

(4) The Authority may appoint, discharge, and determine the wages or remuneration of, such workmen and servants as it may deem necessary to carry out the purposes of this Act subject to the provisions of any relevant industrial award or, where no such award is applicable, to the regulations under the *Public Works Construction Act 1880*, so far as they are applicable.

(5) Section eighty-three of the *Hobart Corporation Act 1947* does not apply to or in relation to any officer, clerk, or employee of the Council who is appointed as a member of the Authority, or as an officer, engineer, clerk, or other employee of the Authority.

Finance.
Ibid., s. 9.

9—(1) The costs and expenses incurred by the Authority under this Act shall be defrayed out of moneys provided in equal proportions by the Minister and the Council.

(2) All moneys required by virtue of this section to be paid to the Authority by the Minister shall be paid out of moneys provided by Parliament for the purpose.

Annual
report.
Ibid., s. 10.

10—(1) As soon as practicable after the thirty-first day of December in each year the Authority shall submit to the Minister a report on its operations under this Act during the preceding period of twelve months.

(2) The Minister shall cause a copy of each report submitted to him under subsection (1) of this section to be laid on the table of each House of Parliament within the first seven sitting days of the House after the report is received by the Minister.

STEVEDORING INDUSTRY LONG SERVICE LEAVE.

No. 74 of 1960.

AN ACT to provide for the granting of long service leave to certain persons employed in the stevedoring industry, and for matters incidental thereto. [19 December 1960.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

PART I.

PRELIMINARY.

Short title
and com-
mencement.

1—(1) This Act may be cited as the *Stevedoring Industry Long Service Leave Act 1960*.

(2) This Act shall commence on a date to be fixed by proclamation.

2—(1) In this Act, unless the contrary intention appears— Interpre-
tation.

- “A’ Class port” means a port specified in the schedule;
- “Chief Inspector” has the same meaning as it has for the purposes of the *Long Service Leave Act 1956*;
- “Commonwealth authority” means any authority constituted or established under the Commonwealth stevedoring legislation that has the function of registering persons under that legislation;
- “Commonwealth stevedoring legislation” means—
- (a) the National Security (Waterside Employment) Regulations, the National Security (Stevedoring Industry) Regulations, and the National Security (Shipping Co-ordination) Regulations made under the *National Security Act 1939-1946* of the Commonwealth and any regulations amending those regulations;
 - (b) the *Stevedoring Industry Act 1947* of the Commonwealth;
 - (c) the *Stevedoring Industry Act 1949* of the Commonwealth; and
 - (d) the *Stevedoring Industry Act 1956* of the Commonwealth;
- “employer” means a person who, for the purposes of the Commonwealth stevedoring legislation, is registered as an employer at a port in this State;
- “Fund” means the Stevedoring Industry Long Service Leave Fund;
- “industrial dispute” means a dispute in relation to any matter affecting or relating to the relations of employers and employees, or their respective rights, privileges, duties, or obligations;
- “long service leave” means long service leave under this Act;
- “long service leave charge” means the long service leave charge referred to in section four;
- “ordinary pay” has the meaning assigned to that expression by section eleven;
- “port” means a port within the meaning of the Commonwealth stevedoring legislation at which persons are or may be registered;
- “qualifying service” has the meaning assigned to that expression by section seven;
- “registered” means registered under the Commonwealth stevedoring legislation, whether at a port in this State or elsewhere;
- “registered waterside worker” means a person who, for the purposes of the Commonwealth stevedoring legislation, is registered as a waterside worker;

“ship” includes a 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 connection with the loading or unloading of ships or the handling or storage of cargo or other goods at or adjacent to a wharf;
- (e) haulage or trucking from ship to shed or shed to ship;
- (f) the removal or the replacing of the beams or hatches of a ship;
- (g) the handling of dunnage or ballast;
- (h) the preparing or cleaning of holds of ships; and
- (i) the preparation of gear for use in connection with the loading or unloading of ships;

“wharf” includes a pier and jetty, and any shed adjacent to a wharf;

“workers' compensation” means compensation payable under the *Workers' Compensation Act 1927* or a scheme in respect of which a certificate is in force under section twelve of that Act.

(2) For the purposes of this Act, the number of hours of the employment of any person by an employer during any period shall be deemed to be the number of complete hours within that period for which that person was paid or was entitled to be paid by that employer.

(3) For the purposes of subsection (2) of this section, the payment of a sum, or the entitlement to the payment of a sum, by way of attendance money shall be disregarded.

(4) References in this Act to an Act of the Commonwealth shall be construed as including references to any Act of the Commonwealth amending that Act or passed in substitution for that Act.

Stevedoring
Industry
Long Service
Leave Fund.

3—(1) There shall be established in the books of the Treasury a fund to be called the Stevedoring Industry Long Service Leave Fund.

(2) There shall be paid into the Fund—

- (a) all long service leave charges paid or recovered under this Act; and

(b) any other sums which, under this Act, are required to be paid into or repaid to the Fund.

(3) The Treasurer shall pay out of the Fund the sums that are required by this Act to be paid out of the Fund.

(4) The Treasurer may invest any moneys standing to the credit of the Fund in like manner as he may invest moneys standing to the credit of the Trust Fund established under the *Public Account Act 1957*.

4—(1) Where a registered waterside worker registered at a port in this State is employed by an employer, that employer is liable in accordance with this Act to pay a long service leave charge in respect of the employment by him of that registered waterside worker.

(2) A long service leave charge in respect of the employment of a registered waterside worker is the prescribed sum multiplied by the number of hours of that employment.

(3) For the purposes of this section, "prescribed sum" means the sum of threepence or such lesser sum as may, for the time being, be prescribed.

(4) Subject to this section, where a person becomes liable under this Part to pay a long service leave charge in respect of any employment he shall pay that charge within the time within which he is required by section five to furnish a return in respect of that employment.

(5) The Chief Inspector may, in a case in which he considers it reasonable so to do, extend the time within which a long service leave charge is required to be paid or permit the charge to be paid by instalments of such amounts and at such times as he may determine.

(6) Any long service leave charge that becomes due under this Act shall be deemed to be a debt due to the Crown and shall be payable and paid to the Treasurer.

5—(1) An employer shall, within fourteen days after the end of each month, furnish to the Chief Inspector a return, in the prescribed form or, if no form is prescribed, in such form as the Chief Inspector may approve, of the hours of the employment by him of registered waterside workers registered at ports in this State during each pay period ending in that month, together with such other particulars as may be specified in the form.

Returns in respect of employment of waterside workers.

Penalty: Twenty pounds.

(2) Upon conviction of a person of an offence under subsection (1) of this section in respect of any pay periods, the court may order him to furnish to the Chief Inspector such a return as is referred to in that subsection in respect of those periods within such time as may be specified in the order.

(3) A person who fails to comply with an order made under subsection (2) of this section is guilty of an offence, and liable to a penalty of one hundred pounds, and to a further penalty of twenty pounds for each day following the expiration of the period specified in the order until the return required to be furnished by the order is so furnished.

Avoidance of
long service
leave charge.

6—(1) A person who wilfully avoids or attempts to avoid the payment of any long service leave charge is guilty of an offence.

Penalty: One hundred pounds.

(2) A court on convicting a person of an offence under this section may, in addition to or in lieu of imposing any penalty, order him to pay to the Treasurer such sum as the court may determine, not exceeding the amount of the long service leave charge of which the court considers he has avoided payment.

(3) Any sum paid to, or recovered by, the Treasurer under an order made under subsection (2) of this section shall be paid by him into the Fund, and, to the extent of its amount, shall be deemed to discharge the liability of the person against whom the order was made to pay the long service leave charge for the avoidance of the payment of which he has been convicted.

(4) Subject to subsection (3) of this section, the conviction of any person for an offence under this section or the imposition or payment of any penalty under this section does not relieve any person from liability for the payment of any long service leave charge.

Qualifying
service for
long service
leave.

7—(1) For the purposes of this Act, in relation to any long service leave, the qualifying service of any person means a period (whether commencing before or after the commencement of this Act) throughout which he has been continuously registered as a waterside worker.

(2) For the purposes of subsection (1) of this section, the registration of a person as a waterside worker shall be deemed to be continuous notwithstanding any interruption in that registration—

- (a) that does not exceed two months in duration;
- (b) that arises from an illness, injury, or disability of such a nature as to render him incapable of properly carrying out stevedoring operations; or
- (c) that arises from an industrial dispute, if he returns to, or offers himself for, employment in stevedoring operations in accordance with the terms of settlement of the dispute,

unless in respect of the cessation of his registration that commenced that interruption a certificate has been granted to him under section eight.

(3) Where after the cessation of his registration a person dies—

- (a) the period of qualifying service subsisting immediately before the cessation of that registration shall be deemed to have continued until, and to have been terminated by reason of, his death; and
- (b) he shall for the purposes of this Act other than for the purpose of determining the length of a period of qualifying service be deemed to have been registered immediately before his death at the port at which he was last registered before his death,

unless, if he had lived, no subsequent registration of his could have been treated, for the purposes of subsection (1) of this section, as continuous with the registration that has ceased.

(4) In determining, for the purposes of this Act the length of the qualifying service of a registered waterside worker the following days and other periods shall be disregarded:—

- (a) Any day or other period during which he was not a registered waterside worker registered at an "A" Class port;
- (b) Any day or other period on or during which he failed to comply with any direction made, or any obligation or duty imposed on him, under a law of the Commonwealth requiring him to offer himself for, or to undertake, any stevedoring operations; and
- (c) Any day or other period on or during which he failed to attend for employment in stevedoring operations by reason of illness, injury, or disability.

(5) Where a registered waterside worker has attained the age of seventy years so much of his qualifying service as occurs after he attains that age (other than any part thereof that occurs before the second day of April 1970) shall be disregarded for the purpose of determining the length of that qualifying service.

(6) For the purposes of this section, where a person serves or has served as a member of the naval, military, or air forces of the Commonwealth (otherwise than as a member of the permanent force) for any period and was before the commencement of that period a registered waterside worker he shall, if, after the expiration of that period, he again becomes a registered waterside worker, be deemed throughout that period to have been a registered waterside worker registered at the port at which he was last registered before the commencement of that period.

8—(1) A registered waterside worker is entitled under this Act on the completion of the first twenty years of any qualifying service to thirteen weeks' long service leave and on the completion of each subsequent period of ten years of that qualifying service to a further six and a half weeks' long service leave.

Entitlement
to long service
leave.

(2) Where a person ceases to be a registered waterside worker and the Chief Inspector, on his application, certifies, having regard to the reasons for which and the circumstances in which, he ceased to be so registered, that his ceasing to be so registered—

(a) arose on account of such an illness, incapacity, or disability as renders him permanently incapable or likely to be permanently incapable of properly carrying out stevedoring operations; or

(b) arose from a request made by him to the Commonwealth authority on account of pressing necessity, not arising from any misconduct on his part in connection with his obligations or duties as a registered waterside worker, of such a nature as to justify the making of that request,

he shall, in addition to any entitlement under subsection (1) of this section, be deemed to have been entitled immediately before he ceased to be so registered to a period of long service leave calculated in accordance with subsection (4) of this section.

(3) Where the qualifying service of any person terminates by reason of his death, he shall be deemed in addition to any entitlement under subsection (1) of this section to have been entitled immediately before his death to a period of long service leave determined in accordance with subsection (4) of this section.

(4) The period of long service leave to which a registered waterside worker is deemed to have been entitled under subsection (2) or subsection (3) of this section in respect of any qualifying service is—

(a) if the period of that qualifying service is less than twenty years but not less than fifteen years, one-eightieth of that period; or

(b) if the period of that qualifying service is longer than twenty years, one-eightieth of so much of that period as has elapsed since he last became entitled to a period of long service leave under subsection (1) of this section in respect of that qualifying service.

Making of
long service
leave.

9—(1) Where a registered waterside worker, registered at an "A" Class port, is entitled to a period of long service leave the Chief Inspector shall, on his application, determine the period during which that long service leave may be taken.

(2) In making a determination under this section, the Chief Inspector shall have regard to the labour requirements of the port at which the applicant for the determination is registered, but, subject thereto, shall endeavour to secure that the determination authorizes the applicant to take the long service leave to which he is entitled as early as practicable after the application for the determination is made or at such later date as he may agree.

(3) A determination under this section shall be so made as to authorize the long service leave to which the applicant for the determination is entitled at the time at which it is made to be taken in one complete period or, if the applicant agrees, in two separate periods.

(4) No determination under this section shall authorize any long service leave to be taken so as to commence from a date before the expiration of a period of three years from the commencement of this Act.

(5) Before making a determination under this section, the Chief Inspector shall consult with the Commonwealth authority.

(6) A determination under this section as to the period during which any long service leave to which any person is entitled may be taken ceases to be of any effect if, before the commencement of that period, he ceases to be a registered waterside worker registered at an "A" Class port.

(7) Where a determination has been made under this section as to the period during which any long service leave to which a registered waterside worker is entitled may be taken, he shall at the end of that period be deemed to have taken all that leave, except so much thereof as is equivalent in length to the number of days during that period in respect of which he receives no payment under section ten, being days—

- (a) on which by virtue of any direction given to him, or any duty or obligation imposed on him under a law of the Commonwealth he is required to be employed in any stevedoring operations or to offer himself for employment in any such operations; or
- (b) in respect of which he is paid, or is entitled to be paid, any sum by way of workers' compensation and in which he is unable to work in stevedoring operations by reason of the injury or disablement in respect of which he was entitled to that workers' compensation.

(8) Where a person has received any sum under section ten in respect of any day and within one month, or such longer period as the Chief Inspector may allow, of receiving that sum repays it to the Fund he shall be deemed, for the purposes of this section, not to have received that sum in respect of that day.

10—(1) Where the period within which a registered waterside worker may take any long service leave has been determined under this Act he shall, subject to this section, be paid out of the Fund his ordinary pay for that period.

Payments in respect of long service leave.

(2) Except as may otherwise be agreed between the Chief Inspector and the registered waterside worker any sum due to him under subsection (1) of this section in respect of any period of long service leave shall be paid in weekly instalments of, so far as is practicable, equal amounts throughout that period of that long service leave.

(3) Where the qualifying service of any person terminates (otherwise than by reason of his death) as a result of his ceasing to be registered at an "A" Class port, he shall be paid out of the Fund his ordinary pay for the period commencing on the day following that on which he so ceased to be registered and equivalent in length to the length of the period of the long service leave to which he was entitled immediately before he so ceased to be registered, less any sum that has already been paid to him out of the Fund in respect of that long service leave.

(4) Notwithstanding anything in this section, no person is entitled to the payment of any sum under this section in respect of any day or other period in which he is employed in stevedoring operations or in respect of which he receives any payment from a Commonwealth authority or any employer by virtue of his being a registered waterside worker or of his offering himself for employment in any stevedoring operations, and if he has received payment of any such sum under this section he shall repay that sum to the Fund.

(5) Where the qualifying service of any person terminates by reason of his death and immediately before his death he was registered as a registered waterside worker at an "A" Class port, his legal personal representative shall be paid from the Fund his ordinary pay for the period commencing on the day following the day of his death and equivalent in length to the length of the period of the long service leave to which he was entitled immediately before his death, less any sum that has already been paid to him from the Fund in respect of that leave.

(6) Any sum required under this section to be repaid to the Fund shall be deemed to be a debt due to the Crown and is payable and shall be paid to the Treasurer.

Ordinary pay. **11**—(1) For the purposes of this Act, the ordinary pay of a person for any period shall be deemed to be that which would have been due to him in respect of that period if throughout that period he had been entitled to be paid at a weekly rate equivalent to the average weekly wages that at the commencement of the period are declared by an order of the Minister to be the average weekly wages of waterside workers at "A" Class ports.

(2) The Minister shall not make an order under this section declaring to be the average weekly wages of waterside workers at "A" Class ports an amount that exceeds the amount that appears to him, from consideration of the assessments made in the last published report of the Commonwealth authority,

to be the average over the period of twelve months to which the report relates of the weekly earnings of waterside workers in respect of stevedoring operations carried out by them at "A" Class ports, exclusive of any sums paid by way of attendance money, or in respect of absence from work on account of illness or injury or on any day that is recognized as a holiday for waterside workers.

(4) An order under this section may be revoked by a subsequent order of the Minister.

(5) An order under this section shall have effect from such date as may be specified in the order and if the order is expressed to be made following the publication of a report of the Commonwealth authority that date may be a date before the making of the order not being a date earlier than the publication of the report.

(6) For the purposes of this section, a report of the Commonwealth authority shall be deemed to be published on the date on which a copy of the report is laid before either House of the Parliament of the Commonwealth.

(7) An order under this section is a statutory rule within the meaning of the *Rules Publication Act 1953*.

(8) For the purpose of determining the ordinary pay of a person for a period commencing after his death, references in this section to the commencement of that period shall be construed as references to the date of his death.

12—(1) The Chief Inspector may, on the application of a person who is or was a registered waterside worker, or of a legal personal representative of such a person, or where it is necessary so to do for the purposes of this Act, determine—

Determina-
tion of
entitlement
to long service
leave, &c.

- (a) whether that person is or was entitled to any long service leave under this Act;
- (b) the length of any qualifying service completed by him at any date; and
- (c) the length of any long service leave to which he is or was entitled under this Act.

(2) The Chief Inspector shall notify any determination made by him under this section to such persons as may be prescribed.

13—(1) A person who is aggrieved by—

Appeals

- (a) the refusal of the Chief Inspector to grant a certificate for the purposes of subsection (2) of section eight; or
- (b) a determination of the Chief Inspector under section nine or section twelve,

may appeal to a police magistrate.

(2) On hearing an appeal under this section, the police magistrate, unless he dismisses the appeal, may—

- (a) in respect of an appeal under paragraph (a) of subsection (1) of this section, issue such a

certificate as the Chief Inspector could have granted; and

- (b) in respect of an appeal under paragraph (b) of subsection (1) of this section, vary the determination made by the Chief Inspector,

and a certificate granted by a police magistrate under this section has the like effect as a certificate granted by the Chief Inspector, and any determination made by the Chief Inspector has effect as varied under this section.

(3) The decision of a police magistrate on the hearing of an appeal under this section is final.

Offences in
respect of
long service
leave.

14 No person shall, for the purpose of obtaining any long service leave under this Act for himself or any other person or of obtaining payment of any sum under this Act (whether for himself or some other person) make any representation that he knows to be false or misleading or does not believe to be true.

Penalty: One hundred pounds.

Supple-
mentary
provisions as
to offences.

15—(1) Notwithstanding anything in the *Justices Procedure Act* 1919, proceedings in respect of an offence committed or alleged to have been committed against this Act may be commenced at any time within one year after the cause of complaint arose.

(2) Proceedings in respect of an offence committed or alleged to have been committed against this Act shall be heard and determined by a police magistrate sitting alone.

Regulations.

16—(1) The Governor may make regulations—

- (a) regulating or prescribing the manner in which determinations may, or are to be, made under section nine or section twelve;
- (b) regulating the bringing and hearing of appeals under section thirteen; and
- (c) prescribing any matter or thing which is authorized or required to be prescribed for the purposes of this Act.

(2) Regulations made under this section may impose penalties, not exceeding twenty pounds, for offences against the regulations.

Consequential
amendments.

17 Section three of the *Long Service Leave Act* 1956 is amended—

- (a) by omitting from paragraph (b) the word “or” (second occurring); and
- (b) by adding at the end thereof the following paragraph:—

“; or

“(d) is entitled to long service leave under the *Stevedoring Industry Long Service Leave Act* 1960.”.

THE SCHEDULE.

(Section 2.)

Beauty Point.

Burnie.

Devonport.

Hobart.

King Island.

Launceston.

Strahan.

LANDS RESUMPTION.

No. 75 of 1960.

AN ACT to amend the *Lands Resumption Act*
1957. [19 December 1960.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—(1) This Act may be cited as the *Lands Resumption Act* 1960. Short title and citation.

(2) The *Lands Resumption Act* 1957, as subsequently amended, is in this Act referred to as the Principal Act.

2 Section twenty of the Principal Act is amended by inserting the following subsection after subsection (1):—

“(1A) Vendors of lands purchased by the Minister under this section may convey the lands without being required to lodge a plan of subdivision with, or obtain the approval or permission of, any local or planning authority.”.

Power to purchase lands by agreement. Cf. No. 25 of 1959, s. 3.