounds ten shillings per centum.

PART II.

Where the salary of an officer is calculated at a daily rate, the amount of the daily rate shall be multiplied by three hundred and thirteen, or by two hundred and eighty-seven, according as forty-eight hours or forty-four hours constitute a working week respectively; and where the salary is calculated at a weekly rate, the amount of the weekly rate shall be multiplied by fifty-two and one-sixth, and the result in each case respectively shall be deemed to be the annual salary.

Where the salary of an officer is calculated at a daily rate on the basis of one hundred and twelve working hours per fortnight (of fourteen days) the amount of such daily rate shall be multiplied by three hundred and sixty-five, and the result shall be deemed to be the annual salary.