

FAMILY ENDOWMENT (AMENDMENT) ACT.

Act No. 9, 1932.

George V.
No. 9, 1932.

An Act to make further provision regarding the Family Endowment Fund; to amend the Family Endowment Act, 1927-1931, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 27th June, 1932.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. (1) This Act may be cited as the "Family Endowment (Amendment) Act, 1932," and shall be read and construed with the Family Endowment Act, 1927-1931, in this Act referred to as the Principal Act.

Citation.

(2) The Principal Act, as amended by this Act, may be cited as the Family Endowment Act, 1927-1932.

Commencement.

(3) This Act shall commence on a date to be appointed by the Governor and notified by proclamation published in the Gazette.

Amendment of
Act No. 30, 1927.
Sec. 3.
(Inter-
pretation.)

2. The Principal Act is amended—

- (a) (i) by inserting in the definition of "employee" in section three after the words "Employee also includes" the words "a director of a company";
- (ii) by inserting in the definition of "wages" in the same section after the word "commissions" the words "directors' fees";
- (iii) by inserting in subsection two of section forty-one after the word "Part" the words "or Part IVA";

Sec. 41.
(Returns.)

(b)

- (b) by inserting next after section 43c the following new Part:—

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New Part
IVA.

PART IVA.

CONTRIBUTIONS.

43D. (1) This Part of this Act shall apply to contributions in respect of wages paid after the commencement of the Family Endowment (Amendment) Act, 1932.

Application
of Part.

(2) The provisions of subsection four and subsection five of section thirty-nine, of subsection one and subsection two of section 40A, of subsection one of section forty-one, and of section 43A and section 43B, shall not apply in respect of contributions to which this Part of this Act applies.

(3) The Commissioner of Taxation shall have the general administration of this Part of this Act.

Administra-
tion.

In the event of the absence, incapacity, or suspension of the Commissioner of Taxation, any of his powers, duties, and functions may be exercised and performed during such absence, incapacity, or suspension by the Assistant Commissioner of Taxation or by an Acting Commissioner of Taxation appointed in pursuance of the provisions of the Income Tax (Management) Act, 1928, as amended by subsequent Acts.

43E. (1) Every employer shall contribute to the Family Endowment Fund in the prescribed manner, a contribution of such amount in respect of each one pound of the total amount of the wages paid by him during each week to his employees as may be fixed by Act of Parliament.

Contributions
to fund.

This subsection shall not apply where the total amount of wages so paid by an employer does not amount to three pounds, nor to an employer which is a public hospital or public benevolent or charitable institution.

(2) When board and lodging are provided for an employee by an employer the total

total

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Record of
wages.

total amount of wages under subsection one of this section shall include a sum of one pound per week in respect of such employee as if it had been paid as wages.

43F. (1) Every employer shall keep such record as is prescribed of all payments of wages made by him to his employees, and of all sums required by subsection two of section 43E to be included in the total amount of wages, and shall affix the prescribed adhesive Family Endowment Contribution Stamps to the amount of the contribution payable by him in respect of such wages to such record, and cancel such stamps at such times and in such manner as is prescribed.

(2) In respect of so much of the total amount of wages paid by any employer as is shown on a record prescribed under the Prevention and Relief of Unemployment Act, 1930, as amended by subsequent Acts, such record may be used in lieu of the prescribed record for the purposes of this section.

(3) Every employer shall preserve the stamped record for a period of three years from the last date of payment shown thereon :

Provided that any employer may, with the consent in writing of the Commissioner of Taxation, destroy any such record at any time during such period.

(4) Each employer shall produce his stamped record for inspection to any person authorised either generally or in a particular case by the Commissioner of Taxation to inspect such records, and shall, if and when required by notice in writing signed by the Commissioner of Taxation, send such record to the Commissioner of Taxation.

(5) The Commissioner of Taxation may exempt any employer from compliance with the provisions of subsection four of this section if he is satisfied—

- (a) that such record is not in the custody or control of such employer; and/or
- (b)

- (b) that such employer has purchased Family Endowment Contribution Stamps to the amount of the contribution payable by him in respect of the wages shown in such record, and that such stamps have been destroyed or have been lost and have not been and will not be used for the purpose of stamping any other record.

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43G. (1) Family Endowment Contribution Stamps shall be prepared and issued by the Commissioner of Stamp Duties, who shall provide for the distribution and sale thereof.

Family
Endowment
Contribution
Stamps.

The proceeds of sale shall be paid to the credit of the Family Endowment Fund.

(2) The regulations may apply, with such modifications and adaptations as the Governor thinks fit in respect of any such stamps, all or any of the provisions (including penal provisions) of the Stamp Duties Acts 1920-1931, or the Entertainments Tax (Management) Act, 1929, or any Act amending those Acts.

43H. Where during any financial year an employer has affixed Family Endowment Contribution Stamps to the prescribed record of payments of wages and—

- (a) during that financial year the sum of all payments of wages made by such employer was less than one hundred and fifty-six pounds; or

- (b) such employer was not required by this Act to affix such stamps,

the Colonial Treasurer may refund to such employer an amount equal to the face value of such stamps.

Application for the refund shall be made within twelve months after the last day of such financial year. No such refund shall be made unless the applicant satisfies the Commissioner of Taxation that he is entitled to a refund in accordance with this section, and such Commissioner certifies accordingly.

In

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Penalty for
breach of
Act.

Failure to
comply with
provisions
Act—fine.
cf. Act No.
34, 1930, s. 23
(6).

Sec. 45.
(Proceedings,
how and
when taken.)

In this section "financial year" means the year beginning on the first day of July and ending on the thirtieth day of June.

43I. Where an employer fails in respect of any payment of wages to comply with any of the provisions of this Part of this Act or of the regulations made in relation to any of the matters referred to in such Part, the Commissioner of Taxation may in any assessment made under the Income Tax (Management) Act, 1928, as amended by subsequent Acts, or under the Prevention and Relief of Unemployment Act, 1930, as amended by subsequent Acts, disallow as a deduction from any assessable income derived by such employer the amount of such payment.

43J. Any person who fails to carry out or observe any provision of this Part of this Act or of the regulations made in respect of any of the matters referred to in such Part shall be liable to account for and pay to the Commissioner of Taxation any contribution to the fund which by or because of his failure remains unpaid, together with a fine of ten per centum of such contribution, which fine may be remitted or reduced by the said Commissioner if he considers that the circumstances justify such remission or reduction.

In addition, such employer shall, upon summary conviction, be liable to a penalty of not less than two pounds and not exceeding one hundred pounds.

(c) by inserting next after subsection five of section forty-five the following new subsection:—

(6) Any proceedings in respect of an offence against section 43I or against any regulations made in respect of the matters therein referred to, may be taken at any time not exceeding six months from the time when the facts first came to the knowledge of the Commissioner of Taxation, and may be taken by such Commissioner or by some person appointed by him in writing, either generally or in a particular case.

(d)

- (d) by inserting next after the same section the following new section:—

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New s. 45A.

45A. Any person who practices, or is concerned in any fraudulent contrivance or device not specially provided for by law, with intent to defraud His Majesty of any contribution under this Act, shall be guilty of a misdemeanour, and shall be liable to imprisonment for a term of not more than twelve months.

Mis-
demeanour.
cf. Act No.
34, 1930,
s. 23 (5).

- (e) by inserting in section two after the matter relating to Part IV the following words:—

Sec. 2.
(Division
into Parts.)

PART IVA.—CONTRIBUTIONS—ss. 43D-43J.

3. Every employer shall contribute to the Family Endowment Fund in respect of wages paid by him on or after the first day of January, one thousand nine hundred and thirty-two, and before the commencement of this Act, a contribution of such amount in respect of each pound of the total amount of the wages paid by him during that period to his employees as may be fixed by Act of Parliament in respect of contributions under the Principal Act as amended by this Act.

Contribution in
respect of wages
paid between 1st
January, 1932,
and date of com-
mencement.

4. (1) In respect of the period referred to in section three of this Act, each employer shall within thirty days after the commencement of this Act affix the prescribed adhesive Family Endowment Contribution Stamps to the amount of the contribution payable by him in respect of wages paid by him to his employees during such period to the prescribed record, and shall cancel such stamps at such times and in such manner as is prescribed by regulations made under the Principal Act as amended by this Act.

Prescribed
record to be
stamped.

(2) In respect of so much of the total amount of wages paid by any employer as is shown on a record prescribed under the Prevention and Relief of Unemployment Act, 1930, as amended by subsequent Acts, such record may be used in lieu of the prescribed record for the purposes of this section.

(3) The Commissioner of Taxation may in any particular case extend the time mentioned in subsection one of this section for the complete or any partial compliance with that subsection upon such terms and conditions as seem to him proper.

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Application
of certain
provisions of
the Principal
Act.

5. (1) The provisions of subsection four and subsection five of section thirty-nine, of subsection one and subsection two of section 40A, of subsection one of section forty-one, and of section 43A and section 43B of the Principal Act shall not apply in respect of contributions to which the provisions of section three and section four of this Act apply.

(2) The provisions of section 43J, of subsection six of section forty-five, and of section 45A of the Principal Act shall, mutatis mutandis, apply in respect of the matters referred to in section three and section four of this Act.
