

New Zealand.



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1933, No. 33.

AN ACT to make Provision with respect to Public Finance Title.
and other Matters. [22nd December, 1933.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Finance Act, 1933. Short Title.

National Expenditure Adjustment Act.

Orders made under section 38 of National Expenditure Adjustment Act to be final.

2. There shall be no appeal from any order made, whether before or after the passing of this Act, by the Supreme Court or a Stipendiary Magistrate acting under section thirty-eight of the National Expenditure Adjustment Act, 1932 :

Provided that nothing in this section shall affect the validity of any order that has been heretofore made on appeal from an order made under the said section, and any such appeal that may be pending on the passing of this Act may be heard and determined as if this section had not been passed.

Provision for apportionment of rent of furnished premises for purposes of National Expenditure Adjustment Act.

3. Where part of the rent reserved by any contract to which Part III of the National Expenditure Adjustment Act, 1932, is applicable is payable in respect of furniture or other chattels, an apportionment of the rent as between such chattels and the other property to which the contract relates shall, in default of agreement between the parties, be made by a Stipendiary Magistrate on application in that behalf by any of the parties to the contract.

As to application of National Expenditure Adjustment Act to table mortgages.

4. (1) In this section the term "table mortgage" means a mortgage in which provision is made for the payment of interest and the repayment of principal by periodical instalments, consisting partly of principal and partly of interest.

(2) Where pursuant to Part III of the National Expenditure Adjustment Act, 1932, the rate of interest payable under a table mortgage has been reduced, then, notwithstanding anything to the contrary in the mortgage, the amount of each instalment of principal and interest payable after the date of the reduction shall be reduced by an amount equal to the amount by which the interest included in such instalment has been reduced.

(3) This section shall be deemed to have come into force on the passing of the National Expenditure Adjustment Act, 1932.

(4) Where before the passing of this Act any mortgagor has been required by the mortgagee to repay on account of the principal moneys secured by a table mortgage any sum in excess of the amount duly repayable in accordance with the terms of the mortgage, as affected by the foregoing provisions of this section, he shall be entitled to deduct the sum so paid in excess from any instalment of

principal and interest payable by him after the passing of this Act.

5. (1) The powers conferred on the Supreme Court by section forty-two of the National Expenditure Adjustment Act, 1932, to modify the provisions of any deed, will, or settlement, in so far as they provide for payment of any annuity or other periodical payment, may, subject to the provisions of that section, be exercised for any reason that the Court deems sufficient.

As to powers of Supreme Court to modify instruments providing for payment of annuities.

(2) Without limiting the generality of the authority conferred by the last preceding subsection, it is hereby declared that the said powers may be exercised in cases where the amount available for the payment of such annuity or other periodical payment as aforesaid has been reduced by reason of the operation of the New Zealand Debt Conversion Act, 1932-33, or of the Local Authorities Interest Reduction and Loans Conversion Act, 1932-33.

(3) Subsection three of the said section forty-two is hereby amended as follows:—

(a) By omitting the word “heretofore” from paragraphs (a) and (b), and the words “heretofore executed” from paragraph (c); and

(b) By adding the following new paragraph:—

“(d) Any order made by the Court of Appeal under Part II of the Family Protection Act, 1908, or any order made by that Court for the payment of alimony or maintenance.”

(4) Except as hereinafter in this subsection provided, the Court shall not exercise the powers conferred on it by the said section forty-two, save on application made thereunder on or before the thirty-first day of March, nineteen hundred and thirty-five:

Provided that the Court may at any time before or after that date review any order made by it under the said section, and may cancel the same or vary the terms thereof.

National Provident Fund.

6. (1) Section fourteen of the Finance Act, 1931 (No. 2), shall be deemed to be repealed on the first day of April, nineteen hundred and thirty-five.

Provisions in aid of National Provident Fund. See Reprint of Statutes, Vol. VI, pp. 63, 64

(2) On the taking effect of the last preceding subsection, the following provisions shall apply:—

- (a) Section seventy-one of the National Provident Fund Act, 1926, shall be deemed to be amended by the omission of the words "and the amount of all expenses so paid in any year shall from time to time, as the Treasury directs, be repaid out of the Fund to the Consolidated Fund".
- (b) Section seventy-four of the National Provident Fund Act, 1926, shall be deemed to be amended by the omission from subsection two of the words "equal to one-fifth" and the restoration of the words "equal to one-fourth".

Stamp Duties Act.

Use of die for purposes of Stamp Duties Act may be discontinued.

See Reprint of Statutes, Vol. VII, p. 402

7. (1) Where the Minister of Stamp Duties determines to discontinue the use of any die for the purposes of the Stamp Duties Act, 1923, he shall give public notice of such determination by notice published in the *Gazette*.

(2) Every instrument bearing date after a day to be fixed in that behalf in the notice published under the last preceding subsection (being not earlier than three months after the date of the publication of such notice in the *Gazette*) that is stamped with the discontinued die, and every postal packet that is posted after that day and is stamped with that die, shall be deemed to be not duly stamped.

(3) Any person who has in his possession any stamps or paper stamped with the discontinued die may at any time within twelve months after the day fixed in such notice as aforesaid send the same to any post-office, and the Minister of Stamp Duties shall thereupon cause the same to be cancelled and shall cause stamps or stamped paper (as the case may be), stamped to an equal value with a die then in use, to be exchanged for the stamps or paper so cancelled.

Amount payable in respect of exchange may be excluded in computation of overseas-passenger duty.

See Reprint of Statutes, Vol. VII, p. 474

8. (1) In the computation of the amount of overseas-passenger duty payable in accordance with the provisions of section three of the Stamp Duties Amendment Act, 1931, in respect of the passage-money charged for a passage from New Zealand to a place beyond the seas, there may, with the authority of the Minister of Stamp Duties, be excluded from the amount on which the overseas-passenger duty is calculated the whole or any part of the amount charged in respect of exchange.

(2) This section shall be deemed to have come into force on the passing of the Stamp Duties Amendment Act, 1931.

State Advances Act.

9. (1) Section twenty-two of the State Advances Amendment Act, 1922, is hereby amended by repealing subsections four and five thereof, and substituting the following subsections:—

“(4) Interest on the amount of the loan for the time being outstanding shall be payable at such rate as the Governor-General in Council may from time to time determine.

“(5) Any loan granted under this section may be made repayable upon demand, or by such instalments, at such times, and generally upon such conditions as the Board directs.

“(6) The amount of any loan may be made available by such progress payments as the Superintendent determines, and all moneys received by the Superintendent in repayment of any loan or from the proceeds of the sale of stock or chattels comprised in any security may be readvanced to the mortgagor from time to time on such terms as may be agreed to by the Superintendent to enable the mortgagor to carry on any farming business, and for such other purposes as the Superintendent may consider necessary.

“(7) Nothing herein shall be construed to limit or affect the power of the Board or the Superintendent in its or his discretion to grant an extension of time or any other concession to any mortgagor in respect of any loan granted under this section.”

(2) This section shall be deemed to have come into force on the first day of August, nineteen hundred and thirty-three.

Wheat Research Institute.

10. (1) Section twenty-seven of the Finance Act, 1927 (No. 2), is hereby amended by omitting from paragraphs (a), (b), and (c) of subsection four the words “one penny halfpenny” and in each case substituting the words “twopence halfpenny”.

(2) The said section shall continue in force until the thirty-first day of December, nineteen hundred and thirty-eight, and shall then be deemed to be repealed.

As to rate of interest chargeable by State Advances Office on chattel securities.

See Reprint of Statutes, Vol. VIII, p. 538

Extension of scheme for scientific investigation of matters pertaining to wheat, flour, and bread.

See Reprint of Statutes, Vol. VIII, p. 177

Consequential repeal.

(3) Subsection eight of the said section twenty-seven is hereby repealed.

Miscellaneous.

Authorizing expenditure of public moneys for protection of securities in which any such moneys are invested.

11. (1) Subject to the provisions of this section, it shall be lawful, and shall be deemed to have at all times heretofore been lawful, to expend moneys out of any fund or account in the Public Account for the protection, preservation, and improvement of any real or personal property on the security of which any moneys in such fund or account have heretofore been or may hereafter be lawfully invested. The authority conferred by this section may be exercised notwithstanding the prior exercise in respect of the mortgaged property of any power of sale or of entry into possession.

(2) The authority conferred by this section shall extend and be deemed heretofore to have extended to authorize the expenditure out of any fund or account as aforesaid of moneys required for the stocking and cultivation of any land (whether freehold or leasehold) to which the last preceding subsection applies, the employment of labour thereon, the making of further advances to mortgagors, the carrying on of any farming business, and for such other purposes as may be considered necessary to prevent or minimize any loss on the realization of any securities as aforesaid.

(3) All moneys hereafter expended under the authority of this section shall be paid out of moneys appropriated for the purpose by Parliament.

(4) The Governor-General may by Order in Council extend the foregoing provisions of this section to authorize the expenditure of public moneys for the purposes aforesaid out of any fund or account that is not within the Public Account or to validate any such expenditure incurred before the passing of this Act.

(5) This section is in addition to, and not in substitution for, any powers or authorities conferred otherwise than by or pursuant to this section.

Local authorities may be required to make payment in sterling in respect of loans raised in the United Kingdom.

12. (1) For the purposes of this section—

“Local authority” means any local authority or public body that for the time being is a local authority within the meaning of the Local Government Loans Board Act, 1926, whether by virtue of section two of that Act or of any Order in Council thereunder, or by virtue of the provisions of any other Act :

“Sterling” means moneys that for the time being are legal tender in the United Kingdom. Where payment in sterling is made or directed to be made pursuant to this section, the amount of such payment shall be computed as if it were expressly stipulated in the debenture or other security under which such payment is to be made that payment be made in sterling.

(2) Notwithstanding anything in any rule of law to the contrary, any local authority that may lawfully be required by the holder of any debenture or other security to make payment in the United Kingdom of the interest or principal secured thereby may make such payment in sterling—

- (a) If the debenture or other security was issued in the United Kingdom in terms of a prospectus issued there; or
- (b) In any other case, if the Minister of Finance authorizes the local authority to make any such payment in sterling.

(3) The Minister of Finance shall not give any authority under and for the purposes of paragraph (b) of the last preceding subsection unless he is satisfied either—

- (a) That it was the intention of the local authority that issued the debenture or other security that any payment to be made thereunder in the United Kingdom, to a holder entitled to require that payment be made there, should be made in sterling; or
- (b) That a holder who is entitled to require that payment be made in the United Kingdom is further equitably entitled to require that such payment be made in sterling.

(4) For the purposes of the last preceding subsection an intention to pay in sterling may be gathered from the terms of the security, or from the practice of the local authority, or otherwise howsoever.

(5) If in any case any local authority fails or, in the opinion of the Minister of Finance, is about to fail to exercise the power to make any payment in sterling, conferred on it by or pursuant to the foregoing provisions of this section, the Minister may direct the local

authority to make payment in sterling if he is of opinion that it is in the general public interest that payment should be so made, and the local authority shall thereupon be legally bound to make such payment in accordance with the Minister's direction. A certificate under the hand of the Minister to the effect that a direction to any local authority has been given under this subsection shall be conclusive evidence that such direction has been duly given, and of the terms of such direction in so far as they are disclosed in the certificate, and all Courts and persons acting judicially shall take judicial notice of the signature of the Minister.

(6) Any direction given by the Minister of Finance pursuant to the last preceding subsection, in respect of any loan to which the provisions of Part IV of the Local Bodies' Loans Act, 1926, are applicable, shall be binding on the local authority and the Government of New Zealand as if the obligation to pay in sterling in accordance with such direction had been expressed in the debentures or other securities issued in respect of the loan and in the Order in Council guaranteeing the loan. If default is made by the local authority in complying with such direction, such default shall be deemed to be default within the meaning of Part IV of the Local Bodies' Loans Act, 1926, and all moneys paid by the Minister in consequence of such default shall accordingly constitute a debt due and payable to the Crown by the local authority.

(7) Where any local authority (in this subsection referred to as the creditor local authority) is entitled to recover from any other local authority (in this subsection referred to as the debtor local authority) the amount of any principal or interest paid by it in respect of any securities, the creditor local authority shall be entitled to recover from the debtor local authority in like manner the amount of any additional liability imposed on or incurred by it by reason of the payment in sterling of any such principal or interest as aforesaid in accordance with the foregoing provisions of this section. If any question arises as to the right of any local authority to recover any moneys from any other local authority in accordance with this subsection, or as to the amount recoverable, the matter shall be referred to the Controller and Auditor-General, whose decision shall be final. Any

additional sum payable by a debtor local authority under this subsection may be paid out of moneys available for the payment of the amount of its original liability to the creditor local authority.

(8) This section shall be deemed to have come into force on the first day of April, nineteen hundred and thirty-three.