

## AUSTRALIAN SOLDIERS' REPATRIATION.

### No. 38 of 1949.

#### An Act to amend the *Australian Soldiers' Repatriation Act 1920-1948.*

[Assented to 18th July, 1949.]

**B**E it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

Short title  
and citation.

1.—(1.) This Act may be cited as the *Australian Soldiers' Repatriation Act 1949.*

(2.) The *Australian Soldiers' Repatriation Act 1920-1948\**, as amended by this Act, may be cited as the *Australian Soldiers' Repatriation Act 1920-1949.*

Commencement.

2. This Act shall come into operation on the seventh day of July, One thousand nine hundred and forty-nine.

Service pension  
in respect of a  
member  
permanently  
unemployable  
or suffering  
from pulmonary  
tuberculosis.

3. Section eighty-five of the *Australian Soldiers' Repatriation Act 1920-1948* is amended by omitting from sub-section (1.) the words "Ten", "Fifteen", "Twenty" and "Twenty-five" and inserting in their stead the words "Eighteen", "Twenty-three", "Twenty-eight" and "Thirty-three", respectively.

\* Act No. 6, 1920, as amended by No. 34, 1921; No. 23, 1922; No. 14, 1929; No. 74, 1930; Nos. 10 and 47, 1931; No. 17, 1933; Nos. 16 and 32, 1934; No. 58, 1935; Nos. 29 and 67, 1936; Nos. 12, 24 and 42, 1937; No. 55, 1938; Nos. 37 and 96, 1940; No. 49, 1941; No. 22, 1943; No. 11, 1945; No. 49, 1946; Nos. 1 and 29, 1947; and No. 39, 1948.

## STEVEDORING INDUSTRY.

### No. 39 of 1949.

An Act to provide for the Prevention or Settlement by Conciliation or Arbitration of Industrial Disputes, extending beyond the limits of any one State, in connexion with Stevedoring Operations; to regulate Industrial Matters in connexion with, and to regulate and control the Performance of, Stevedoring Operations in the course of Trade and Commerce with other Countries or among the States; and for other purposes.

[Assented to 18th July, 1949.]

**B**E it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

#### PART I.—PRELIMINARY.

1. This Act may be cited as the *Stevedoring Industry Act 1949.*

Short title.

2. This Act shall come into operation on a date to be fixed by Proclamation. Commencement.

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

Parts.

Part I.—Preliminary.

Part II.—The Australian Stevedoring Industry Board.

Part III.—Registration of Employers and Waterside Workers.

Part IV.—Waterside Employment Committees.

Part V.—Jurisdiction of the Court.

Part VI.—Financial Provisions.

Part VII.—Miscellaneous.

4. This Act shall bind the Crown in right of the Commonwealth or a State, including any authority of the Commonwealth or a State. Crown to be bound.

5.—(1.) The *Stevedoring Industry Act* 1947 and the *Stevedoring Industry Act* 1948 are repealed. Repeal and saving.

(2.) Any reference in any other Act to the *Stevedoring Industry Act* 1947, or to that Act as amended, shall be read as a reference to this Act.

(3.) Notwithstanding the repeal effected by this section—

- (a) all rights, property, assets, obligations and liabilities of the Stevedoring Industry Commission constituted under the *Stevedoring Industry Act* 1947–1948 shall, by force of this section, be vested in or imposed on the Australian Stevedoring Industry Board constituted under this Act, and, in any contract, agreement or other instrument to which the Stevedoring Industry Commission constituted under Part V. of the National Security (Shipping Co-ordination) Regulations or the Stevedoring Industry Commission constituted under the *Stevedoring Industry Act* 1947–1948 was a party, any reference to either of those Commissions shall be read as a reference to the Australian Stevedoring Industry Board constituted under this Act ;
- (b) all employers and waterside workers registered, or deemed to have been registered, under the *Stevedoring Industry Act* 1947–1948 shall be deemed to be registered under this Act ;
- (c) all applications for registration made, or deemed to have been made, under the *Stevedoring Industry Act* 1947–1948 shall be deemed to have been made under this Act ;
- (d) the suspension of the registration of an employer or of a waterside worker under the *Stevedoring Industry Act* 1947–1948 shall have effect as if the suspension had been effected under this Act ;
- (e) all matters (not being matters referred to in the next succeeding paragraph) pending under the *Stevedoring Industry Act* 1947–1948 may be dealt with by the Board in accordance with this Act ;

- (f) all matters (being matters in relation to an industrial dispute extending beyond the limits of any one State or being appeals under section thirty-nine of the *Stevedoring Industry Act 1947-1948*) pending under that Act may be continued before the Court in accordance with this Act ; and
  - (g) all orders and directions made or given, or purporting to have been made or given, under the *Stevedoring Industry Act 1947-1948* and in force, or purporting to be in force, immediately before the commencement of this Act shall continue, or be, in force as if made or given under this Act and the provisions of this Act relating to orders made, and directions given, by the Board shall apply to and in relation to the first-mentioned orders and directions, respectively.
- (4.) An order or direction continued in force, or in force under the last preceding sub-section may—
- (a) insofar as it provides for the regulation or control of the performance of stevedoring operations—be varied or revoked by the Board by an order or direction, as the case may be, under section sixteen of this Act ; and
  - (b) insofar as it provides for the regulation of industrial matters in connexion with stevedoring operations—be varied or revoked by the Court by an order under section thirty-four of this Act.

**Definitions.**

6.—(1.) In this Act, unless the contrary intention appears—

“ employer ” means—

- (a) a person who engages or offers to engage, persons for employment as waterside workers for work on a wharf or ship ;
- (b) a ship's agent or shipowner who directs the method or time of working of a stevedoring employer or contractor ; and
- (c) a master or officer of a ship engaged in work of the same nature as the work usually performed by a stevedoring employer,

and includes an agent or servant of an employer ;

“ industrial dispute ” means—

- (a) a dispute (including a threatened, impending or probable dispute) as to industrial matters which extends beyond the limits of any one State ; and
- (b) a situation which is likely to give rise to a dispute as to industrial matters which so extends ;

“ industrial matters ” means all matters pertaining to the relations of employers and of waterside workers and, without limiting the generality of the foregoing, includes—

- (a) all matters or things affecting or relating to work done or to be done ;
- (b) the privileges, rights and duties of employers and of waterside workers ;
- (c) the wages, allowances and remuneration of waterside workers employed or to be employed ;
- (d) the piece-work, contract or other reward paid or to be paid in respect of employment ;
- (e) the question whether piece-work or contract work or any other system of payment by results shall be allowed, forbidden or exclusively prescribed ;
- (f) the question whether monetary allowances shall be made by employers in respect of any time when a waterside worker is not actually working ;
- (g) the hours of employment, age, qualifications and status of waterside workers ;
- (h) the mode, terms and conditions of employment ;
- (i) the employment of any waterside workers or class of waterside workers ;
- (j) the preferential employment or the non-employment of any particular waterside worker or class of waterside workers ;
- (k) the right to dismiss or to refuse to employ, or the duty to reinstate in employment, a particular waterside worker or class of waterside workers ;
- (l) any custom or usage, whether general or in a particular locality ;
- (m) any industry dispute, including any matter which may be a contributory cause of such a dispute ;
- (n) any question arising between two or more organizations or within an organization as to the rights, status or functions of the members of those organizations or of that organization or otherwise, in relation to the employment of those members ; and
- (o) the provision of first-aid equipment, medical attendance, ambulance facilities, rest rooms, sanitary and washing facilities, canteens, cafeteria, dining rooms and other amenities for waterside workers,

and includes all questions of what is right and fair in relation to an industrial matter having regard to the interests of the persons immediately concerned and of society as a whole ;

“ member ” means a member of the Board ;

“ ship ” includes barge, lighter, hulk or other vessel ;

“stevedoring operations” means—

- (a) the loading or unloading of cargo into or from ships ;
- (b) the loading or unloading, into or from ships, of ships' stores, coal or fuel oil (whether for bunkers or not), passengers' luggage or mails ;
- (c) the handling or storage of cargo or other goods at or adjacent to a wharf ;
- (d) the driving or operation of mechanical appliances used in connexion with loading or unloading of ships or with the handling or storage of cargo or other goods at or adjacent to a wharf ; and
- (e) the haulage or trucking from ship to shed or shed to ship,

and includes—

- (f) the removal or replacing of beams or hatches ;
- (g) the handling of dunnage or ballast ;
- (h) the preparing or cleaning of holds ; and
- (i) the preparation of gear for use in connexion with the loading or unloading of ships,

when that work is performed by a member of the Federation or by a person registered as a waterside worker under Part V. of the National Security (Shipping Co-ordination) Regulations immediately before the commencement of the *Stevedoring Industry Act 1947* ;

“the Board” means the Australian Stevedoring Industry Board established under this Act ;

“the Court” means the Commonwealth Court of Conciliation and Arbitration ;

“the Federation” means the Waterside Workers Federation of Australia ;

“waterside worker” means a person who accepts, or offers to accept, employment for work in the loading or unloading of cargo into or from ships, and includes a member of the Federation or a person registered as a waterside worker under Part V. of the National Security (Shipping Co-ordination) Regulations immediately before the commencement of the *Stevedoring Industry Act 1947* who accepts, or offers to accept, employment for work in—

- (a) the loading or unloading, into or from ships, of ships' stores, coal or fuel oil (whether for bunkers or not), passengers' luggage or mails ;
- (b) the handling or storage of cargo or other goods at or adjacent to a wharf ;
- (c) the driving or operation of mechanical appliances used in connexion with the loading or unloading of ships or with the handling or storage of cargo or other goods at or adjacent to a wharf ;
- (d) haulage or trucking from ship to shed or shed to ship ;
- (e) the removal or replacing of beams or hatches ;

- (f) the handling of dunnage or ballast ;
- (g) the preparing or cleaning of holds ; or
- (h) the preparation of gear for use in connexion with the loading or unloading of ships,

but does not include—

- (i) persons working in or alongside a ship in connexion with the direction or checking of the work of waterside workers ;
- (j) members of the crew of a ship on the ship's articles ;
- (k) members of the crew of a lighter ; or
- (l) members of the Sydney Coal Lumpers Union while loading or unloading coal in the port of Sydney ;

“ wharf ” includes pier and jetty, and also includes a shed adjacent to a wharf.

(2.) For the purposes of this Act—

- (a) a person who puts another person to work shall be deemed to engage that other person for employment ; and
- (b) a person who is put to work shall be deemed to accept employment.

#### PART II.—THE AUSTRALIAN STEVEDORING INDUSTRY BOARD.

7.—(1.) There shall be an Australian Stevedoring Industry Board, which shall consist of a Chairman and two other members.

Australian  
Stevedoring  
Industry  
Board.

(2.) The Board shall be a body corporate with perpetual succession and a common seal and may acquire, hold and dispose of real and personal property and shall be capable of suing and being sued in its corporate name.

(3.) All courts, judges and persons acting judicially shall take judicial notice of the seal of the Board affixed to any document and shall presume that it was duly affixed.

(4.) The exercise of the powers, or the performance of the functions, of the Board shall not be affected by reason only of there being a vacancy in the office of a member of the Board.

8.—(1.) The Chairman and the other members of the Board shall be appointed by the Governor-General and shall hold office, subject to good behaviour, for such period, not exceeding seven years, as the Governor-General specifies but shall be eligible for re-appointment.

Appointment  
of members of  
Board.

(2.) A member shall be paid remuneration and allowances at such rates (if any) as the Governor-General determines.

(3.) If a member is a Conciliation Commissioner, he shall not be entitled to receive any salary or allowance in respect of his office of Conciliation Commissioner but his holding of that office shall not be affected by reason of his appointment under this Act.

**Deputies of members.**

9.—(1.) The Governor-General may appoint a person to be the deputy of a member of the Board.

(2.) The deputy of a member shall, in the event of the absence of the member of whom he is the deputy from a meeting of the Board, be entitled to attend that meeting and when so attending shall be deemed to be a member of the Board and shall have and may exercise all the powers of the member of whom he is the deputy.

(3.) A deputy of a member shall be paid remuneration and allowances at such rates (if any) as the Governor-General determines.

**Meetings of the Board.**

10.—(1.) Subject to the next succeeding sub-section, meetings of the Board shall be held at such times and places as the Board from time to time determines.

(2.) The Chairman may, and shall if so directed by the Minister, at any time call a meeting of the Board.

(3.) At a meeting of the Board, two members shall form a quorum.

(4.) All questions arising at a meeting of the Board shall be decided by a majority of votes.

(5.) In the event of an equality of votes—

(a) if the Chairman or his deputy is present—the question shall be decided by the Chairman or by his deputy, and in that case the decision of the Chairman or of his deputy shall be deemed to be the decision of the Board ; or

(b) if the Chairman or his deputy is not present—the question shall be postponed until the next meeting of the Board.

**Delegation by Board.**

11.—(1.) The Board may, either generally or in relation to any port, by writing under its seal, delegate to any person any of its powers or functions under this Act (except this power of delegation) so that the delegated powers or functions may be exercised by the delegate in accordance with the instrument of delegation.

(2.) Every delegation under this section shall be exercised subject to any conditions determined by the Board from time to time and every such delegation shall be revocable at will and no such delegation shall prevent the exercise of any power or the performance of any function by the Board.

**Appointment of officers and employees.**

12.—(1.) Subject to this section and to the approval of the Minister, the Board may appoint such officers and employees as are necessary to assist it in the exercise of its powers and the performance of its functions under this Act.

(2.) A person shall not be appointed as an officer or employee under this section unless he is a British subject and makes and subscribes an oath or affirmation of allegiance in accordance with the form in the Schedule to the Constitution.

(3.) Officers and employees appointed under this section shall not be subject to the *Commonwealth Public Service Act* 1922-1948 and (except in the case of persons the terms and conditions of whose employment are otherwise regulated by law) shall be appointed on the same terms and conditions (subject to such variations, if any, as the Minister determines) as the terms and conditions of employment of temporary employees under that Act.

(4.) Where an officer or employee appointed under this section was, immediately prior to his appointment, an officer of the Public Service of the Commonwealth, his service as an officer or employee under this Act shall, for the purpose of determining his existing and accruing rights, be taken into account as if it were service in the Public Service of the Commonwealth, and the *Officers' Rights Declaration Act* 1928-1940 shall apply as if this Act and section were specified in the Schedule to that Act.

**13.** The functions of the Board shall be—

Functions of  
the Board.

- (a) to regulate and control the performance of stevedoring operations, insofar as those operations are performed in the course of trade and commerce with other countries or among the States or are performed in a Territory of the Commonwealth ;
- (b) to develop, or (subject to the approval of the Treasurer) to make advances to port authorities for the development of, port facilities used in connexion with stevedoring operations, including the introduction, modification, replacement and operation of machinery, plant and equipment ;
- (c) to provide at each port sufficient waterside workers for stevedoring operations ;
- (d) to ensure that the labour of waterside workers is used to the best advantage ;
- (e) to pay attendance money to waterside workers ;
- (f) to establish and administer employment bureaux for waterside workers ;
- (g) to provide first-aid equipment, medical attendance, ambulance facilities, rest rooms, sanitary and washing facilities, canteens, cafeteria, dining rooms and other amenities for waterside workers ;
- (h) to train, or arrange for the training of, persons in stevedoring operations ; and
- (i) to publish information relating to the stevedoring industry.

**14.** The Board shall perform its functions under this Part with a view to securing the speedy, safe and efficient performance of stevedoring operations.

Performance  
of functions.



Powers of Board in relation to land, &c.

- 15.** The Board shall, for the purposes of this Act, have power—
- (a) subject to the approval of the Minister in any case in which the amount involved exceeds Five thousand pounds—
    - (i) to purchase land, buildings, or wharves ;
    - (ii) to erect buildings ;
    - (iii) to dispose of land, buildings or wharves acquired by, or vested in, the Board ;
    - (iv) to purchase, or take on hire, plant, equipment, stocks or other goods ; and
    - (v) to dispose of plant, equipment, stocks or other goods acquired by, or vested in, the Board ;
  - (b) subject to the approval of the Minister in the case of a lease for a period exceeding five years, to take on lease any land, buildings or wharves ; and
  - (c) to do anything incidental to any of its powers under this section.

Powers of Board to make orders, give directions, &c.

**16.** For the purpose of the exercise of its powers and the performance of its functions under this Part, the Board may make such orders, give such directions and do all such other things as it thinks fit.

Orders of the Board.

**17.—(1.)** Orders made by the Board—

- (a) shall be in writing ;
- (b) shall not be deemed to be Statutory Rules within the meaning of the *Rules Publication Act 1903–1939* ; and
- (c) shall have the force of law.

(2.) A person shall not contravene or fail to comply with any provision of an order made by the Board which is applicable to him.

Penalty : Where the offence is committed by a waterside worker, Five pounds ; in any other case, One hundred pounds.

Directions of the Board.

**18.—(1.)** A direction given by the Board may be given orally or in writing.

(2.) A direction given orally shall be given to the person required to comply with the direction and thereupon that person shall comply with the direction.

(3.) Where a direction is given orally, the Board shall, within twenty-four hours thereafter, record the direction in writing.

(4.) A copy of a direction given in writing shall be served personally or by post on the person required to comply with the direction and thereupon that person shall comply with the direction.

Penalty : Where the offence is committed by a waterside worker, Five pounds ; in any other case, One hundred pounds.

## PART III.—REGISTRATION OF EMPLOYERS AND WATERSIDE WORKERS.

19. The Board may, for the purposes of this Part, define the limits of any port. Limits of ports.

20. The Board may, in respect of any port, establish and maintain— Registers of employers and employees.

(a) a register of employers at that port; and

(b) a register of waterside workers at that port,

and may determine the persons with whom applications for registration shall be lodged and the form in which such applications shall be made.

21.—(1.) Subject to the next succeeding sub-section, the registration of an employer or waterside worker under this Act shall be in the discretion of the Board. Registration to be in the discretion of Board and limited to members of the Federation.

(2.) Except at such ports as the Board determines, a waterside worker shall not be registered under this Act unless he is a member of the Federation but nothing in this sub-section shall affect the operation of paragraph (b) of sub-section (3.) of section five of this Act.

22.—(1.) In this section, the expression “the quota”, in relation to a port, means the number of waterside workers required for the proper and effective conduct of stevedoring operations at that port. Port quotas.

(2.) The Board may, from time to time, in relation to a port at which a register of waterside workers is established, determine the quota for that port.

(3.) Where the number of waterside workers registered at a port is greater than the quota for that port, the Board may suspend or cancel the registration of so many waterside workers registered at that port as it thinks fit, but so that the number of registered waterside workers at that port is not reduced to less than the quota for that port.

(4.) The Board shall, before taking any action under sub-section (2.) or (3.) of this section in relation to a port, consult the Waterside Employment Committee and the branch of the Federation at that port.

(5.) The Board shall not take any action under sub-section (3.) of this section in respect of a port unless the Board is satisfied that—

(a) the quota for that port is likely to remain for an indefinite period less than the number of waterside workers registered at that port; and

(b) the number of waterside workers registered at that port cannot be reduced to the quota for that port by the registration of waterside workers at some other port.

(6.) The Board shall not, under this section, suspend or cancel the registration of a waterside worker who, immediately before the twenty-eighth day of March, One thousand nine hundred and forty-seven (being the date on which the *Stevedoring Industry Act 1947*

received the Royal Assent), was a member of the Federation or a person registered as a waterside worker under Part V. of the National Security (Shipping Co-ordination) Regulations.

(7.) Where the Board determines that the suspension or cancellation of the registration of waterside workers registered at a port is unavoidable, the waterside workers whose registration is suspended or cancelled shall be the waterside workers last registered at that port.

(8.) Where the number of waterside workers registered at a port has fallen to less than the quota for that port, the Board shall grant priority in the cancellation of suspension of, or in the registration of, waterside workers at that port to waterside workers whose registration has been suspended or cancelled under sub-section (3.) of this section and shall cancel the suspension of, or register, at that port waterside workers whose registration was so suspended or cancelled in their order of seniority as determined by the length of their registration prior to its suspension or cancellation.

Cancellation or suspension of registration of employer.

**23.**—(1.) Where, after such inquiry as it thinks fit, the Board is satisfied that an employer—

- (a) is unfit to continue to be registered as an employer ;
- (b) has acted in a manner whereby the proper performance of stevedoring operations has been interfered with ; or
- (c) has committed an offence against this Act,

the Board may cancel his registration, or may suspend his registration for such period as it thinks fit.

(2.) In considering whether the registration of an employer should be cancelled or suspended under this section, the Board may take into account any disciplinary action which has been taken against that employer by any association of employers of which that employer is a member.

Cancellation or suspension of registration of waterside worker.

**24.**—(1.) Where, after such inquiry as it thinks fit, the Board is satisfied that a waterside worker—

- (a) is unfit to continue to be registered as a waterside worker ;
- (b) has acted in a manner whereby the proper performance of stevedoring operations has been interfered with ;
- (c) has committed an offence against this Act ;
- (d) is not following his calling as a waterside worker as his chief means of livelihood ; or
- (e) by reason of his physical or mental condition, is not fit to carry out the duties of a waterside worker or may be a danger to others,

the Board may cancel his registration or may suspend his registration for such period as it thinks fit.

(2.) The Board may, before holding an inquiry under this section in respect of a waterside worker, suspend the registration of that waterside worker and may at any time annul the suspension.

(3.) In considering whether the registration of a waterside worker should be cancelled or suspended under this section, the Board may take into account any disciplinary action which has been taken against that waterside worker by the Federation.

**25.**—(1.) A person aggrieved by a decision of the Board, or of a person exercising the powers of the Board, under either of the last two preceding sections may appeal to the Court against the decision and, upon consideration of any such appeal, the Court may confirm, vary or set aside the decision appealed against.

Appeals.

(2.) Where a person appeals to the Court against the suspension of his registration as an employer of waterside workers or as a waterside worker, the suspension shall, subject to the next succeeding sub-section, continue in operation.

(3.) The Board may postpone the operation of the suspension, pending the determination of the appeal, for such period as it thinks fit and the registration shall not be deemed to have been suspended during the period of the postponement.

(4.) The jurisdiction of the Court under this section shall be exercised by a single Judge.

**26.** Where the registration of an employer or waterside worker has been suspended under this Act, that employer or waterside worker shall be deemed not to be registered as an employer or waterside worker under this Act during the period of suspension.

Effect of suspension.

**27.**—(1.) A person, whether on his own behalf or as agent or servant of another person, shall not, except with the consent of the Board, engage a person for employment as a waterside worker for work on a wharf or ship at a port at which a register of waterside workers is established unless the last-mentioned person is registered as a waterside worker under this Act.

Unregistered persons not to be employed as waterside workers.

Penalty : One hundred pounds.

(2.) Nothing in the last preceding sub-section shall prevent the engagement for employment of a person as a waterside worker at a port at which a sufficient number of registered waterside workers is not available.

**28.** A person, whether on his own behalf or as agent or servant of another person, shall not, except with the consent of the Board, engage a person for employment as a waterside worker for work on a wharf or ship at a port at which a register of employers of waterside workers is established unless the first-mentioned person is registered as an employer under this Act.

Unregistered employers not to engage persons for employment as waterside workers.

Penalty : One hundred pounds.

Application of sections 27 and 28.

29. The provisions of the last two preceding sections shall apply only in relation to the engagement of persons for employment as waterside workers for work in stevedoring operations performed in the course of trade and commerce with other countries or among the States or performed in a Territory of the Commonwealth.

#### PART IV.—WATERSIDE EMPLOYMENT COMMITTEES.

Waterside Employment Committees.

30.—(1.) In respect of any port, the Minister may, on the recommendation of the Board, appoint, by notice published in the *Gazette*, a Committee, which shall be known as a Waterside Employment Committee.

(2.) The Committee shall consist of such number (not exceeding two or, in the case of the port of Fremantle, not exceeding three, or, in the case of the port of Newcastle, not exceeding four) of representatives of employers as is recommended by the Board and a like number of waterside workers who are members of the Federation, together with a person nominated by the Board, who shall be Chairman of the Committee.

(3.) In the event of the illness or absence of the Chairman, the Board may appoint a person to be Acting Chairman and the Acting Chairman shall have and may exercise all the powers and functions of the Chairman.

(4.) The members of the Committee shall be appointed by the Minister, and shall hold office during his pleasure.

(5.) The Minister may, in respect of each Waterside Employment Committee, appoint such number (not exceeding two, or, in the case of the port of Fremantle, not exceeding three, or in the case of the port of Newcastle, not exceeding four) of representatives of employers, and the like number of waterside workers who are members of the Federation, to be deputies of members of that Committee.

(6.) In the event of the illness or absence of a member of the Committee, a deputy, representative of the same interest as the ill or absent member, shall have and may exercise all the powers of a member of the Committee.

(7.) No act done by a deputy shall, in any proceedings, be questioned on the ground that the occasion for the exercise of his powers had not arisen or had ceased.

(8.) The Minister may at any time remove a member of the Committee from office but the Minister shall thereupon appoint another member, who shall be representative of the same interest as the member removed or, in the case of the Chairman, shall be nominated by the Board.

(9.) The Chairman of the Committee may convene a meeting of the Committee at any time and shall convene a meeting of the Committee—

(a) whenever so required by the Committee;

(b) whenever so directed by the Chairman of the Board; and

(c) within seven days after the receipt by him of an application for a meeting signed by a member of the Committee giving reasons which, in the Chairman's opinion, justify a meeting of the Committee,

and shall also convene meetings of the Committee at such times and for such reasons as the Board directs.

(10.) Subject to the approval of the Board, the Committee may make rules, not inconsistent with this Act, for the conduct of meetings of the Committee.

(11.) At any meeting of the Committee the Chairman (or Acting Chairman) and two (or, in the case of the port of Newcastle, three) other members shall constitute a quorum.

(12.) All questions arising at any meeting of the Committee shall be decided by a majority of the votes of the members or deputies of members present at the meeting in person.

(13.) In the event of an equality of votes, the question shall be decided by the Chairman (or Acting Chairman) of the Committee and in that case the decision of the Chairman (or Acting Chairman) shall be deemed to be the decision of the Committee.

(14.) The Chairman and members and deputies of members of the Committee shall be paid such remuneration and allowances (if any) as the Minister determines.

**31.—**(1.) A Committee shall have, in relation to the port in respect of which it has been appointed, such powers of the Board as the Board assigns to it. Powers of Committee.

(2.) Where, under this Act, the exercise of any power by the Board is dependent upon the opinion of the Board in relation to any matter and that power is assigned under this section to a Committee, that power may be exercised by the Committee upon its opinion in relation to the matter.

(3.) An assignment of powers to a Committee under this Act shall be exercised subject to any conditions determined by the Board from time to time and every such assignment shall be revocable at will and no such assignment shall prevent the exercise of any power by the Board.

#### PART V.—JURISDICTION OF THE COURT.

**32.** Subject to this Part, the powers of the Court under this Part shall be exercised by a single Judge.

Jurisdiction of Court under this Part to be exercised by single Judge.

**33.—**(1.) The Court shall have power to prevent or settle, by conciliation or arbitration, industrial disputes, extending beyond the limits of any one State, in connexion with stevedoring operations.

Settlement of industrial disputes in connexion with stevedoring operations.

(2.) In the exercise of its powers under this section, the Court shall have power to make orders and awards.

Regulation of industrial matters in connexion with stevedoring operations.

34.—(1.) The Court shall have power to regulate industrial matters in connexion with stevedoring operations insofar as those operations relate to trade and commerce with other countries or among the States or are performed in a Territory of the Commonwealth, whether or not an industrial dispute extending beyond the limits of any one State exists in relation to those matters.

(2.) The Court shall have power to determine the terms and conditions in accordance with which, including the rates at which, the Board shall pay attendance money to waterside workers.

(3.) In the exercise of its powers under this section, the Court shall have power to make orders.

(4.) The Court may, either generally or in relation to any port, authorize any person to exercise any of the powers of the Court under this section.

(5.) Every such authority may be revoked by the Court at any time and no such authority shall prevent the exercise of any power by the Court.

(6.) The provisions of this Act relating to orders made by the Board shall apply to and in relation to orders made under this section.

Interpretation of orders, &c.

35. The Court shall have power to give an interpretation of—

- (a) an order or direction of the Board under this Act ;
- (b) an order or award of the Court under this Act ; or
- (c) an order or award of the Court under the *Commonwealth Conciliation and Arbitration Act 1904*, or under that Act as amended, applicable to the Federation.

Standard hours and basic wage.

36. In the exercise of its powers under this Part with respect to—

- (a) the standard hours of waterside workers ; and
- (b) the basic wage applicable to waterside workers and the principles upon which it is computed,

the Court shall have regard to the orders and awards of the Court with respect to those matters, in force under the *Commonwealth Conciliation and Arbitration Act 1904-1949*.

Limitation of jurisdiction of Court and Conciliation Commissioners.

37. Except as provided by this Part—

- (a) the Court or a Conciliation Commissioner shall not be empowered to make an order or award in relation to the salaries, wages, rates of pay or other terms or conditions of service or employment of waterside workers ; and
- (b) the Court shall not be empowered to give an interpretation of an order or award referred to in paragraph (b) or (c) of section thirty-five of this Act.

Limitation of powers of Court.

38. Nothing in this Part shall authorize the Court to determine or regulate the salaries, wages, rates of pay or other terms or conditions of service or employment of persons who are not waterside workers.

Reference to Full Court.

39.—(1.) A Judge exercising the powers of the Court under this Part may, if he thinks fit, refer any question of law arising in proceedings before him for the opinion of the Court constituted by not less than three Judges.

(2.) The Court so constituted shall hear and determine any question referred to it under the last preceding sub-section.

(3.) Notwithstanding the reference under sub-section (1.) of this section of a question of law for the opinion of the Court constituted by not less than three Judges, a Judge exercising the powers of the Court under this Part may make an order or award in relation to the matter in connexion with which the question arose.

(4.) Upon the determination by the Court constituted by not less than three Judges of a question of law referred to it under sub-section (1.) of this section, a Judge exercising the powers of the Court under this Part may make an order or award not inconsistent with the opinion of the Court so constituted, or may vary an existing order or award in such a way as will make it consistent with that opinion.

40. An order or award made by the Court under this Part shall have effect notwithstanding anything inconsistent therewith contained in an order or direction of the Board (whether made before or after the making of the order or award by the Court) and the order or direction of the Board shall, to the extent of the inconsistency, be inoperative.

Inconsistent orders and awards.

#### PART VI.—FINANCIAL PROVISIONS.

41. There shall be paid to the Board, out of the Consolidated Revenue Fund, which is hereby appropriated accordingly, such amounts as are equivalent to the amounts raised under the *Stevedoring Industry Charge Act 1947* after the commencement of this Act.

Payment of stevedoring industry charge to Board.

42.—(1.) The Board shall have power to borrow money on overdraft from the Commonwealth Bank of Australia upon the guarantee of the Treasurer.

Power of Board to borrow money.

(2.) The Treasurer may, for and on behalf of the Commonwealth, guarantee the repayment to the Commonwealth Bank of Australia of any loan (including interest thereon) made by that bank under this section.

(3.) The Treasurer may, out of moneys appropriated by the Parliament for the purposes of this Act, make advances to the Board of such amounts and upon such terms as he thinks fit.

(4.) Except with the consent of the Treasurer, the Board shall not have power to borrow otherwise than in accordance with this section.

43. The Board shall open and maintain an account or accounts with the Commonwealth Bank of Australia and may open and maintain an account or accounts with such other bank or banks as the Treasurer approves.

Board's bank accounts.



Application of Board's moneys.

44. Subject to any direction of the Minister, the moneys of the Board—

(a) shall be applied by the Board in payment—

(i) of the expenses, charges and other obligations incurred or undertaken by the Board in the exercise of its powers and the performance of its functions under this Act; and

(ii) of remuneration, salaries, fees and allowances under this Act; and

(b) may be invested on fixed deposit with the Commonwealth Bank of Australia or in securities of, or guaranteed by, the Government of the Commonwealth.

Reserves for depreciation, &c.

45. The Board may, with the approval of the Treasurer, set aside out of its revenue, such sums as it thinks proper as reserves for depreciation of assets, insurance or other purposes.

Accounts.

46. The Board shall keep accounts in such form as the Treasurer approves.

Audit.

47.—(1.) The accounts of the Board shall be subject to inspection and audit, at least once yearly, by the Auditor-General for the Commonwealth.

(2.) The Auditor-General shall report to the Minister the result of each inspection and audit.

Exemption from taxation.

48. The income, property and operations of the Board shall not be subject to income tax or land tax under any law of the Commonwealth, or to taxation under any law of a State to which the Commonwealth is not subject.

#### PART VII.—MISCELLANEOUS.

Powers of Court.

49. The Court shall, in relation to industrial disputes and other proceedings before it under this Act, have the same powers, duties and functions as the Court has under the *Commonwealth Conciliation and Arbitration Act 1904-1949* in relation to industrial disputes and other proceedings before it under that Act.

Application of certain provisions of Commonwealth Conciliation and Arbitration Act.

50.—(1.) The provisions of the *Commonwealth Conciliation and Arbitration Act 1904-1949* which apply to or in relation to judgments, orders and awards of the Court under that Act shall apply to and in relation to judgments, orders and awards of the Court under this Act (not being orders under section thirty-four of this Act).

(2.) The provisions of section twenty-seven of the *Commonwealth Conciliation and Arbitration Act 1904-1949* shall have effect as if the reference in that section to awards and proceedings under that Act included a reference to awards and proceedings under this Act.

(3.) The provisions of section forty-six of the *Commonwealth Conciliation and Arbitration Act 1904-1949* shall extend to proceedings before the Court under this Act.

51. The Board may intervene in any matter before the Court under this Act and may be represented in such manner as the Court allows.

Intervention  
by Board.

52. An order or direction of the Board shall not be challenged, appealed against, reviewed, quashed or called in question, or be subject to prohibition, mandamus or injunction, in any court on any account whatever.

Orders and  
directions of  
Board not to be  
challenged.

53.—(1.) The Board may require a person—

Furnishing of  
information.

- (a) to furnish to the Board such information as the Board requires, in such form as the Board requires; and
- (b) to attend to give evidence before the Board, or before such other person as the Board directs,

with respect to any matter to which this Act applies and may require that person to produce all books, documents and other papers whatever in his custody or control relating to any such matter.

(2.) The Board may require the information or evidence to be given on oath or affirmation and either orally or in writing, and for that purpose the Chairman of the Board may administer an oath.

(3.) A person shall not—

- (a) refuse or fail to comply with any requirement made in pursuance of this section; or
- (b) with intent to evade the provisions of this section, destroy, mutilate, deface, secrete or remove any book, document or other paper.

Penalty: Fifty pounds.

(4.) Where a person is obliged to answer a question orally by virtue of this section, he shall not refuse to answer the question on the ground that the answer might tend to incriminate him or make him liable to a penalty, but the answer given by him shall not be admissible in any proceedings against him, other than proceedings in respect of the falsity of the answer or in respect of his refusal or failure to answer.

54.—(1.) The Board shall, as soon as possible after the thirtieth day of June in each year, prepare and furnish to the Minister a report on the operations of the Board during the year ending on that date, together with financial accounts in respect of that year in such form as the Treasurer approves.

Annual report.

(2.) The report and financial accounts, accompanied by a certificate of the Auditor-General for the Commonwealth, shall be laid before each House of the Parliament within fifteen sitting days of that House after their receipt by the Minister.

55. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Regulations.