

Stevedoring Industry (Temporary Provisions)

No. 52 of 1970

An Act to amend the *Stevedoring Industry (Temporary Provisions) Act 1967–1968*.

[Assented to 24 June 1970]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

1.—(1.) This Act may be cited as the *Stevedoring Industry (Temporary Provisions) Act 1970*. Short title and citation.

(2.) The *Stevedoring Industry (Temporary Provisions) Act 1967–1968** is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Stevedoring Industry (Temporary Provisions) Act 1967–1970*.

2.—(1.) Subject to the next succeeding sub-section, this Act shall come into operation on the day on which it receives the Royal Assent. Commencement.

(2.) Paragraphs (a) and (c) of section 4 and sections 7 and 8 of this Act shall be deemed to have come into operation on the twenty-seventh day of November, One thousand nine hundred and sixty-seven.

3. Section 4 of the Principal Act is amended by omitting the words “One thousand nine hundred and seventy” and inserting in their stead the words “One thousand nine hundred and seventy-two”. Cessation of operation of Act.

4. Section 5 of the Principal Act is amended—

Definitions.

(a) by adding at the end of the definition of “annual leave” the words “or under a special agreement for weekly hiring”;

(b) by inserting after the definition of “class A waterside worker” the following definition:—

“ ‘member’ means a member of the Council;”;

(c) by omitting the definition of “special agreement for weekly hiring” and inserting in its stead the following definition:—

“ ‘special agreement for weekly hiring’, in relation to waterside workers, means a special agreement (including a special agreement that has been incorporated in an award of the

* Act No. 109, 1967, as amended by No. 146, 1968.

Commission) between the employer of the waterside workers and the Waterside Workers' Federation of Australia with respect to the employment, on a weekly hiring, of the waterside workers—

- (a) that was entered into, and under which waterside workers were employed, before the operative date; or
 - (b) that was entered into on or after the operative date and was, in the opinion of the Minister, intended by the parties to it to take the place of an agreement that was entered into, and under which waterside workers were employed, before the operative date;” and
- (d) by inserting after the definition of “ the Association ” the following definitions:—
- “ ‘ the Chairman ’ means the Chairman of the Council;
 - ‘ the Council ’ means the Stevedoring Industry Council;
 - ‘ the Director ’ means the person holding the office of Director under this Act;”.

5. After section 5 of the Principal Act the following section is inserted:—

Declaration of further special agreements.

“ 5A.—(1.) Where the Minister considers that the employment of waterside workers under a special agreement (including a special agreement that has been incorporated in an award of the Commission) between an employer of waterside workers and a Union with respect to the employment, on a weekly hiring, of the waterside workers (not being a special agreement for weekly hiring for the purposes of this Act) is in the interests of the efficiency of the stevedoring operations concerned and does not detrimentally affect the general arrangements for the employment of waterside workers, on a weekly hiring, at permanent ports, the Minister may, by instrument in writing, declare the special agreement—

- (a) to be, as from a date specified in the declaration, a special agreement for weekly hiring for the purposes of this Act; or
- (b) to be, and to be deemed to have been as from a date specified in the declaration (being a date earlier than the date of the declaration but not earlier than the date of commencement of this section), a special agreement for weekly hiring for the purposes of this Act.

“ (2.) A declaration under this section shall be notified in the *Gazette*.”.

6. After section 6 of the Principal Act the following sections are inserted:—

Constitution of Stevedoring Industry Authority.

“ 6A.—(1.) On the first day of July, One thousand nine hundred and seventy—

- (a) the Australian Stevedoring Industry Authority ceases to be constituted in accordance with sub-section (1.) of section 10 of the Stevedoring Industry Act; and

(b) each member of the Australian Stevedoring Industry Authority holding office immediately before that date ceases to hold office.

“(2.) On and after the first day of July, One thousand nine hundred and seventy, the Australian Stevedoring Industry Authority shall consist of a Director, who shall be appointed by the Governor-General.

“(3.) The corporate existence of the Australian Stevedoring Industry Authority is not affected by the change in its constitution made by this section.

“(4.) This section has effect notwithstanding any provision of the Stevedoring Industry Act.

“6B. The Director shall be appointed for such period, being a period ending before the date specified in section 4 of this Act, as the Governor-General specifies in the instrument of appointment, but is eligible for re-appointment. Period of appointment of Director.

“6C.—(1.) The Director shall be paid salary at such rate, and an annual allowance (if any) at such rate, as the Parliament provides, but until the first day of January, One thousand nine hundred and seventy-one, that salary and that allowance shall be as prescribed. Remuneration of Director.

“(2.) The Director shall be paid such other allowances as are prescribed.

“(3.) If the Director is a member of the Commission or is a Conciliator under the *Conciliation and Arbitration Act 1904–1969*, he is not entitled to receive any salary or allowances in respect of his office as a member of the Commission or as a Conciliator, but his holding of that office is not affected by reason of his holding office as the Director.

“6D. The Minister may grant leave of absence to the Director on such terms and conditions as to remuneration or otherwise as the Minister determines. Leave of absence of Director.

“6E.—(1.) The Governor-General may terminate the appointment of the Director for misbehaviour or physical or mental incapacity. Determination of appointment of Director, &c.

“(2.) If the Director—

- (a) engages in paid employment outside the duties of his office;
- (b) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit; or
- (c) is absent from duty, except on leave of absence granted by the Minister, for fourteen consecutive days or for twenty-eight days in any twelve months,

the Governor-General shall declare, by notice in the *Gazette*, that the appointment of the Director has ceased to have effect, and thereupon the office shall be deemed to be vacant.

“(3.) The Director may resign his office by writing under his hand addressed to the Governor-General.

“(4.) A resignation under this section does not have effect until accepted by the Governor-General.

Acting
Director.

“6F.—(1.) Where—

(a) there is a vacancy in the office of Director, whether or not an appointment has previously been made to the office; or

(b) the Director is, or is about to be, absent from Australia or is, for any reason, unable to perform the functions of his office,

the Minister may appoint—

(c) an officer of the Authority;

(d) an officer of the Public Service of the Commonwealth; or

(e) any other person,

to act as the Director until the filling of the vacancy or during the absence or inability.

“(2.) The Minister may, at any time, terminate the appointment of an acting Director.

“(3.) A person appointed to act as the Director until the filling of a vacancy in the office of Director shall not continue so to act after the expiration of three months from—

(a) the occurrence of the vacancy; or

(b) if an appointment has not previously been made to the office—the commencement of this section.

“(4.) An acting Director has all the powers and shall perform all the duties of the Director.

“(5.) An acting Director shall be paid salary and allowances at such rates (if any), not exceeding the rates applicable to the Director, as the Minister determines.

“(6.) The validity of an act done by a person appointed under this section shall not be questioned in any proceedings on the ground that the occasion for his appointment had not arisen or that the appointment had ceased to have effect.

Preservation
of rights.

“6G. Where the Director was, immediately before his appointment as Director, an officer of the Public Service of the Commonwealth, he retains his existing and accruing rights and, for the purpose of determining those rights, his service as the Director shall be taken into account as if it were service in the Public Service of the Commonwealth, and the *Officers' Rights Declaration Act 1928–1969* applies as if this Act and section had been specified in the Schedule to that Act.

“ 6H. A reference in—

- (a) the Stevedoring Industry Act;
- (b) the *Stevedoring Industry Charge Assessment Act 1947–1967*; or
- (c) the *Conciliation and Arbitration Act 1904–1969*,

Reference to
Chairman, &c.,
to be read as
reference to
Director.

to the Chairman of the Authority or to a member of the Authority shall be read as including a reference to the Director.

“ 6J.—(1.) For the purposes of this Act and of the Stevedoring Industry Act, there shall be a Stevedoring Industry Council.

Stevedoring
Industry
Council.

“ (2.) The functions of the Council are—

- (a) to advise the Minister—
 - (i) on the operation of arrangements for the employment of waterside workers at ports; and
 - (ii) on the adoption of new arrangements for the employment of waterside workers at ports other than permanent ports, and, for that purpose, to undertake any necessary inquiries;
- (b) to consider, and advise the Minister on, any matter in connexion with the stevedoring industry that the Minister refers to the Council for advice; and
- (c) to endeavour to secure amicable agreement on industrial questions within the meaning of Division 4 of Part III. of the *Conciliation and Arbitration Act 1904–1969*.

“ (3.) Where—

- (a) the Council proposes to give advice to the Minister; and
- (b) a member of the Council dissents from the proposed advice and furnishes to the Chairman or other person presiding at the meeting of the Council a statement of the dissenting opinion of the member,

the Council shall, when giving its advice to the Minister, furnish with the advice a copy of the statement of the dissenting opinion.

“ 6K.—(1.) The Council shall consist of—

- (a) the Chairman of the Council;
- (b) the person holding the office of, or acting as, the Director;
- (c) one member to represent the Australian Council of Trade Unions;
- (d) two members to represent the Waterside Workers' Federation of Australia;
- (e) three members to represent registered employers; and
- (f) one member to represent the Department of Labour and National Service.

Constitution
of Council.

“ (2.) A member of the Council (other than the member referred to in paragraph (b) of the last preceding sub-section) shall be appointed by the Minister.

“ (3.) The Council may, at any meeting, co-opt a person to be a member of the Council for the purpose of the consideration by the Council of a particular matter.

Deputies of members.

“ 6L.—(1.) A member (other than the Chairman) may, by instrument in writing, appoint a person to be his deputy at a meeting of the Council specified in the instrument.

“ (2.) A deputy of a member is entitled, in the event of the absence of the member from the meeting to which the appointment of the deputy relates, to attend that meeting and, when so attending, shall be deemed to be a member.

Meetings of the Council.

“ 6M.—(1.) The Council shall meet at such times, and in such places, as it determines.

“ (2.) The Chairman may, if at any time he thinks it necessary, and shall, if the Minister so requests, convene a meeting of the Council.

“ (3.) The Chairman shall preside at all meetings of the Council at which he is present.

“ (4.) In the event of the absence of the Chairman from a meeting of the Council, the member representing the Department of Labour and National Service shall preside at that meeting.

“ (5.) At a meeting of the Council—

- (a) a member representing the Waterside Workers' Federation of Australia;
- (b) a member representing registered employers; and
- (c) three other members of whom one is the Chairman or the member representing the Department of Labour and National Service, constitute a quorum.”

Payments by the Authority to the holding company or to another employer.

7. Section 7 of the Principal Act is amended—

- (a) by adding at the end of paragraph (a) the word “ and ”;
- (b) by omitting paragraphs (b), (c) and (d); and
- (c) by adding at the end thereof the following sub-section:—

“ (2.) Subject to any direction of the Minister, the Authority may make payments to the holding company or to an employer or former employer of waterside workers for the purpose of meeting the cost to the holding company or to the employer or former employer, as the case may be, of paying to a person who is or was a registered regular waterside worker employed on a weekly hiring—

- (a) an amount of wages in respect of a period of annual leave attributable to a period of casual employment as a waterside worker; or
- (b) an amount in lieu of annual leave attributable to a period of casual employment as a waterside worker.”

8. Section 7B of the Principal Act is amended by inserting before the word and figure "section 7" the words and figure "sub-section (1.) of "

Refund of part
of charge.

9. Section 8 of the Principal Act is amended by inserting in sub-section (1.), after the word " Act ", the words ", prescribing all matters required or permitted by this Act to be prescribed and "

Regulations.

10. Any payment by the Australian Stevedoring Industry Authority made on or after the twenty-seventh day of November, One thousand nine hundred and sixty-seven, and before the date on which this Act receives the Royal Assent that would have been validly made if this Act had been in force when the payment was made shall, by force of this section, be deemed to have been validly made.

Validation of
certain
payments.
