



ANNO VICESIMO SECUNDO

# GEORGI V REGIS.

## A.D. 1931.

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### No. 2002.

An Act to make necessary Provision for carrying out 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, July 23rd, 1931.]*

**W**HEREAS at a Conference between Ministers of the Commonwealth and Ministers of the States convened in Melbourne on the 25th day of May, 1931, 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 is necessary: Now, therefore, be it enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

Preamble.

### PART I. PRELIMINARY.

### PART I.

1. This Act may be cited as the "Financial Emergency Act, 1931".

Short title.

2. This Act shall commence on a day to be fixed by proclamation.

Commencement.

## PART I.

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Parts of Act.

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

PART I.—Preliminary.

PART II.—Ratification of Conversion Agreement.

PART III.—Power of Trustees to Convert Securities and Reduce Interest.

PART IV.—Reduction of Salaries and Pensions Fixed by Acts of Parliament.

PART V.—Reduction of Interest on Certain Liabilities.

## PART II.

## PART II.

## RATIFICATION OF CONVERSION AGREEMENT.

Approval of conversion agreement.

4. The Agreement set out hereunder relating to the conversion of the internal public debt of the Commonwealth and of the States is approved.

## DEBT CONVERSION AGREEMENT.

Agreement made the twenty-first day of July, one thousand nine hundred and thirty-one between the Commonwealth of Australia (in this Agreement called the Commonwealth) of the first part, the State of New South Wales of the second part, the State of Victoria of the third part, the State of Queensland of the fourth part, the State of South Australia of the fifth part, the State of Western Australia of the sixth part, and the State of Tasmania of the seventh part (each of the parties of the second, third, fourth, fifth, sixth, and seventh parts being in this Agreement referred to as a State, and the expression "the States" in this Agreement meaning where the context so permits or requires all of such parties):

Whereas by section 105a of the Constitution it is provided that the Commonwealth may make agreements with the States with respect to the public debts of the States, including (*inter alia*) the consolidation, renewal, conversion and redemption of such debts:

And whereas at a Conference between Ministers of the Commonwealth and Ministers of the States convened in Melbourne on the twenty-fifth day of May, 1931, it was resolved, as part of a plan for establishing the financial stability of the Commonwealth and of the States, that a conversion should be arranged of the internal public debts of the Commonwealth and of the States, and the following conditions were provisionally agreed upon as recommendations by the Conference to the Australian Loan Council, namely:—

*General Conditions.*

1. Holders of all existing securities to be invited to convert their holdings into new stock—conversion to apply to all securities the holders of which do not dissent as prescribed by Commonwealth law.

2. On

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2. On conversion all existing securities to be subject to a general reduction of  $22\frac{1}{2}$  per cent. in the interest yield provided that holders of 3,  $3\frac{1}{2}$ , and  $3\frac{3}{4}$  per cent. stocks who acquired such securities prior to 4th August, 1914, shall not have their interest reduced below 3 per cent.

3. New securities to be restricted to three flat rates of interest, viz., 4,  $3\frac{7}{8}$ , and 3 per cent., and to be spread over ten (10) fixed maturity dates as follows, subject to the Government having the right to redeem in whole or in part at any time after 31st December, 1950 :—

Period—Years.	Rate of Interest per cent.
7 .....	4 and 3
10 .....	4
13 .....	4 and 3
16 .....	4 and $3\frac{7}{8}$
19 .....	4
22 .....	4
24 .....	4
26 .....	4
28 .....	4
30 .....	4 and 3.

4. The new securities to be Commonwealth securities, and to be in the form of bearer-bonds, debentures, or inscribed stock, &c., as at present.

5. The equivalent amount of new stock to be determined by actuarial valuation after taking into account the interest rate and date of maturity of each existing security, and after allowing for the general reduction of  $22\frac{1}{2}$  per cent. in the interest yield.

6. Existing securities, £450,000,000, now bearing interest at  $5\frac{1}{4}$  per cent. and over to be converted into 4 per cent. at a premium. As a general rule each holding to be spread equally over the ten maturity dates, but special arrangements to be made to consolidate small holdings on conversion.

7. Existing securities (£45,000,000) now bearing interest at 5 per cent. to be converted, at option of holder, into  $3\frac{7}{8}$  per cent. stock at par, maturing in sixteen years, or 4 per cent. stock (at a discount).

8. Existing securities (£61,000,000) now bearing interest at less than 5 per cent. to be converted, at option of holder, into 3 per cent. stock maturing in seven years and thirteen years (at a premium) or into 4 per cent. stock (at a discount.)

9. To facilitate the issue of new securities, all fractions below £10 to be paid off in cash, subject to holders being entitled to contribute cash to make up the next higher £10.

10. The interest on the new securities to be free from the present Commonwealth super-tax of  $7\frac{1}{2}$  per cent., and from any further taxation which may be imposed by the Commonwealth or by any State, but to be subject to other existing Commonwealth and State taxes.

11. Where

11. Where overseas trade money has been temporarily invested in short-term securities, because of exchange difficulties, the holders to be given the right to convert into a short-term new security, subject to other conditions similar to the main conversion.

*Special Conditions Applicable to Tax-Free Securities.*

12. Tax-free securities with definite dates of maturity—

- (i) Holders to be invited to convert into new securities subject to the general reduction of  $22\frac{1}{2}$  per cent. in the interest yield, with the proviso set out in clause (2) above.
- (ii) Holders of tax-free securities who so convert to be given new securities at the reduced rates, such securities to be tax-free only until the existing date of maturity.
- (iii) The new securities issued to replace the tax-free securities maturing in 1932, 1933, and 1934 to be re-converted on maturity dates into 4 per cent. securities maturing in 1941, on the same basis as other conversions into the new 4 per cent. issue.
- (iv) The new securities to replace all other tax-free securities to retain their present maturity dates.

13. Tax-free securities which are “Interminable,” “Redeemable at option of Government,” &c.—

Holders to be invited to convert into new securities, subject to the general reduction of  $22\frac{1}{2}$  per cent. in the interest yield, with the proviso set out in clause (2) above, the general conditions attaching to the new securities to be the same as those attaching to the original securities.

*Government Securities Held by State Savings Banks.*

14. Dates of maturities of securities held by the State Savings Banks to stand, if so desired by the Treasurer of the State concerned, on same conditions as conversion issue.

*Treasury Bills.*

15. The rate of interest on Treasury Bills taken up by the banks in Australia to be reduced to 4 per cent., and all other questions in relation to the Bills to be settled by the Loan Council in consultation with the banks.

*Loan Council.*

16. The terms herein set out to be regarded as recommendations by the Conference to the Loan Council, which it is to be understood is at liberty to modify any details of the plan, and to settle all details not included above.

And whereas the said conditions with certain modifications have been embodied in a Bill for An Act to be known as the Commonwealth Debt Conversion Act, 1931, which has been passed by both Houses of the Federal Parliament, and is ready for presentation to the Governor-General for the Royal Assent, and is hereinafter referred to as “the said Act”: And whereas there have been incorporated in the said Act additional provisions deemed to be convenient for carrying out the said conditions as so modified as aforesaid.

Now

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## PART II.

Now this Agreement witnesseth :

1. This Agreement shall have full force and effect, and shall be binding on all the parties, when it is approved by the Parliaments of the Commonwealth and of the States.

2. The Commonwealth is authorised to arrange and effect a conversion on the basis of a twenty-two and a half per centum reduction of interest in accordance with the terms and conditions of sections 3, 8, and 10 to 22 inclusive, of the said Act of all public debts of the States, the liability for which has been assumed by the Commonwealth under the Financial Agreement hereinafter mentioned and the interest and principal of which are payable in Australia, and of all public debts of the Commonwealth (including borrowings by the Commonwealth for or on behalf of a State under the said financial agreement), the interest and principal of which are payable in Australia. The said sections of the said Act shall be binding upon the parties hereto as part of this agreement.

3. The Commonwealth will take the necessary action to submit to the Federal Parliament any legislation necessary to carry out or give effect to this Agreement.

4. So far as the provisions of this Agreement may not be in accordance with any provisions of the financial agreement between the parties hereto dated 12th December, 1927, the provisions of this agreement shall prevail.

5. Subject to the last preceding clause the provisions of the said financial agreement and the undertakings and obligations of the Commonwealth and of the States therein contained shall apply to the public debts after conversion in the same manner as they applied before conversion.

Signed by the Prime Minister of the  
Commonwealth of Australia for  
and on behalf of the said  
Commonwealth in the presence  
of E. L. CAMPBELL.

J. H. SCULLIN.

Signed by the Premier of the State  
of New South Wales for and on  
behalf of the said State in the  
presence of C. R. CHAPMAN.

JOHN T. LANG.

Signed by the Premier of the State  
of Victoria for and on behalf of  
the said State in the presence  
of H. A. PITT.

E. J. HOGAN.

Signed by the Premier of the State  
of Queensland for and on behalf  
of the said State in the presence  
of G. W. WATSON.

A. E. MOORE.

Signed

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Signed by the Premier of the State  
of South Australia for and on  
behalf of the said State in the  
presence of S. R. WHITFORD.

LIONEL L. HILL.

Signed by the Premier of the State  
of Western Australia for and  
on behalf of the said State in the  
presence of L. E. SHAPCOTT,  
J.P.

JAMES MITCHELL.

Signed by the Premier of the State  
of Tasmania for and on behalf  
the said State in the presence  
of E. PARKES.

J. C. MCPHEE.

## PART III.

## PART III.

POWER OF TRUSTEES TO CONVERT SECURITIES  
AND REDUCE INTEREST.

Incorporation of  
this Part.

5. This Part is incorporated with the Trustee Acts, 1893 to 1926.

Interpretation.

6. In this Part the term "trustee" includes any body corporate authorised by law to act as trustee, and the Public Trustee; but the express mention of such bodies corporate and the Public Trustee in this Part shall not be held to affect the general application of the Acts with which this Part is incorporated and of this Part to all trustees.

Authority for  
trustees to convert  
certain securities.

7. (1) Notwithstanding anything in any Act or any law to the contrary, every trustee is hereby expressly authorised and empowered to convert or to withhold signification of dissent from the conversion of any "existing securities" within the meaning of the Act of the Parliament of the Commonwealth known as the Debt Conversion Act, 1931, into "new securities" within the meaning of the said Act.

(2) No legal proceedings of any kind shall be commenced, prosecuted, or maintained against any trustee, or, where the trustee is a body corporate, against any director, member of the controlling body, or officer thereof on the ground of any action taken by such trustee, director, member, or officer so to convert any such existing securities pursuant to the said Act, or upon the ground of the failure by such trustee, director, member, or officer, to signify dissent to such conversion.

Power of trustees  
to reduce interest.

8. Notwithstanding anything in any Act or any law or any trust deed or instrument to the contrary every trustee being a mortgagee if requested by the mortgagor so to do is hereby authorised and empowered to reduce the rate of interest payable to such trustee under the mortgage to such rate and for such period as such trustee in his absolute discretion shall think reasonable in

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in the circumstances : Provided that the agreement for such reduction shall be in writing signed by both parties and shall purport to be made in pursuance of the powers given by this Act.

9. (1) Every trustee shall be entitled to be indemnified out of the trust estate for any costs incurred by such trustee in any proceedings under section 20 of this Act and in respect of all costs ordered to be paid by such trustee under this Act.

Costs of trustees  
under s. 18.

(2) The Court shall not order a trustee to pay costs under subsection (6) of section 20 of this Act if the Court is satisfied that such trustee has refused to make a reduction in the rate of interest payable under a mortgage in the *bona fide* belief that such refusal was reasonable in the interests of his trust.

## PART IV.

## PART IV.

## REDUCTION OF SALARIES AND PENSIONS FIXED BY ACTS OF PARLIAMENT.

10. (1) During the period mentioned in subsection (2) of this section the annual amount of money available for the salaries of Ministers of the Crown as fixed by the Constitution Amendment (Ministers' Salaries) Act, 1921, shall be reduced by twenty per centum.

Further reduction of  
Ministers' salaries.

(2) The reduction made by this section shall operate for a period of twelve months commencing from the expiration of the period of twelve months during which the reduction made by the Ministers' Salaries Reduction Act, 1930, remains in operation.

11. (1) During the period mentioned in subsection (2) of this section the annual salaries payable to the persons holding the offices mentioned hereunder shall be at the rates set out hereunder, namely :—

Reduction of salaries  
of certain officers  
of Parliament.

Name of Office.	Salary before Reduction in 1930.	Salary after Reduction Provided for by this Act.
President of the Legislative Council .....	£800	£680
Speaker .....	£800	£680
Chairman of Committees, House of Assembly .....	£600	£525
*Chairman, Public Works Committee .....	£400	£320
*Member Public Works Committee .....	£250	£212 10s.
*Leader of Opposition, House of Assembly .....	£300	£255

\* The salaries payable to the holders of these offices are in addition to their salaries as Members of Parliament.

(2) The

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(2) The reductions made by this section shall operate for a period of twelve months commencing from the expiration of the period of twelve months during which the reductions in the above-mentioned salaries made by the Parliamentary Salaries Act, 1930, remain in operation.

Reduction of payments to members of Parliament.

**12.** (1) During the period mentioned in subsection (2) of this section the payments made to Members of Parliament pursuant to the Payment of Members Acts, 1887 to 1926, shall be at the rate of Three Hundred and Sixty Pounds per annum.

(2) The rate fixed by this section shall operate for a period of twelve months commencing from the expiration of the period of twelve months during which the reduction in the above-mentioned payments made by the Parliamentary Salaries Act, 1930, remains in operation.

Reduction of certain public salaries.

**13.** From the first day of the month after the month in which this Act is assented to and until Parliament otherwise provides the annual salaries payable to the persons holding the offices mentioned hereunder shall be at the rates set out hereunder, namely :—

Name of Office.	Salary before Reduction in 1930.	Salary after Reduction Provided for by this Act.
Agent-General .....	£2,000	£1,600
Chairman, Board of Management of State Bank .....	£400	£200
Chairman, Harbors Board ..	£1,100	£880
Commissioner of Highways ..	£1,200	£880
Commissioner of Police .....	£1,200	£1,000
Garden Suburb Commissioner	£600	£500
Manager State Bank .....	£2,500	£1,650
Members Board of Management, State Bank .....	£300	£100
South Australian Railways Commissioner .....	£2,500	£1,650
President, Industrial Court ..	£1,700	£1,250
Auditor-General .....	£1,100 (including special payment £100)	£880

Reduction of Public Service Pensions.

**14.** (1) Every payment into The South Australian Superannuation Fund made by the Government under Division IV. of the Superannuation Act, 1926, in respect of any instalments of pension paid after the commencement of this Act shall be reduced by sixteen and two-thirds per centum.

(2) Every instalment of pension paid after the commencement of this Act under the Superannuation Act, 1926, shall be reduced by the same actual amount as the amount payable into the Fund by the Government in respect of that instalment is reduced.

(3) In this section the term "pension" means pension granted under the Superannuation Act, 1926, either before or after this Act; but does not include a pension of Thirteen or Twenty-six Pounds per



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per annum payable in respect of any child, nor any pension payable to the widow of a contributor or pensioner which, if reduced in accordance with this section, would be less than Twenty-six Pounds per annum.

**15.** (1) Payments of pension made under the Police Pensions Act, 1930, or any previous Act relating to police pensions, shall be reduced as follows:—

Reduction of Police Pensions.

- (a) where a pensioner is at the commencement of this Act in receipt of a pension at the rate of One Hundred and Fifty-six Pounds per annum, every payment made after the commencement of this Act in respect of that pension shall be at the rate of One Hundred and Forty-four Pounds per annum:
- (b) where a pensioner is at the commencement of this Act in receipt of a pension at the rate of Two Hundred and Eight Pounds per annum, every payment made after the commencement of this Act in respect of that pension shall be at the rate of One Hundred and Seventy-four Pounds per annum:
- (c) any pension granted after the commencement of this Act which but for this Act would be at the rate of Two Hundred and Eight Pounds per annum shall be at the following rate per annum:
  - (i.) if the pensioner was on the first day of January nineteen hundred and thirty of or above the age of thirty years, One Hundred and Seventy-four Pounds per annum:
  - (ii.) if the pensioner was on the first day of January, nineteen hundred and thirty under the age of thirty years or had not at that date become a member of the police force, One Hundred and Eighty Pounds per annum.

(2) For the purposes of this section a pensioner in receipt of a pension of One Hundred and Thirty Pounds per annum under the Police Pensions Act, 1916, and of a pension of Twenty-six Pounds per annum under the Police Pensions Act, 1929, shall be deemed to be in receipt of a pension of One Hundred and Fifty-six Pounds per annum.

**16.** No person shall be entitled to any damages or compensation whatever by reason of the reduction of his salary, allowance, or pension under this Part.

No compensation for reduction.

**17.** This Part applies notwithstanding any provisions to the contrary contained in any Act passed before the commencement of this Act.

Application of Part.

PART V.

## PART V.

## REDUCTION OF INTEREST ON CERTAIN LIABILITIES.

## Interpretation.

**18.** In this Part, unless the contrary intention appears—

“Mortgage” means any deed, memorandum of mortgage instrument or agreement, whether in writing or not, whereby security for payment of money is granted over real or personal property or any interest therein, and includes an agreement for sale and purchase of real or personal property where payment of the unpaid purchase money and interest thereon is secured on such property :

“Mortgagor” means a person liable to payment of moneys secured by mortgage and any person who has guaranteed such payment :

“Mortgagee” means the person entitled to receive payment of any moneys payable under a mortgage :

“Court” means a Local Court of Full Jurisdiction, having jurisdiction to hear and determine the particular application :

“Prescribed” means prescribed by Rules of Court.

## Application of Part.

**19.** (1) Subject to subsection (2) of this section this Part shall apply to all mortgages existing at the commencement of this Act, and shall apply notwithstanding the provisions of the Real Property Act, 1886.

(2) Until the first day of October, nineteen hundred and thirty-one, this Part shall not apply to any mortgage securing to any bank, the balance of the account current of a customer of such bank, whether such mortgage is granted by the customer or by any surety for the customer, but thereafter shall apply to such mortgages.

## Application for reduction of interest.

**20.** (1) Any mortgagor by action instituted by claim in accordance with the Local Courts Act, 1926, may apply to the Court at any time during the currency of the mortgage for reduction of the rate of interest payable under his mortgage.

(2) The provisions of the Local Courts Act, 1926, except where inconsistent with this Part and subject to any rules made under section 25, shall apply to actions under this Part as far as possible in the same way as they apply to actions under that Act.

(3) Where it is not shown to the Court that there are any special circumstances relating to the mortgage in respect of which the application is made the Court shall make an order for the reduction of the rate of interest payable under such mortgage at the rate of Four Shillings and Sixpence for every Pound of such interest calculated as provided by such mortgage, but no such reduction shall have the effect of reducing the rate of interest on the mortgage below five per centum per annum.

(4) If

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(4) If the mortgagee satisfies the Court that there are any special circumstances as aforesaid, the Court may make such reduction not exceeding the rate hereinbefore mentioned as in its opinion the circumstances require or may refuse the application if, in its opinion, such refusal is warranted.

(5) If a mortgage has a currency of more than three years, the first order made for a reduction of interest shall remain in force for three years and thereafter until rescinded or varied by a subsequent order. Thereafter at any time during the currency of the mortgage an application may be made from time to time by either the mortgagor or the mortgagee for the variation or rescission of any order which is for the time being in force, but no such application shall be made less than twelve months after the making of the last previous application.

(6) Where the Court is satisfied that—

- I. the mortgagor has requested the mortgagee to reduce his rate of interest in manner contemplated by this Part ; and
- II. the mortgagee has refused to make a reduction reasonable in the circumstances ; and

III. there are no special circumstances justifying such refusal,

the Court may order the mortgagee to pay costs.

(7) If the Court is satisfied that the application has been occasioned by the refusal of the mortgagor to accept a reasonable offer of reduction by the mortgagee, the Court may order the mortgagor to pay costs.

(8) Every such order for the payment of costs shall specify such sum as the Court thinks reasonable, and the same shall be paid to the party in whose favour such order is made.

(9) Every order made under this section shall be final and conclusive, and no appeal shall lie in respect thereof.

(10) If any mortgagee holds such mortgage as a trustee—

(a) such mortgagee shall not be deemed to be guilty of a breach of trust by reason only of his *bona fide* making a reasonable offer of reduction of interest pursuant to subclause (7) of this clause or by reason of his *bona fide* failure to show cause why a reasonable application under subclause (1) of this clause should not be granted :

(b) the Court, in considering any question as to the payment of costs under subclause (6) of this clause, shall have regard *inter alia* to the fiduciary position of such mortgagee as trustee in determining whether or not his refusal to make the reduction applied for was reasonable in the circumstances.

21. (1) Subject to the rules, applications under this Part shall be made to the Local Court of Full Jurisdiction nearest to the place where the property subject to the mortgage is situate or where the defendant

Court to which  
applications made

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defendant resides or carries on business or to such other Court as the parties may agree upon.

(2) Every Court hearing an application under this Part shall be constituted by a Special Magistrate.

## Effect of order.

**22.** (1) Every payment of interest made in pursuance of an order made as provided by this Part shall be a full discharge of the mortgagor's liability under his mortgage in respect of the period to which such payment relates.

(2) Every order made under this Part shall apply only in respect of interest accruing due after the commencement of this Act.

(3) Subject to subsection (5) of section 20 every such order shall continue in force during the continuance of the mortgage in respect of which it is made unless the Court for special reasons otherwise directs.

(4) During the continuance of any order made under this Part 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 greater than that allowed by such order.

## Applications to be made in Chambers.

**23.** Applications under this Part shall be heard and determined in Chambers.

## Penalty on publication of particulars of applications.

**24.** No person shall publish, or cause to be published, in any newspaper, gazette, circular, or other document intended for public circulation, any reference to any application under this Part.

Any person contravening this section shall be guilty of an offence punishable summarily, and liable to a fine not exceeding One Hundred Pounds or imprisonment for not more than three months.

## Jurisdiction of Courts.

**25.** Rules of Court made under section 28 of the Local Courts Act, 1926, may (in addition to prescribing any other matters which may be prescribed by such rules) prescribe to what Local Courts of Full Jurisdiction applications under this Part are to be made and by what Courts such applications are to be dealt with, and may prescribe the amount of the fees and costs payable in respect of proceedings under this Part.

## Contracting out.

**26.** Any term or condition of a mortgage, instrument, or agreement which, apart from this section, would operate so as to prevent the mortgagor from obtaining the benefit of this Part, shall to that extent be void.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

A. HORE-RUTHVEN, Governor.