

SALARIES AND WAGES FREEZE.

No. 129 of 1982.

AN ACT to freeze temporarily in the public interest the remuneration payable to employees and the holders of certain offices within the public sector of the State and the remuneration payable to employees in the private sector of the State; and for purposes related or incidental thereto.

[Assented to 23 December 1982.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY.

1. This Act may be cited as the *Salaries and Wages Freeze Act 1982*. Short title.

Commence-
ment and
duration.

2. (1) The provisions of this Act shall come into operation on such day or days as is or are respectively fixed by proclamation.

(2) The Governor may from time to time by proclamation provide—

(a) that all or any of the provisions of this Act which are for the time being in operation shall cease to be in operation; or

(b) that all or any of the provisions of this Act which are no longer for the time being in operation shall come into operation again,

on such day or days as is or are respectively fixed by proclamation.

(3) Nothing in subsection (2) shall enable the continuing operation of section 7, section 9 or section 11 after the expiry of the period referred to in section 7 (2), section 9 (2) or section 11 (6), as the case may require.

Application.

3. (1) Nothing in this Act prevents an increase in any rate of remuneration payable to a person if the increase is made—

(a) as the result of the promotion of the person from one established position to another higher established position;

(b) as the result of the completion by the person of an initial period of probation;

(c) in consequence of the performance by the person of the duties of another position or office being a position or office with higher duties than those attaching to his position or office;

(d) for the purpose of granting a periodical or other increment to an employee who under the existing terms and conditions of his

employment advances to a maximum rate of remuneration by periodical or other increments on the grounds of age, service, merit or qualifications;

- (e) in consequence of the reclassification of the position or office held by the person; or
- (f) in accordance with, and subject to any conditions of, an authority given in writing by the Minister under subsection (2) or under section 13.

(2) Notwithstanding any other provision of this Act, the Minister may authorize an increase in the rate of remuneration payable to a person, or to a group or class of persons, or to persons engaged in work of a particular kind or description, where in his opinion a failure to permit the increase would result in significant hardship to the persons concerned, and the Minister may vary or revoke such an authority.

4. (1) In this Act, unless the contrary intention ^{Interpreta-} appears— _{tion.}

“court” includes—

- (a) the Supreme Court, The District Court of Western Australia and a local court;
- (b) The Western Australian Industrial Commission, the Western Australian Industrial Appeal Court, and any member of that Commission or that Court, and any industrial magistrate or other person exercising a power under the Industrial Arbitration Act 1979;
- (c) a person or body exercising a power under—
 - (i) the Salaries and Allowances Act 1975;

- (ii) the Public Service Act 1978;
 - (iii) the Public Service Arbitration Act 1966;
 - (iv) the Government School Teachers Arbitration and Appeal Act 1979;
 - (v) the Western Australian Coal Industry Tribunal Act 1978;
 - (vi) the Railways Classification Board Act 1920; or
 - (vii) the State Energy Commission Act 1979; and
- (d) a Minister of the Crown in right of the State;

“employee” includes the holder of an office and a person acting in or performing the duties of an office;

“Part” means a Part of this Act;

“remuneration” means any wage, salary, emolument or earnings and includes any allowances (otherwise than by way of reimbursement), gratuities, bonuses or fees;

“section” means section of this Act;

“subsection” means subsection of the section in which the term is used.

(2) Without limiting the circumstances in which a rate of remuneration shall be treated as having been increased, any rate of remuneration shall for the purposes of this Act be deemed to have been increased—

- (a) where there has been a reduction in the hours or other period of work on which that remuneration is based without a proportionate corresponding reduction in the rate of remuneration;
- (b) where there has been any increase in any minimum period of paid travelling time; or
- (c) where there has been any increase in holiday or leave entitlement.

5. (1) Effect shall be given to this Act notwithstanding anything, whether express or implied, in any other Act or in any proclamation, regulation, rule, order or by-law or in any judgment, determination, order or award of any court or tribunal, or in any agreement, whether oral or written, or in any deed or other instrument.

Relationship of this Act to other legislation and to the Crown.

(2) This Act binds the Crown in right of the State.

PART II—PUBLIC SECTOR REMUNERATION.

6. (1) This Part applies to and in relation to—
- (a) any person who is a Government officer, within the meaning given to that term by section 96 of the Industrial Arbitration Act 1979;
 - (b) any person who holds or acts in or performs the duties of an office for which the remuneration payable is determined or recommended pursuant to the Salaries and Allowances Act 1975;
 - (c) any person employed as teaching staff, within the meaning given to that term by section 4 of the Government School Teachers Arbitration and Appeal Act 1979;

Persons to whom this Part applies.

- (d) any person who is a member of the academic staff of a post-secondary education institution, within the meaning given to that term by section 4 of the Western Australian Post-Secondary Education Commission Act 1970;
- (e) any person who is appointed or employed by—
 - (i) The Western Australian Government Railways Commission; or
 - (ii) The State Energy Commission of Western Australia;
- (f) any officer or employee in either House of Parliament—
 - (i) under the separate control of the President or Speaker or under their joint control;
 - (ii) employed by a Committee appointed pursuant to the Joint Standing Rules and Orders of the Legislative Council and the Legislative Assembly; or
 - (iii) employed by the Crown;
- (g) any officer or employee on the Governor's Establishment;
- (h) any person who is a member of or employed by a public authority; and
- (i) any other person who is employed by the Crown in right of the State.

(2) In this section—

“member” in relation to a public authority means—

- (a) any member of the authority whether known as member, commissioner, councillor, trustee, director, or by any other title;

- (b) any deputy, alternate or acting member of the authority,

and includes a person holding the office of chairman or president of the authority;

“public authority” means the Governor in Executive Council, any Minister of the Crown in right of the State, Government department, State trading concern, State instrumentality, State agency, or any public statutory body, corporate or unincorporate, established by or under a law of the State.

7. (1) A court shall not order, award or enforce the payment of, and, except as otherwise authorized under this Act, there shall not be paid or agreed to be paid, any remuneration to a person to whom this Part applies—

Public sector remuneration to be frozen.

- (a) in respect of any employment or office of a kind in which that person was engaged immediately prior to the coming into operation of this section; or
- (b) in relation to the engagement of any other person in any employment or office of that kind,

at a rate in excess of that which was payable immediately prior to the coming into operation of this section.

(2) Subject to section 2, this section shall continue in operation until the expiry of 12 months after it first comes into operation.

PART III—PRIVATE SECTOR REMUNERATION AND CHARGES.

Interpretation in Part III.

8. In this Part, unless the contrary intention appears—

“employee” has the meaning given to it by section 7 of the Industrial Arbitration Act 1979, but—

- (a) excludes a person to whom Part II applies; and
- (b) in relation to a body corporate, includes a director or other officer concerned in the management of the body corporate who is paid any remuneration, whether by a periodical payment or by fees or otherwise;

“employer” means person who employs one or more employees.

Private sector remuneration to be frozen.

9. (1) A court shall not order, award or enforce the payment of, and, except as otherwise authorized under this Act, an employer shall not pay or agree to pay any remuneration to an employee of the employer at a rate in excess of that which was payable in respect of that employment immediately prior to the coming into operation of this section or, if the employer did not then employ that employee, than the rate of remuneration that was applicable to that employment or the class of that employment immediately prior to that coming into operation.

(2) Subject to section 2, this section shall continue in operation until the expiry of 12 months after it first comes into operation.

Offences.

10. (1) An employer who—

- (a) contravenes or fails to comply with; or

- (b) either alone or in combination with any other person or group or body of persons, does any act with the intention of defeating or evading,

section 9 (1) commits an offence and is liable on conviction—

- (c) in the case of an individual, to a penalty not exceeding \$5 000; or
- (d) in the case of a body corporate, to a penalty not exceeding \$10 000 and, if the offence is a continuing one, to a further penalty not exceeding \$500 for every day or part thereof during which the offence continues.

(2) If a body corporate is guilty of an offence under subsection (1), any director or other officer concerned in the management of the body corporate is also guilty of that offence unless he proves that that offence was committed without his consent or connivance and that he exercised all such due diligence to prevent the commission of that offence as he ought to have exercised, having regard to the nature of his functions in that capacity and to all the circumstances.

(3) If a director or other officer concerned in the management of a body corporate is guilty of an offence under subsection (1), the body corporate is also guilty of that offence unless it is proved that all reasonable steps were taken by the body corporate to prevent the commission by the body corporate or its directors or other officers concerned in its management of offences under subsection (1).

(4) A prosecution for an offence under subsection (1) shall not be instituted except by—

- (a) the Attorney General; or

(3) In considering a reference under subsection (1) a court, notwithstanding anything in the Act by or under which it is established or continued in existence, as the case requires, or under which it exercises a power—

- (a) shall inquire into and inform itself on any matter relevant to the reference in such manner as it thinks fit; and
- (b) is not bound by any rules of evidence or by any technicality or legal forms.

Authoriza-
tion of
increased
rate of
remunera-
tion.

13. (1) Upon receiving the recommendation of a court to which a reference has been made under section 12, the Minister may authorize, in accordance with the recommendation or otherwise, an increase in the rate of remuneration, payable to a group or class of persons or to persons engaged in work of a particular kind or description, of an amount specified by him.

(2) The Minister may, for the purpose of resolving an exceptional problem, authorize an increase in the rate of remuneration, payable to a group or class of persons or to persons engaged in work of a particular kind or description, of an amount specified by him.

Monitoring
of prices.

14. (1) The Treasurer shall nominate an officer whose duty shall be—

- (a) to monitor and keep under continuous review the prices, and movements in those prices, in the State of the items and services taken into account in the Consumer Price Index (all groups) Perth as issued by the Australian Bureau of Statistics under the authority of the Census and Statistics Act 1905 of the Commonwealth; and
- (b) to report from time to time to the Treasurer and to keep him fully informed as to movements in prices in the State of the items and services referred to in paragraph (a) of this subsection.

(2) The Treasurer may appoint a committee to assist and advise the officer nominated under subsection (1) with respect to the performance of his duties under that subsection and may alter, discharge or reconstitute such a committee and, subject to any direction given by the Treasurer, any such committee may regulate its own procedure.

(3) The officer nominated under subsection (1) may, after consultation with the Treasurer, publish, in such manner and to such an extent as he thinks fit, particulars of prices in the State or any place within the State of any item or service referred to in subsection (1), including particulars of the price charged at any time by any specified vendor or supplier of that item or service and the officer may publish also, if he believes such publication necessary in the public interest, his opinion that a particular price charged by a named vendor or supplier is not a fair price.

(4) The Treasurer, the officer nominated under subsection (1), any member of a committee appointed under subsection (2) and the Crown in right of the State are not liable for any act done, statement or report issued, or default or omission made in good faith in the course of the performance of a power or duty under this section.

15. (1) The officer nominated by the Treasurer under section 14 (1) may for the purposes of section 14 by notice in writing require any person engaged or employed in any business or trade—

Power
to obtain
information.

- (a) to furnish such returns or other information as may be specified or described in the notice; or
- (b) to produce to that officer, or another officer authorized by him, any documents relating to that business or trade specified or described in the notice.

(2) A notice under this section may specify the way in which, and the time within which, it is to be complied with and, in the case of a notice requiring the production of documents, the facilities to be afforded for making extracts from or taking copies of the documents.

(3) A notice given under this section may be varied or revoked by a subsequent notice.

(4) A person who—

- (a) refuses or wilfully neglects to comply with a notice given under this section; or
- (b) in furnishing any return or other information in compliance with such a notice makes any statement which he knows to be false in a material particular, or recklessly makes any statement that is false in a material particular; or
- (c) with intent to deceive, produces in compliance with such a notice a document which is false in a material particular,

commits an offence and is liable on conviction to a penalty not exceeding \$500.

Ministerial
review
after
6 months.

16. (1) The Minister shall carry out a review of the operation of this Act 6 months after a provision of this Act comes into operation and in the course of such review the Minister shall consider and have regard to the extent to which, in his opinion, the operation of this Act has affected—

- (a) the employment level in the State;
- (b) prices in the State; and
- (c) the rate of inflation in the State,

and the Minister shall also consider and take into account such other matters as appear to him to be relevant to the operation and effectiveness of this Act.

(2) The Minister may at any time request the officer nominated by the Treasurer under section 14 to provide him with details of returns or information acquired by that officer in the performance of his duty under this Act or to provide him with a report on a matter specified in the request and the officer shall comply with every such request.

17. A court is not empowered at any time to make an award, order or determination of such a kind or to such an effect that after either section 7 or section 9, as the case may require, ceases to operate, any increase in remuneration the payment of which was prohibited by and during the operation of either section 7 or section 9 is restored with retrospective effect.

Retrospective
restoration
prohibited.

18. Where upon the coming into operation of section 7 or section 9 an order, award or determination has been made with respect to an increase in remuneration but the increased remuneration is not, in whole or in part, due to be payable until a date after the coming into operation of section 7 or section 9 (as may be relevant) and accordingly payment of the increased remuneration is prohibited by the relevant section, then, upon the cessation of operation of that section, the order, award or determination shall be given effect to according to its tenor but with prospective effect only from the cessation of operation of that section.

Prospective
restoration
of frozen
awards, etc.