

# Stevedoring Industry

No. 77 of 1966

An Act to amend the *Stevedoring Industry Act* 1956–1965 in relation to Long Service Leave for Waterside Workers, and in relation to Decimal Currency.

[Assented to 29 October 1966]

**B**E 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 Act* 1966. Short title and citation.

(2.) The *Stevedoring Industry Act* 1956–1965\* 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 Act* 1956–1966.

2. This Act shall come into operation on the day on which it receives the Royal Assent. Commencement.

3. Section 3 of the Principal Act is amended by omitting the words— Parts.

“ Part IIIA.—Long Service Leave (Sections 45A–45N).”  
and inserting in their stead the words—

“ Part IIIA.—Long Service Leave (Sections 45A–45P).”

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\* Act No. 53, 1956 as amended by No. 93, 1957; No. 39, 1961; No. 66, 1962; and No. 66, 1965.

4. Part IIIA. of the Principal Act is repealed and the following Part inserted in its stead:—

“ PART IIIA.—LONG SERVICE LEAVE.

Definitions.

“ 45A. In this Part, unless the contrary intention appears—

‘ base period ’ means—

(a) in relation to a continuous port—the period of a fortnight commencing on the third day of January, One thousand nine hundred and sixty-six, and each successive period of a fortnight;

(b) in relation to a seasonal port—

(i) any period of a fortnight referred to in the last preceding paragraph that is included in a period that is an operational period in relation to the port; and

(ii) each period that begins on the first day of a period that is a non-operational period in relation to the port and ends on a day included in that non-operational period that is the twelfth port operating day in relation to the port after the commencement of that non-operational period, and each successive period included in that non-operational period that contains twelve such days; and

(c) in relation to a port that is not a continuous port and is not a seasonal port—the period commencing on the first day of January, One thousand nine hundred and sixty-six, and ending on the day that is the twelfth port operating day in relation to the port after that date, and each successive period that contains twelve such days;

‘ 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, as in force at any time under the *National Security Act 1939–1940* or that Act as amended, or under any other Act;

- (b) the *Stevedoring Industry Act 1947* or that Act as amended;
- (c) the *Stevedoring Industry Act 1949* or that Act as amended; or
- (d) the *Stevedoring Industry Act 1956* or that Act as amended;

- ‘long service leave scheme for employees’ means a scheme providing for long service leave for employees, whether provided by or under a law of a State or a Territory of the Commonwealth or by agreement or in any other way, but does not include a long service leave scheme provided by the *Stevedoring Industry Act 1956–1961* or that Act as amended;
- ‘non-operational period’, in relation to a seasonal port, means a period commencing on or after the first day of January, One thousand nine hundred and sixty-six, and immediately after the expiration of an operational period in relation to the port and ending immediately before the commencement of the next succeeding operational period in relation to the port and, if the first day of January, One thousand nine hundred and sixty-six, is not included in an operational period in relation to the port, includes the period commencing on that day and ending immediately before the commencement of the first period after that date that is an operational period in relation to the port;
- ‘operational period’, in relation to a seasonal port, means a period declared by the Authority under section forty-five B of this Act to be an operational period in relation to the port, and includes any period specified in a declaration made in relation to the port by the Authority, before the commencement of the *Stevedoring Industry Act 1966*, under sub-section (2.) of section forty-five B of the *Stevedoring Industry Act 1956–1961* or that Act as amended;
- ‘permanent waterside worker’ means a registered waterside worker employed on weekly hiring as a waterside worker in stevedoring operations;
- ‘port operating day’, in relation to a port, means a day on which stevedoring operations were carried on, or waterside workers were required to attend or make themselves available for employment, at the port;
- ‘qualifying day’, in relation to a person, means a day (other than a Sunday) included in a period of qualifying service of the person, being—
  - (a) a day on which the person was employed as a waterside worker;

- (b) a day in respect of which the person was paid attendance money, or in respect of which he would, but for a suspension of his entitlement to attendance money, have become entitled to attendance money;
- (c) a day that—
- (i) was a public holiday for the purposes of an award of the Commission applicable to the person;
  - (ii) was, or preceded or succeeded by not more than seven days a day that was, a port operating day in relation to the port at which the person was registered; and
  - (iii) was, in the case of a day before the first day of January, One thousand nine hundred and sixty-six, a day that was a qualifying day in relation to the person for the purposes of section forty-five C of the *Stevedoring Industry Act 1956–1965*;
- (d) a day on which the person was on—
- (i) annual leave;
  - (ii) long service leave under this Act, not being long service leave to which he became entitled under sub-section (3.) of section forty-five D of the *Stevedoring Industry Act 1956–1961* or that Act as amended and in force at any time before the commencement of the *Stevedoring Industry Act 1966*; or
  - (iii) long service leave under a long service leave scheme for employees;
- (e) a day—
- (i) on which the person was on sick leave with pay;
  - (ii) on which, after the commencement of the *Stevedoring Industry Act 1962*, the person was on sick leave that was granted by the Authority and was certified by a medical practitioner as being necessary on account of an illness or injury; or
  - (iii) on which the person was incapacitated by reason of an injury or illness in respect of which he was paid compensation under a law of the Commonwealth or of a State or Territory of the

Commonwealth relating to the payment of compensation to employees by virtue of the application of that law in relation to his employment as a waterside worker,

being—

- (iv) in the case of a day before the first day of January, One thousand nine hundred and sixty-six—a day that was a qualifying day in relation to the person for the purposes of section forty-five c of the *Stevedoring Industry Act 1956–1965*; or
  - (v) in the case of a day after the thirty-first day of December, One thousand nine hundred and sixty-five—a day that was a port operating day in relation to the port at which the person was registered and, if the person was on that day a registered irregular waterside worker, is certified by the Authority in writing to be a day on which he could reasonably have been expected to be called upon to work, or to attend for employment, as a waterside worker;
- (f) a day after the thirty-first day of December, One thousand nine hundred and sixty-five, that followed the completion of a period of not less than seven consecutive days during which the person was employed as a waterside worker, and is a day, or a day included in a number of days, in respect of which the Authority, having regard to the person's need to recuperate after that period of employment, has excused him from the requirement to attend or to make himself available for employment as a waterside worker;
- (g) a day after the thirty-first day of December, One thousand nine hundred and sixty-five, in respect of which the Authority has excused the person from attending or making himself available for employment as a waterside worker so as to permit him to attend as a juror or a witness at a court or tribunal or at proceedings relating to an inquiry or appeal under this Act;

- (h) a day included in any period during which the person has served as a member of the Defence Force or, if immediately before the commencement of the period he was not included in a class of registered waterside workers required to attend or make themselves available for employment as waterside workers from day to day throughout the year, in such part of that period as the Authority (acting in accordance with principles, if any, specified by the Minister) has, by instrument in writing, determined;
- (i) where the person has, after the commencement of the *Stevedoring Industry Act* 1962, made a journey from a port at which he was registered to another port for the purpose of becoming registered at that other port and, in the opinion of the Authority, his registration at that other port was in the interests of the stevedoring industry—a day included in such period as is approved by the Authority as being reasonably necessary for the journey;
- (j) where the cancellation, or a period of suspension, of the registration of the person as a waterside worker has been set aside or varied by the Authority or by the Commission after the thirty-first day of December, One thousand nine hundred and sixty-five—a day after that date—
- (i) included in the period commencing on the date of cancellation of the registration of the person and ending on the day on which the cancellation was set aside but, where there was substituted for the cancellation a period of suspension of registration, not included in that period of suspension; or
- (ii) included in the first-mentioned period of suspension but, where that period was varied, not included in that period as so varied,
- being a day that was a port operating day in relation to the port at which the person was registered; or

- (k) a day, being a Saturday, included in—
- (i) a period during which the person was registered as a registered regular waterside worker at a continuous port; or
  - (ii) a period during which the person was registered as a registered regular waterside worker at a seasonal port and which is, or is included in, a period that is an operational period in relation to the port;

‘ weekly hiring ’ includes a hiring for a period longer than one week.

“ 45B. Where the Authority is satisfied that registered regular waterside workers registered at a seasonal port were, throughout a particular period, required to attend or make themselves available for employment from day to day, the Authority shall, by notice published in the *Gazette*, declare that that period is, for the purposes of this Part, an operational period in relation to that port.

Declaration of operational periods in relation to seasonal ports.

“ 45C.—(1.) Subject to this section, any period during which a person has been continuously registered as a waterside worker under Commonwealth stevedoring legislation (whether at the same port or not) is, for the purposes of this Part, a period of qualifying service.

Qualifying service for long service leave.

“ (2.) A period of a kind specified in a paragraph of this subsection shall not be treated as a period of qualifying service of a person for the purposes of this Part:—

- (a) any day on which the person was dismissed from his employment for misconduct or failed to comply with—
  - (i) a provision of Commonwealth stevedoring legislation or an award, order or direction made or given under that legislation;
  - (ii) an award or order of the Commonwealth Court of Conciliation and Arbitration; or
  - (iii) an award of the Commission, except where, as a consequence of that misconduct or failure—
    - (iv) his qualifying service is reduced by the operation of section fifty-two A of this Act; or
    - (v) his registration was suspended under Commonwealth stevedoring legislation;

- (b) any day on which, or any period during which, the registration of the person as a waterside worker was suspended;
- (c) any period during which the person was unavailable for employment as a waterside worker, whether with or without the permission of the Authority or any Board or Commission constituted under Commonwealth stevedoring legislation, except any day during that period that is—
  - (i) a day that falls within paragraph (d), (f), (g) or (i) of the definition of 'qualifying day' in section forty-five A of this Act;
  - (ii) a day that falls within paragraph (e) of that definition or would fall within that paragraph if sub-paragraphs (iv) and (v) of that paragraph were omitted;
  - (iii) a day that falls within paragraph (h) of that definition or would fall within that paragraph if the words in that paragraph after the words 'Defence Force' were omitted;
  - (iv) a day that falls within paragraph (j) of that definition or would fall within that definition if the words in that paragraph after sub-paragraph (ii) of that paragraph were omitted; or
  - (v) a Sunday that is immediately preceded and followed by a day to which a preceding sub-paragraph of this paragraph applies; and
- (d) any day after the person has attained the age of seventy years, not being—
  - (i) a day before the commencement of the *Stevedoring Industry Act 1961*; or
  - (ii) a day after the commencement of that Act and before the commencement of the *Stevedoring Industry Act 1962* on which the person was registered at a port other than a continuous port or a seasonal port.

“(3.) For the purposes of this Part, the period of qualifying service of a person is, unless the contrary intention appears, the aggregate of the periods that—

- (a) are periods of qualifying service of the person as determined in accordance with the last two preceding subsections; and



- (b) are included in the period during which the person has been continuously registered, or, by virtue of the next succeeding sub-section, is to be treated as having been continuously registered, as a waterside worker under Commonwealth stevedoring legislation.

“(4.) For the purposes of paragraph (b) of the last preceding sub-section, a person shall be deemed not to have ceased to be continuously registered as a waterside worker under Commonwealth stevedoring legislation by reason of—

- (a) a break in the continuity of his registration not exceeding a continuous period of two months, irrespective of the cause of that break;
- (b) a break in the continuity of his registration due to illness or injury that rendered him incapable of carrying out the duties of a waterside worker;
- (c) a break in the continuity of his registration caused by the suspension of his registration;
- (d) a break in the continuity of his registration caused by the cancellation of his registration at a port under sub-section (1.) of section thirty-two of this Act if he was subsequently registered at that port under sub-section (5.) of that section;
- (e) a break in the continuity of his registration caused by the cancellation of his registration if the Authority is satisfied that—
  - (i) the cancellation was the result of his becoming, or intending to become, a member of the Sydney Waterfront First Aid Service;
  - (ii) he was or is subsequently registered as a waterside worker under this Act; and
  - (iii) he was during the whole, or substantially the whole, of the period between the cancellation referred to in sub-paragraph (i) of this paragraph and the subsequent registration referred to in the last preceding sub-paragraph a member of the Sydney Waterfront First Aid Service; or
- (f) a break in the continuity of his registration that occurred before the commencement of the *Stevedoring Industry Act 1961* if the Authority certifies in writing, for the purposes of this paragraph, that it is satisfied that—
  - (i) the cancellation was for the purpose of relieving him temporarily from his obligations as a registered waterside worker and was in the interests of the stevedoring industry or

otherwise in the public interest and the break did not extend beyond a period that, having regard to the circumstances of the cancellation, was reasonable; or

- (ii) the person could, if he had remained registered during the break, reasonably have been excused from attending or making himself available for employment as a waterside worker.

“ (5.) The last preceding sub-section does not apply in relation to a break in the continuity of the registration of a person if the Authority has given a certificate for the purposes of sub-section (2.) of section forty-five D of the *Stevedoring Industry Act* 1956–1961 or that Act as amended and in force at any time before the commencement of the *Stevedoring Industry Act* 1966, or for the purposes of sub-section (2.) of the next succeeding section, in respect of the cessation of his registration that caused the break.

“ (6.) Subject to the next succeeding sub-section, where a person—

- (a) has served as a member of the Defence Force for any period; and
- (b) was, before the commencement of that period, registered as a waterside worker under Commonwealth stevedoring legislation,

he shall, if he has again become so registered after the expiration of that period, be deemed, for the purposes of this Part, to have been during that period so registered at the port at which he was last so registered before the commencement of that period.

“ (7.) The last preceding sub-section does not apply in relation to a period of service of a person in the Permanent Naval, Military or Air Forces of the Commonwealth unless that period was—

- (a) a period of service before the thirtieth day of June, One thousand nine hundred and forty-nine; or
- (b) a period of service in the portion of the Permanent Military Forces raised or maintained for service in Korea or Malaya in pursuance of an enlistment for a period not exceeding three years on or after the twenty-sixth day of June, One thousand nine hundred and fifty.

“ (8.) Where—

- (a) the Authority certifies in writing, for the purposes of this sub-section, that it is satisfied that a person who has served as a member of the Defence Force for any

period was, immediately before the commencement of that period, following the calling of a waterside worker at a port; and

- (b) a register of waterside workers had not been established at the port under Commonwealth stevedoring legislation before the commencement of that period but, during that period, such a register was established,

then, for the purposes of sub-section (6.) of this section, the period shall be deemed to have commenced on the day on which the register was established and the person shall be deemed to have been, immediately before that day, registered at the port as a waterside worker under Commonwealth stevedoring legislation.

“(9.) A person who, during any period included in the period that commenced on the twenty-first day of March, One thousand nine hundred and forty-four, and ended on the thirty-first day of August, One thousand nine hundred and forty-eight, was not registered as a waterside worker but was a member of the Sydney Crane and Auto Truck Branch, or the Sydney Mechanical Branch, of the Waterside Workers’ Federation of Australia and was employed as a waterside worker in stevedoring operations at the port of Sydney shall, for the purposes of this Part, be deemed to have been registered as a waterside worker at the port of Sydney during that first-mentioned period.

“(10.) Where a person dies after he has ceased to be a registered waterside worker, he shall, for the purposes of this Part other than for the purpose of determining the period of his qualifying service, be deemed to have continued to be registered until his death, at the port at which he was last registered, unless, if he had not died, no subsequent registration of him could have been treated, for the purposes of this Part, as having been continuous with the registration that has ceased.

“(11.) Where—

- (a) the registration of a person as a waterside worker was, before the commencement of the *Stevedoring Industry Act 1962*, cancelled on his becoming an officer or other official of a Union; and
- (b) the person—
  - (i) had not ceased to be an officer or official of the Union before the commencement of that Act; or
  - (ii) had ceased to be an officer or official of the Union before the commencement of that Act and, on so ceasing, had again been registered as a waterside worker,

he shall, for the purposes of this Part, be deemed to have been registered as a waterside worker during the period commencing at the time when he became an officer or official of the Union and ending at the commencement of that Act or at the time when he ceased to be an officer or official of the Union, whichever first occurred.

Entitlement to  
long service  
leave.

“ 45D.—(1.) A registered waterside worker is entitled—

- (a) after the completion of a period of fifteen years' qualifying service—to long service leave in respect of that period of qualifying service; and
- (b) after the completion of each subsequent period of ten years' qualifying service—to additional long service leave in respect of each such subsequent period of qualifying service.

“ (2.) Subject to the next succeeding section, where—

- (a) a person whose period of qualifying service is more than fifteen years ceases to be a registered waterside worker by reason of his registration being cancelled at his own request;
- (b) a person whose period of qualifying service is ten years or more ceases to be a registered waterside worker and the Authority, on the application of that person, certifies in writing that his ceasing to be so registered—
  - (i) arose from such an illness, incapacity or disability as rendered him permanently incapable, or likely to be permanently incapable, of properly carrying out the duties of a waterside worker or as rendered him a danger to others;
  - (ii) arose from a request to cancel his registration made by him on account of domestic or other pressing necessity of such a nature as to justify the making of that request;
  - (iii) arose from a request to cancel his registration made by him after he attained the age of sixty-five years or, if he is a person eligible for service pension, sixty years; or
  - (iv) arose from the cancellation of his registration under section thirty-two of this Act;
- (c) a person whose period of qualifying service is ten years or more ceases to be a registered waterside worker by reason of his registration being cancelled at his own request and the Authority, on the application of that person, certifies in writing that it is satisfied that he will continue to be employed in or in connexion with

the stevedoring industry and that the cancellation of his registration is in the interests of the stevedoring industry; or

(d) a person, being a registered waterside worker whose period of qualifying service is ten years or more, dies, he shall be deemed to have been entitled, immediately before he ceased to be so registered or died, as the case may be, to long service leave—

(e) if he had become entitled to long service leave under this Act before ceasing to be so registered or dying—in respect of that part of his qualifying service that commenced immediately after he became, or last became, so entitled; or

(f) in any other case—in respect of the period of his qualifying service.

“(3.) The long service leave to which a person is entitled under this section in respect of a period of qualifying service is a number of days equal to the sum of—

(a) one-eightieth of the number of qualifying days of the person included in so much of the period of that qualifying service as occurred before the first day of January, One thousand nine hundred and sixty-six;

(b) one-sixtieth of the number of qualifying days of the person included in the remainder of that period of qualifying service; and

(c) one twenty-sixth of a number of days equal to the number of periods included in that period of qualifying service that are base periods in relation to the port at which he was from time to time registered as a waterside worker, other than any such base period that includes a day (other than a Sunday) that was a port operating day in relation to the port but is not a qualifying day in relation to the person.

“45E.—(1.) This section applies to—

(a) a person who—

(i) immediately before the twenty-eighth day of March, One thousand nine hundred and forty-seven, was registered, or was deemed to be registered as a waterside worker under Part V. of the National Security (Shipping Co-ordination) Regulations;

(ii) as at the commencement of the *Stevedoring Industry Act 1961*, had been continuously registered as a waterside worker under Commonwealth stevedoring legislation since that date;

Special provisions applicable to certain waterside workers.

- (iii) was, as at the first day of May, One thousand nine hundred and sixty-one, registered as a waterside worker at a port specified in the First Schedule or the Second Schedule to this Act; and
  - (iv) was not, as at the first day of May, One thousand nine hundred and sixty-one, or any day after that day and before the commencement of the *Stevedoring Industry Act 1961*, a waterside worker referred to in sub-paragraph (i) or (ii) of paragraph (d) of sub-section (2.) of section thirty-one A of this Act; and
- (b) a person who—
- (i) immediately before the twenty-eighth day of March, One thousand nine hundred and forty-seven, was registered, or was deemed to be registered, as a waterside worker under Part V. of the National Security (Shipping Co-ordination) Regulations;
  - (ii) as at the commencement of the *Stevedoring Industry Act 1962*, had been continuously registered as a waterside worker under Commonwealth stevedoring legislation since that date;
  - (iii) was, as at the first day of May, One thousand nine hundred and sixty-one, registered as a waterside worker at a port other than a port referred to in sub-paragraph (iii) of the last preceding paragraph; and
  - (iv) was not, as at the fifteenth day of June, One thousand nine hundred and sixty-two, or on any day after that day and before the commencement of the *Stevedoring Industry Act 1962*, a registered irregular waterside worker or a registered waterside worker regarded by the Authority as an irregular waterside worker.

“(2.)] A reference in the next succeeding sub-section to the commencement of the *Stevedoring Industry Act 1961* shall, in relation to a person to whom this section applies by virtue of paragraph (b) of the last preceding sub-section, be read as a reference to the commencement of the *Stevedoring Industry Act 1962*.

“(3.) A person to whom this section applies—

- (a) who has attained the age of sixty-five years, or, if he is a person eligible for service pension, sixty years, after the commencement of the *Stevedoring Industry Act 1961*;

- (b) who, on a date within one month after attaining that age—
- (i) ceases to be a registered waterside worker upon the cancellation of his registration at his own request; or
  - (ii) becomes a registered irregular waterside worker at his own request;
- (c) who, from the commencement of the *Stevedoring Industry Act* 1961 until and including the date referred to in the last preceding paragraph, has been continuously registered as a waterside worker under this Act and has not, at any time during that period, been a registered irregular waterside worker or a waterside worker regarded by the Authority as an irregular waterside worker;
- (d) whose period of qualifying service is such that, if he were entitled under the last preceding section to long service leave in respect of it, the number of days of long service leave to which he would be so entitled by virtue of paragraphs (a) and (b) of sub-section (3.) of that section would be not less than the prescribed number; and
- (e) who has not become entitled to long service leave under paragraph (a) of sub-section (1.) of section forty-five D of the *Stevedoring Industry Act* 1956–1961 or that Act as amended and in force at any time before the commencement of the *Stevedoring Industry Act* 1966, or under paragraph (a) of sub-section (1.) of section forty-five D of this Act as in force after the commencement of the *Stevedoring Industry Act* 1966,

shall be paid an amount equal to the amount that he would be entitled to receive in respect of long service leave of seventy-eight days.

“(4.) For the purpose of ascertaining the amount that a person would be entitled to receive in respect of long service leave for the purposes of this section, the leave shall be deemed to have commenced immediately before the person ceased to be a registered waterside worker or became a registered irregular waterside worker, as the case may be.

“(5.) The entitlement of a person to a payment under this section is in substitution for and not in addition to any entitlement of the person to long service leave under any other provision of this Part.

“(6.) In this section ‘the prescribed number’, in relation to a person, means a number calculated in accordance with the formula—

$$39 + \frac{13X}{10},$$

where X equals 10 or a number equal to the number of whole years in that part of the qualifying service of the person occurring after the thirty-first day of December, One thousand nine hundred and sixty-five, whichever is the less.

Taking of  
long service  
leave.

“45F.—(1.) Subject to this section, where a registered waterside worker who is entitled under this Part to long service leave desires to take the whole or a part of that leave, the Authority shall, upon application by him, determine the period within which the leave that he so desires to take is to be taken, but any Sunday included in that period shall not, for the purpose of determining the days on which he is on long service leave, be taken into account.

“(2.) A registered waterside worker who has become entitled to long service leave is not entitled to take that leave in more than two instalments.

“(3.) In making a determination under this section, the Authority shall have regard to the labour requirements of the port at which the applicant for the determination is registered, but, subject to those requirements, shall authorize the applicant to take the long service leave to which the application relates during a period commencing on, or as early as practicable after, the date as from which the applicant desires to take the leave.

“(4.) A determination under this section as to the period within which any long service leave to which a registered waterside worker is entitled is to be taken ceases to have effect if, before the commencement of that period, he ceases to be a registered waterside worker at the port at which he was registered when the determination was made.

Waterside  
worker not  
required to  
attend, &c.,  
during period  
for taking  
long service  
leave.

“45G. Notwithstanding anything contained in this Act or an award of the Commission, a registered waterside worker is not required to attend or make himself available for employment as a waterside worker during a period determined in relation to him under the last preceding section.

Payments in  
respect of long  
service leave,  
&c.

“45H.—(1.) Where a registered waterside worker takes long service leave, he shall be paid an amount equal to the assessed amount of pay for each day of that long service leave.



“(2.) Unless otherwise agreed by the Authority and the waterside worker, the amount payable to him under the last preceding sub-section in respect of long service leave shall be paid to him in equal weekly instalments throughout the period during which the leave is taken.

“(3.) A person who has ceased to be a registered waterside worker (otherwise than by reason of his death) and was entitled, or is deemed to have been entitled, immediately before he ceased to be a registered waterside worker, to long service leave shall be paid, in respect of that long service leave, an amount equal to the amount that he would have received in accordance with this section if he had not ceased to be a registered waterside worker and had taken that leave during a period commencing on the day on which he in fact so ceased, less any sum that has already been paid to him in respect of that leave.

“(4.) Where a registered waterside worker who has died was entitled, or is deemed to have been entitled, immediately before his death, to long service leave, there shall be paid to his legal personal representative an amount equal to the amount that the waterside worker would have received in accordance with this section if he had not died and had taken the leave during a period commencing on the day on which he in fact died, less any sum that has already been paid to the waterside worker in respect of that leave.

“45j.—(1.) For the purposes of this Part, the assessed amount of pay for a day of long service leave is an amount equal to one-sixth of the amount determined by the Authority under this section to be the average weekly earnings of registered regular waterside workers at continuous ports during the last applicable period of twelve months. Assessed  
amount of pay.

“(2.) For the purposes of this section, the Authority shall, as soon as practicable after each quarter day in each year, determine the amount of the average weekly earnings of registered regular waterside workers at continuous ports during the period of twelve months ending on that quarter day.

“(3.) In determining the amount of those average weekly earnings, the Authority shall not have regard to any sums paid—  
(a) by way of attendance money;  
(b) in respect of absence on account of illness or injury; or  
(c) for any day that was a holiday for waterside workers under an award of the Commission.

“(4.) For the purposes of this section—

(a) the last day of each of the months of March, June, September and December is a quarter day; and

- (b) the last applicable period of twelve months, in relation to long service leave, means a period of twelve months that ended on the quarter day last but one preceding the date of commencement of the period determined under section forty-five F of this Act in relation to that leave.

Permanent  
waterside  
workers.

“ 45K.—(1.) Nothing in this Act shall be construed as preventing a person from becoming entitled to long service leave under a long service leave scheme for employees in respect of a period that is also a period of qualifying service in relation to the person under this Act, if, during that period, the person was a permanent waterside worker.

“ (2.) Where—

- (a) a person makes application to the Authority to take the whole or a part of long service leave to which he is entitled under this Part; and
- (b) there is included in the period of qualifying service to which the entitlement relates a period (in sub-sections (5.), (6.) and (7.) of this section referred to as the period of common service of the person) in respect of which—

- (i) he has, whether before or after the entitlement to that long service leave arose, become entitled to long service leave under a long service leave scheme for employees, whether or not he has taken the whole or any part of that leave; or
- (ii) he will or may, but has not, become entitled to long service leave under a long service leave scheme for employees,

the long service leave to which he is entitled referred to in paragraph (a) of this sub-section shall be reduced by the number of days applicable to the person under sub-section (5.) of this section.

“ (3.) Where sub-section (3.) or (4.) of section forty-five H of this Act applies in relation to long service leave to which a person is entitled under this Part, the last preceding sub-section applies in relation to that leave as if the person had made application to take that leave immediately before he ceased to be a registered waterside worker or died, as the case may be.

“ (4.) Where—

- (a) a person becomes entitled to be paid an amount under section forty-five E of this Act; and
- (b) there is included in the period during which he has been registered as a waterside worker a period (in the next three succeeding sub-sections referred to as the period of common service of the person) in respect of which—

- (i) he has become entitled to long service leave under a long service leave scheme for employees, whether or not he has taken the whole or any part of that leave; or
- (ii) he will or may, but has not, become entitled to long service leave under a long service leave scheme for employees,

that section applies to him as if the reference (last occurring) in sub-section (3.) of that section to long service leave of seventy-eight days were a reference to long service leave of seventy-eight days reduced by the number of days applicable to the person under the next succeeding sub-section.

“(5.) For the purposes of sub-sections (2.), (4.), (6.) and (7.) of this section, the number of days applicable to a person is—

(a) where the period of common service of the person is a period in respect of which he has become entitled to long service leave under a long service leave scheme for employees—

- (i) the sum of one-eightieth of the number of qualifying days of the person included in so much of the period of common service as occurred before the first day of January, One thousand nine hundred and sixty-six, and one-sixtieth of the number of qualifying days of the person included in the remainder of the period of common service; or
- (ii) the number of days of long service leave to which the person has become entitled under the long service leave scheme for employees or, if he became entitled to that long service leave in respect of a period of which the period of common service forms a part only, such number of days as the Authority certifies in writing to be the number of days of that long service leave that are, in its opinion, attributable to the period of common service,

whichever is the less; or

(b) in any other case—the number of days ascertained in accordance with sub-paragraph (i) of the last preceding paragraph.

“(6.) Where—

(a) sub-section (2.) or sub-section (4.) of this section has applied in relation to a person by reason that he would or might have become entitled to long service leave under a long service leave scheme for employees; and

- (b) the Authority (whether before or after the person ceases to be a registered waterside worker) certifies in writing that it is satisfied that the person has not and will not become entitled to long service leave under a long service leave scheme for employees in respect of the period of common service of the person,

the person shall, notwithstanding sub-section (5.) of section forty-five E of this Act, be deemed to have been entitled, immediately before the issue of the certificate or, if the certificate is issued after he ceases to be a registered waterside worker, immediately before he so ceased, to long service leave under this Part for a number of days equal to the number of days applicable to him under the last preceding sub-section.

“(7.) Where—

- (a) sub-section (2.) or sub-section (4.) of this section has applied in relation to a person by reason that he would or might have become entitled to long service leave under a long service leave scheme for employees;
- (b) the person has (whether before or after he ceases to be a registered waterside worker) become entitled to long service leave under a long service leave scheme for employees in respect of the period of common service of the person; and
- (c) the Authority certifies in writing that the number of days of that last-mentioned long service leave that are, in its opinion, attributable to the period of common service is less than the number of days applicable to the person under sub-section (5.) of this section,

the person shall, notwithstanding sub-section (5.) of section forty-five E of this Act, be deemed to have been entitled, immediately before the issue of the certificate or, if the certificate is issued after he ceases to be a registered waterside worker, immediately before he so ceased, to long service leave under this Part for a number of days equal to the difference.

“(8.) Where—

- (a) a person has been employed at a port on weekly hiring as a waterside worker in stevedoring operations during any period after the establishment of a register of waterside workers at the port under Commonwealth stevedoring legislation and before the expiration of two months after the commencement of the *Stevedoring Industry Act 1962*, being a period during which he was not registered as a waterside worker but was a member of a Union; and

- (b) the person was registered as a waterside worker on the date of commencement of that Act, or the person was not so registered on that date but—
- (i) he had been so registered during a period before that date;
  - (ii) his registration was cancelled on his becoming employed on weekly hiring as a waterside worker in stevedoring operations;
  - (iii) he was, on the date of commencement of that Act, employed on weekly hiring as a waterside worker in stevedoring operations; and
  - (iv) he informed the Authority by notice in writing given within two months after that date that he wished to become a registered waterside worker,

he shall, for the purposes of this Part, be deemed to have been registered as a waterside worker at the port referred to in paragraph (a) of this sub-section during the period of employment referred to in that paragraph.

“(9.) For the purposes of the last preceding sub-section, the definition of ‘ Union ’ in sub-section (1.) of section seven of this Act shall be read as if it included the Permanent and Casual Wharf Labourers Union of Australia.

“(10.) Where, under a long service leave scheme for employees, an amount has been paid or is payable to or in respect of a person in lieu of long service leave, the person shall, for the purposes of this section, be deemed to have become entitled to long service leave under that scheme for a number of days equal to the number of days of leave represented by the amount.

“(11.) For the purposes of this section—

- (a) an entitlement to long service leave under a long service leave scheme for employees in respect of a period shall be deemed to be an entitlement to long service leave under that scheme in respect of any period that forms a part of that first-mentioned period;
- (b) an entitlement to a period of long service leave under a long service leave scheme for employees shall be deemed to consist of the number of days included in that period less, if that period exceeds six days, the number of whole days ascertained by dividing by seven the number of days included in that period; and
- (c) a person shall be deemed to have been employed on weekly hiring during any period if the Authority certifies in writing that, during that period, the person was continuously employed by one employer.

Payments in respect of long service leave.

“ 45L. Amounts payable under this Part in respect of long service leave and amounts payable under section forty-five B of this Act shall be paid by the Authority.

Determination of entitlement to long service leave, &c.

“ 45M.—(1.) Any question arising under this Part as to—

- (a) the entitlement of a person to long service leave;
- (b) the number of days of long service leave to which a person is or was entitled; or
- (c) the entitlement of a person to a payment under this Part or the amount of such a payment,

shall, in the first instance, be determined by the Authority.

“ (2.) A person aggrieved by the decision of the Authority in respect of such a question may appeal to the Court.

“ (3.) The Court has jurisdiction to hear and determine the appeal and that jurisdiction shall be exercised by a single Judge.

Determination by Authority in relation to qualifying service, &c., where records inadequate.

“ 45N.—(1.) Where the Authority is satisfied that, by reason of the inadequacy or lack of records relating to stevedoring operations carried out at a port during a period, it is impossible to ascertain the qualifying service or the qualifying days of a waterside worker who was, or of the waterside workers included in a class of waterside workers who were, registered at the port during the whole or a part of that period, the Authority may determine the qualifying service or the qualifying days, as the case requires, of the waterside worker, or of those waterside workers, by virtue of his or their registration and employment at the port during that period or that part of that period.

“ (2.) A determination by the Authority for the purposes of the last preceding sub-section shall be made by instrument in writing in accordance with such principles, if any, as the Minister determines.

False representations in connexion with long service leave, &c.

“ 45P. A person shall not, for the purpose of obtaining, or establishing his entitlement to, any long service leave or payment in respect of long service leave under this Part, or for the purpose of obtaining a payment under section forty-five E of this Act, make a statement or furnish information that he knows to be false or misleading or does not believe to be true.

Penalty: Two hundred dollars.”.

Retrospective operation of amendments in relation to certain waterside workers.

5. Where—

- (a) a person ceased to be a registered waterside worker (whether by death or otherwise) on or after the first day of January, One thousand nine hundred and sixty-six, and before the commencement of this Act;

- (b) he had not, before he so ceased, completed twenty years' qualifying service for the purposes of the Principal Act, and sub-section (2.) of section 45D of the Principal Act did not apply to him upon his so ceasing; and
- (c) if this Act had been in force at the time he so ceased—
- (i) he would, before he so ceased, have been a person who had completed fifteen years' qualifying service for the purpose of the Principal Act as amended by this Act; or
  - (ii) sub-section (2.) of section 45D of the Principal Act as amended by this Act would have applied to him upon his so ceasing,

this Act, and the amendments made by this Act, apply in relation to him as if this Act had come into operation immediately before he so ceased.

6.—(1.) Where—

- (a) a person had, before the commencement of this Act, completed more than fifteen years', but less than twenty years', qualifying service for the purposes of the Principal Act;
- (b) after the commencement of this Act, he completes such service as a waterside worker as represents twenty years' qualifying service for the purposes of the Principal Act; and
- (c) he has not taken any long service leave to which, on or before the day on which he completed the service referred to in the last preceding paragraph, he became entitled under the Principal Act as amended by this Act,

Completion of  
20 years'  
qualifying  
service under  
Principal Act  
after  
commencement  
of this Act.

he becomes entitled, on that day, in lieu of the entitlement referred to in paragraph (c) of this sub-section, to long service leave for a number of days equal to the number by which seventy-eight exceeds the number of days for which he had, before the commencement of this Act, become entitled to long service leave under the *Stevedoring Industry Act 1956-1961* or that Act as amended and in force at any time before the commencement of this Act.

(2.) Where a person who has become entitled to long service leave under the last preceding sub-section becomes entitled to further long service leave under the Principal Act as amended by this Act, that further entitlement shall be reduced by a number of days equal to the number of days by which the entitlement under the last preceding sub-section exceeds the entitlement referred to in paragraph (c) of that sub-section.

(3.) Where a person becomes entitled to long service leave under this section and that person had, before the commencement of this Act, become entitled to a period of long service leave under the *Stevedoring Industry Act* 1956–1961, or that Act as amended and in force at any time before the commencement of this Act, that last-mentioned entitlement shall, for the purposes of sub-section (1.) of this section, be deemed to consist of the number of days included in that period less, if that period exceeds six days, the number of whole days ascertained by dividing by seven the number of days included in that period.

(4.) This section does not apply in relation to a person who has (whether before or after the commencement of this Act) become entitled to payment under section 45E of the *Stevedoring Industry Act* 1956–1961 or that Act as amended and in force at any time, and section 45E of the Principal Act as amended by this Act does not apply in relation to a person who has become entitled to long service leave under this section.

Completion of 15 years' qualifying service before the commencement of this Act.

#### 7. Where—

- (a) a person becomes entitled to long service leave under paragraph (a) of sub-section (1.) of section 45D of the Principal Act as amended by this Act; and
- (b) the period of fifteen years' qualifying service in respect of which he becomes so entitled ended on a date before the commencement of this Act,

the person shall, notwithstanding that this Act was not in force on that date, be deemed, for the purposes of paragraph (e) of sub-section (2.) of section 45D of the Principal Act as amended by this Act, to have become so entitled on that date.

Application of amendments to persons who became entitled to long service leave before the commencement of this Act.

#### 8.—(1.) Where a person—

- (a) before the commencement of this Act, became entitled to long service leave under the previous Act; and
- (b) completed fifteen years' qualifying service, for the purposes of the Principal Act as amended by this Act, on or before the date on which he became so entitled,

the person is not entitled to long service leave under paragraph (a) of sub-section (1.) of section 45D of the Principal Act as amended by this Act.

#### (2.) Where a person—

- (a) before the commencement of this Act, became entitled to long service leave under the previous Act; and
- (b) becomes entitled to long service leave under the Principal Act as amended by this Act in respect of a period of qualifying service that commenced before the date on which the first-mentioned entitlement accrued,



the entitlement of the person to long service leave under the Principal Act as amended by this Act shall be calculated as if it were in respect of that part only of that period of qualifying service that commenced on that date.

(3.) Where a person, before the commencement of this Act, became entitled to a payment under section 45E of the previous Act, he is not entitled to long service leave under the Principal Act as amended by this Act.

(4.) In this section, "the previous Act" means the *Stevedoring Industry Act 1956-1961* or that Act as amended and in force at any time before the commencement of this Act.

9. Where, after the commencement of this Act, the Australian Stevedoring Industry Authority issues a certificate for the purposes of sub-section (2.) of section 45D, or sub-section (2.), (5.), (7.) or (8.) of section 45KA, of the Principal Act, that certificate has effect as if Part IIIA. of the Principal Act had continued in force until the issue of the certificate, and any long service leave to which a person becomes entitled by virtue of the issue of the certificate shall, for the purposes of section 6 of this Act and of the next succeeding section, be deemed to be long service leave to which he became entitled, before the commencement of this Act, under the *Stevedoring Industry Act 1956-1961* or that Act as amended and in force at any time before the commencement of this Act.

Certificates issued after the commencement of this Act.

10. Where, before the commencement of this Act, a person became entitled to long service leave under the *Stevedoring Industry Act 1956-1961* or that Act as amended and in force at any time before the commencement of this Act, but the whole or any part of the long service leave to which he became so entitled had not, before the commencement of this Act, been taken by him, Part IIIA. of the Principal Act as amended by this Act applies in relation to the long service leave not so taken as if—

Grant of leave accrued before the commencement of this Act.

- (a) it had accrued under that Part; and
- (b) it consisted of the number of days included in the period of leave not taken less, if that period exceeds six days, the number of whole days ascertained by dividing by seven the number of days included in that period.

11.—(1.) A certificate issued, before the commencement of this Act, for the purposes of paragraph (e) of sub-section (2.) of section 45C of the previous Act shall be deemed to have been issued for the purposes of paragraph (f) of sub-section (4.) of section 45C of the Principal Act as amended by this Act.

Certificates, &c., issued before the commencement of this Act.

(2.) A certificate issued, before the commencement of this Act, for the purposes of sub-section (6A.) of section 45C of the

previous Act shall be deemed to have been issued for the purposes of sub-section (8.) of section 45C of the Principal Act as amended by this Act.

(3.) A determination made, before the commencement of this Act, for the purposes of paragraph (f) of the definition of "qualifying days" in sub-section (9.) of section 45C of the previous Act shall be deemed to have been made for the purposes of paragraph (h) of the definition of "qualifying day" in section 45A of the Principal Act as amended by this Act.

(4.) An approval given, before the commencement of this Act for the purposes of paragraph (g) of the definition of "qualifying days" in sub-section (9.) of section 45C of the previous Act shall be deemed to have been given for the purposes of paragraph (i) of the definition of "qualifying day" in section 45A of the Principal Act as amended by this Act.

(5.) In this section, "the previous Act" means the *Stevedoring Industry Act 1956-1961* or that Act as amended and in force at any time before the commencement of this Act.

12. The Principal Act is amended as set out in the Schedule to this Act.

Amendments  
in relation to  
decimal  
currency.

## THE SCHEDULE

Section 12.

### AMENDMENTS IN RELATION TO DECIMAL CURRENCY

Provisions amended	Omit—	Insert—
Section 15 (5.) ..	Two thousand pounds	Four thousand dollars
Section 16 (1.) (a) ..	Ten thousand pounds	Twenty thousand dollars
Section 20 (2.) ..	Twenty-five pounds	Fifty dollars
	Two hundred and fifty pounds	Five hundred dollars
Section 21 (3.) ..	Ten pounds	Twenty dollars
	One hundred pounds	Two hundred dollars
Section 21 (5.) ..	Ten pounds	Twenty dollars
	One hundred pounds	Two hundred dollars
Section 23 (5.) ..	Fifty pounds	One hundred dollars
Section 27 (2.) ..	Twenty-five pounds	Fifty dollars
Section 33 (2.) ..	Two hundred and fifty pounds	Five hundred dollars
	Two thousand five hundred pounds	Five thousand dollars
Section 39 (1.) ..	One hundred pounds	Two hundred dollars
Section 40 (7.) ..	Twenty-five pounds	Fifty dollars
Section 41 ..	One hundred pounds	Two hundred dollars
Section 44 ..	One thousand pounds	Two thousand dollars
	One hundred pounds	Two hundred dollars
Section 47 (1.) ..	Five hundred thousand pounds	One million dollars
Section 54 (3.) ..	Fifty pounds	One hundred dollars
Section 54A ..	Twenty-five pounds	Fifty dollars