

# STEVEDORING INDUSTRY.

## No. 2 of 1947.

An Act to provide for the Prevention or Settlement by Conciliation or Arbitration of Industrial Disputes in connexion with Stevedoring Operations, to regulate Industrial Matters in connexion with Stevedoring Operations in the course of Trade and Commerce with other Countries or among the States, to regulate and control the Performance of Stevedoring Operations, to provide for the Establishment of a Stevedoring Industry Commission, and for other purposes.

[Assented to 28th March, 1947.]

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

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|---------------------------|---|
| <b>Short title.</b>       | 1. This Act may be cited as the <i>Stevedoring Industry Act 1947</i> .  |
| <b>Commencement.</b>      | 2. This Act shall commence on a date to be fixed by Proclamation.   |
| <b>Crown to be bound.</b> | 3. This Act shall bind the Crown in right of the Commonwealth or a State, including any authority of the Commonwealth or a State. |

4.—(1.) Part V. of the National Security (Shipping Co-ordination) Regulations is repealed. Repeal and saving.

(2.) Notwithstanding the repeal effected by the last preceding sub-section—

- (a) all officers and employees of the Stevedoring Industry Commission constituted under Part V. of the National Security (Shipping Co-ordination) Regulations holding office or employed immediately prior to the commencement of this Act shall continue to hold office or be employed as if they were appointed under this Act ;
- (b) all rights, property, assets, obligations and liabilities of the Stevedoring Industry Commission constituted under Part V. of the National Security (Shipping Co-ordination) Regulations shall, by force of this section, be vested in or imposed on the Stevedoring Industry Commission constituted under this Act, and, in any contract, agreement or other instrument to which the first-mentioned Commission was a party, any reference to that Commission shall be read as a reference to the Stevedoring Industry Commission constituted under this Act ;
- (c) all employers and waterside workers registered, or deemed to have been registered, under Part V. of the National Security (Shipping Co-ordination) Regulations shall be deemed to be registered under this Act ;
- (d) all applications for registration made, or deemed to have been made, under Part V. of the National Security (Shipping Co-ordination) Regulations shall be deemed to have been made under this Act ;
- (e) the suspension of the registration of a waterside worker under Part V. of the National Security (Shipping Co-ordination) Regulations shall have effect as if the suspension had been effected under this Act ; and
- (f) all proceedings pending before the Stevedoring Industry Commission under Part V. of the National Security (Shipping Co-ordination) Regulations may be continued by the Stevedoring Industry Commission under this Act.

(3.) The *Transport Workers Act 1928* and the *Transport Workers Act 1929* are repealed.

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

“ Committee ” means a Waterside Employment Committee established under this Act ;

“ employer ” means—

- (a) a person who engages, or offers to engage, persons for employment as waterside workers for work on a wharf or ship ;
- (b) a ship’s agent or shipowner who directs the method or time of working of a stevedoring employer or contractor ; and

- (c) a master or officer of a ship engaged in work of the same nature as the work usually performed by a stevedoring employer,  
and includes an agent or servant of an employer ;
- “ industrial dispute ” means a dispute as to industrial matters and includes a threatened, impending or probable industrial dispute ;
- “ industrial matters ” has the same meaning as in the *Commonwealth Conciliation and Arbitration Act 1904-1946* ;
- “ member ” means a member of the Commission and includes a deputy of a member ;
- “ officer ” means an officer holding office under this Act ;
- “ ship ” includes barge, lighter, hulk or other vessel ;
- “ stevedoring operations ” means—
- (a) the loading or unloading of cargo into or from ships ;
  - (b) the loading or unloading, into or from ships, of ships' stores, coal or fuel oil (whether for bunkers or not), passengers' luggage or mails ;
  - (c) the handling or storage of cargo or other goods at or adjacent to a wharf ;
  - (d) the driving or operation of mechanical appliances used in connexion with the loading or unloading of ships or with the handling or storage of cargo or other goods at or adjacent to the wharf ; and
  - (e) haulage or trucking from ship to shed or shed to ship, and includes the work specified in paragraphs (e), (f), (g) and (h) of the definition of “ waterside worker ” when performed by a member of the Federation or a person registered as a waterside worker under Part V. of the National Security (Shipping Co-ordination) Regulations immediately prior to the commencement of this Act ;
- “ the Chairman ” means the Chairman of the Commission and includes the deputy of the Chairman ;
- “ the Commission ” means the Stevedoring Industry Commission established under this Act ;
- “ the Court ” means the Commonwealth Court of Conciliation and Arbitration ;
- “ the Federation ” means the Waterside Workers Federation of Australia ;
- “ waterside worker ” means a person who accepts, or offers to accept, employment for work in the loading or unloading of cargo into or from ships, and includes a member of the Federation or a person registered as a waterside worker under Part V. of the National Security (Shipping Co-ordination) Regulations immediately prior to the commencement of this Act who accepts, or offers to accept, employment for work in—
- (a) the loading or unloading, into or from ships, of ships' stores, coal or fuel oil (whether for bunkers or not), passengers' luggage or mails ;

- (b) the handling or storage of cargo or other goods at or adjacent to a wharf;
  - (c) the driving or operation of mechanical appliances used in connexion with the loading or unloading of ships or with the handling or storage of cargo or other goods at or adjacent to a wharf;
  - (d) haulage or trucking from ship to shed or shed to ship;
  - (e) the removal or replacing of beams or hatches;
  - (f) the handling of dunnage or ballast;
  - (g) the preparing or cleaning of holds; or
  - (h) the preparation of gear for use in connexion with the loading or unloading of ships,
- but does not include—

- (i) persons working in or alongside a ship in connexion with the direction or checking of the work of waterside workers;
  - (j) members of the crew of a ship on the ship's articles;
  - (k) members of the crew of a lighter; or
  - (l) members of the Sydney Coal Lumpers Union while loading or unloading coal in the port of Sydney;
- “wharf” includes pier and jetty, and also includes a shed adjacent to a wharf.

(2.) For the purposes of this Act—

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

6.—(1.) There shall be a Stevedoring Industry Commission, which shall consist of a Chairman, an officer of the Commonwealth and four other members, of whom one shall represent overseas ship-owners, one shall represent Australian shipowners, and two shall represent the Federation.

Stevedoring  
Industry  
Commission.

(2.) The Commission shall be a body corporate with perpetual succession and a common seal.

(3.) The Chairman—

- (a) shall be appointed by the Governor-General;
- (b) shall be a Judge of the Court or a Conciliation Commissioner appointed under the *Commonwealth Conciliation and Arbitration Act 1904–1946*; and
- (c) shall hold office, subject to good behaviour, for five years but shall be eligible for re-appointment.

(4.) The other members of the Commission—

- (a) shall be appointed by the Governor-General;
- (b) shall hold office during his pleasure; and
- (c) except in the case of the member who is an officer of the Commonwealth, shall be paid fees and allowances at such rates as the Minister determines.

Provisions with respect to Chairman.

7.—(1.) The Chairman shall not, except as otherwise provided by this Act or with his consent, be required to perform any duties as a Judge of the Court or as a Conciliation Commissioner, as the case may be.

(2.) If the Chairman is a Judge of the Court, he shall be paid travelling allowance at such rate as the Governor-General determines.

(3.) If the Chairman is a Conciliation Commissioner, he shall be paid salary and travelling allowance at such rates as the Governor-General determines but shall not be entitled to receive any salary or allowance in respect of the office of Conciliation Commissioner.

(4.) If the Chairman is a Conciliation Commissioner and also was, immediately before his appointment as Chairman, an officer of the Public Service of the Commonwealth, his service as Chairman shall, for the purpose of determining his existing and accruing rights, be taken into account as if it were service in the Public Service of the Commonwealth and the *Officers' Rights Declaration Act 1928-1940* shall apply to the Chairman in like manner as if this Act and section were specified in the Schedule to that Act.

Deputies of members.

8.—(1.) The Governor-General may appoint a person to be the deputy of any member of the Commission.

(2.) The deputy of the Chairman shall be a Judge of the Court or a Conciliation Commissioner appointed under the *Commonwealth Conciliation and Arbitration Act 1904-1946*.

(3.) The deputy of a member shall, in the event of the absence of the member of whom he is the deputy from any meeting of the Commission, be entitled to attend that meeting and when so attending shall be deemed to be a member of the Commission.

Meetings of the Commission.

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

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

(3.) At any meeting of the Commission the Chairman and two other members (but not including the member who is an officer of the Commonwealth) shall form a quorum.

(4.) All questions arising at any meeting of the Commission shall be decided by a majority of votes, but the member who is an officer of the Commonwealth shall not be entitled to vote.

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

(6.) In the event of the absence from any meeting of the Commission of both the member representing overseas shipowners and his deputy, that member's vote may be exercised by the member representing Australian shipowners, or by his deputy.

(7.) In the event of the absence from any meeting of the Commission of both the member representing Australian shipowners and his deputy, that member's vote may be exercised by the member representing overseas shipowners, or by his deputy.

(8.) In the event of the absence from any meeting of the Commission of both a member representing the Federation and his deputy, that member's vote may be exercised by the other member representing the Federation, or by his deputy.

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

Delegation of  
Commission's  
powers.

(2.) Where under this Act the exercise of any power or function by the Commission is dependent upon the opinion of the Commission in relation to any matter, and that power or function is delegated under this section, that power or function may be exercised by the delegate upon his opinion in relation to that matter.

(3.) Every delegation under this section shall be revocable at will, and no delegation shall prevent the exercise of any power or function by the Commission.

11.—(1.) Subject to the approval of the Minister, the Commission may appoint such officers and employees as are necessary to assist it in exercising its powers and functions under this Act.

Appointment  
of officers and  
employees.

(2.) Officers and employees so appointed shall not be subject to the *Commonwealth Public Service Act 1922-1946* and (except in the case of persons the terms and conditions of whose employment are otherwise regulated by law) shall be appointed on the same terms and conditions (subject to such variations, if any, as the Minister determines) as the terms and conditions of employment of temporary employees under that Act.

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

12.—(1.) The functions of the Commission shall be—

Functions of  
the Commission.

- (a) to prevent or settle, by conciliation or arbitration, industrial disputes, extending beyond the limits of any one State, in connexion with stevedoring operations; and
- (b) to regulate industrial matters in connexion with stevedoring operations, and to regulate and control the performance of stevedoring operations, insofar as those operations relate to trade and commerce with other countries or among the States or are performed in a Territory of the Commonwealth.

(2.) The Commission shall exercise its functions with a view to securing—

- (a) the speedy, safe and efficient performance of stevedoring operations ;
- (b) the provision of sufficient waterside workers for stevedoring operations ; and
- (c) the use of the labour of waterside workers to the best advantage.

Hearing, &c.,  
of industrial  
disputes.

**13.**—(1.) In the exercise of its functions in relation to an industrial dispute, the Commission shall, in such manner as it thinks fit, carefully and expeditiously hear, inquire into and investigate the dispute and all matters affecting the merits of the dispute and the right settlement thereof.

(2.) In the course of the hearing, inquiry and investigation the Commission shall make all such suggestions and do all such things as appear to it to be right and proper for reconciling the parties and bringing about a settlement of the dispute by amicable agreement.

(3.) For the purpose of hearing the parties to the dispute, and of inquiring into and investigating the dispute, the Commission shall have the same powers as the Court or a Conciliation Commissioner has under the *Commonwealth Conciliation and Arbitration Act 1904-1946* in relation to industrial disputes.

Powers of  
Commission.

**14.** For the purpose of exercising its functions under section twelve of this Act—

- (a) the Commission shall have power to make such awards and orders, give such directions and do all such other things as it thinks fit ; and
- (b) without limiting the generality of the last preceding paragraph, the Commission shall have power—
  - (i) to make awards and orders with respect to the wages, hours and conditions of employment of waterside workers ;
  - (ii) to make provision for annual leave and sick leave for waterside workers ;
  - (iii) to make provision for the payment of attendance money to waterside workers ;
  - (iv) to establish and administer employment bureaux for waterside workers ;
  - (v) to provide, or require the provision of, first-aid equipment and ambulance facilities for waterside workers ;
  - (vi) to provide, or require the provision of, canteens, cafeteria, dining rooms, rest rooms, and adequate sanitary and washing facilities for waterside workers ; and
  - (vii) to make provision for the payment of guaranteed weekly or daily wages to waterside workers.

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

Limitation  
on powers  
of Commission.

**16.—**(1.) Awards and orders made by the Commission—

(a) shall be in writing ;

(b) shall not be deemed to be Statutory Rules within the meaning of the *Rules Publication Act 1903–1939* ; and

(c) shall have the force of law.

Awards and  
orders of the  
Commission.

(2.) The provisions of section forty-eight and of section forty-nine of the *Acts Interpretation Act 1901–1941* shall apply to awards and orders made by the Commission (not being awards or orders made to prevent or settle industrial disputes, or regulating industrial matters, in connexion with stevedoring operations) which are of a legislative and not an executive character, in like manner as they apply to regulations.

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

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

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

Directions of  
the Commission.

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

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

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

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

**18.** The Commission shall not—

(a) alter the standard hours of waterside workers ; or

(b) alter the basic wage applicable to waterside workers or the principles upon which it is computed,

otherwise than in conformity with the awards of the Court with respect to standard hours, or the basic wage, as the case may be.

Powers with  
respect to  
standard hours  
and basic wage.

**19.—**(1.) The Court or a Conciliation Commissioner shall not be empowered to make an award or order, under the *Commonwealth Conciliation and Arbitration Act 1904–1946*, in relation to the salaries, wages, rates of pay or other terms or conditions of service or employment of waterside workers.

Limitation of  
jurisdiction of  
Arbitration  
Court.



(2.) The Court or a Conciliation Commissioner shall not proceed further with any claim pending in the Court at the commencement of this Act and relating to the salaries, wages, rates of pay or other terms or conditions of service or employment of waterside workers.

Awards, &c.,  
not to be  
challenged or  
questioned.

**20.**—(1.) An award, order or direction of the Commission shall not be challenged, appealed against, reviewed, quashed or called in question, or, subject to the Constitution, be subject to prohibition, mandamus or injunction in any court on any account whatever.

(2.) The Commission may, if it thinks fit, refer any question of law arising in relation to the powers and functions of the Commission for the opinion of the Court.

(3.) The Court shall hear and determine any question referred to it under this section.

(4.) Notwithstanding the reference of a question of law to the Court under this section, the Commission may make an award or order, or give a direction, in relation to the matter in connexion with which the question arose.

(5.) Upon the determination by the Court of a question of law referred to it under this section, the Commission may make an award or order, or give a direction, not inconsistent with the opinion of the Court, or may vary an existing award, order or direction in such a way as will make it consistent with that opinion.

Interpretation  
of awards, &c.

**21.** The Court shall have power to give an interpretation of an award, order or direction of the Commission.

Appeals.

**22.**—(1.) Except as provided in this section, there shall be no appeal (whether to the High Court or to any other court) from a judgment or order from which an appeal may be brought to the Court under the next succeeding sub-section.

(2.) There shall be an appeal to the Court—

(a) in proceedings arising under an award, order or direction of the Commission or involving its interpretation; or

(b) in proceedings for an offence against this Act.

(3.) The Court shall have jurisdiction to hear and determine any such appeal.

Exercise of  
Court's  
jurisdiction.

**23.**—(1.) The jurisdiction of the Court under any of the last three preceding sections shall be exercised by not less than three Judges, unless the Chairman of the Commission or the deputy of the Chairman of the Commission is a Judge of the Court, in which case that jurisdiction shall be exercised by the Judge of the Court who is the Chairman of the Commission or the deputy of the Chairman of the Commission.

(2.) Where the jurisdiction of the Court under any of the last three preceding sections is exercised by a Judge of the Court, that Judge may, if he thinks fit, refer any question of law arising in proceedings before him for the opinion of the Court constituted by not less than three Judges.

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

**24.** A judgment or order of the Court under any of the last four preceding sections shall be final and conclusive and shall not be subject to appeal to the High Court, and shall not be challenged, appealed against, reviewed, quashed or called in question, or, subject to the Constitution, be subject to prohibition, mandamus or injunction in any court on any account whatever.

Decisions of Court to be final.

**25.—(1.)** The Commission may, in respect of any port, establish and maintain—

Registers of employers and employees.

- (a) a register of employers at that port; and
- (b) a register of waterside workers at that port.

(2.) The Commission may, for the purposes of this section, define the limits of any port.

**26.—(1.)** An application for registration by an employer at a port at which a register of employers is established shall be lodged with an officer or agent of the Commission at that port in accordance with a form approved by the Commission.

Registration of employers and employees.

(2.) An application for registration by a waterside worker at a port at which a register of waterside workers is established shall be lodged with an officer or agent of the Commission at that port in accordance with a form approved by the Commission.

**27.—(1.)** Subject to the next succeeding sub-section, the registration of an employer or waterside worker under this Act shall be in the discretion of the Commission.

Registration to be in discretion of Commission and limited to members of the Federation.

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

**28.—(1.)** The Commission may, from time to time, in relation to any port at which a register of waterside workers is established, determine the number of waterside workers required for the proper and effective conduct of stevedoring operations at that port.

Quotas.

(2.) Where the number of waterside workers registered at a port is greater than the number determined by the Commission under the last preceding sub-section in relation to that port, the Commission may suspend or cancel the registration of so many waterside workers registered at that port as it thinks fit.

**29.—(1.)** Upon a written complaint being made to the Commission that an employer—

Cancellation or suspension of registration of employer.

- (a) has been guilty of misconduct in a matter relating to or affecting his fitness for registration as an employer or has acted in a manner whereby the proper performance of stevedoring operations has been interfered with; or

(b) has committed an offence against this Act, or an offence arising under Part V. of the National Security (Shipping Co-ordination) Regulations or under an order thereunder,

the Commission may call on him to show cause, in a manner and within a period specified by the Commission, why his registration as an employer should not be cancelled or suspended.

(2.) The onus of proving any allegation contained in a complaint made to the Commission under the last preceding sub-section shall lie upon the person by whom the complaint was made.

(3.) If the employer fails so to show cause to the satisfaction of the Commission, the Commission may cancel his registration or may suspend his registration for such period as it thinks fit.

(4.) In considering whether the registration of an employer should be cancelled or suspended under this section by reason of any misconduct or offence, the Commission may take into account any disciplinary action which has been taken against that employer in respect of that misconduct or offence by any association of ship owners of which that employer is a member.

Cancellation or suspension of registration of waterside worker.

**30.**—(1.) Upon a written complaint being made to the Commission that a waterside worker—

(a) has been guilty of misconduct in a matter relating to or affecting his fitness for registration as a waterside worker or has acted in a manner whereby the proper performance of stevedoring operations has been interfered with ;

(b) has committed an offence against this Act, or an offence arising under Part V. of the National Security (Shipping Co-ordination) Regulations or under an order thereunder ;

(c) is not following his calling as a waterside worker as his chief means of livelihood ; or

(d) by reason of his physical or mental condition, is not fit to carry out the duties of a waterside worker or may be a danger to others,

the Commission may call on him to show cause, in a manner and within a period specified by the Commission, why his registration as a waterside worker should not be cancelled or suspended.

(2.) The onus of proving any allegation contained in a complaint made to the Commission under the last preceding sub-section shall lie upon the person by whom the complaint was made.

(3.) If the waterside worker fails to show cause to the satisfaction of the Commission, the Commission may cancel his registration or may suspend his registration for such period as it thinks fit.

(4.) The Commission may, prior to calling upon a waterside worker to show cause under sub-section (1.) of this section, suspend his registration as a waterside worker, and may at any time annul the suspension.

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

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

*Effect of suspension.*

**32.—(1.)** There shall be issued to employers and waterside workers registered under this Act, such tokens of registration as are determined by the Commission and those tokens shall be renewed as and when the Commission determines.

*Issue of tokens of registration.*

(2.) Each token to which this section applies shall be the property of the Commission.

(3.) A person in possession of a token to which this section applies shall, on demand by an officer or agent of the Commission, produce the token to the officer or the agent, who may take possession of the token.

Penalty : Fifty pounds.

(4.) A person shall not, without lawful authority (proof whereof shall lie upon him), have in his possession any token to which this section applies other than a token issued to him under this section or under Part V. of the National Security (Shipping Co-ordination) Regulations.

Penalty : Fifty pounds.

(5.) A person who, without lawful authority (proof whereof shall lie upon him), comes into possession of any token to which this section applies shall forthwith return the token to an officer or agent of the Commission at the principal port of the State or Territory in which he resides.

Penalty : Fifty pounds.

(6.) A person, other than a person authorized by the Commission to manufacture tokens to which this section applies, shall not manufacture, dispose of or supply any representation of a token similar to a token to which this section applies or so nearly resembling any such token as to be likely to deceive.

Penalty : One hundred pounds.

(7.) In this section, the expression " token to which this section applies " means a token issued under this section and includes a token issued under Part V. of the National Security (Shipping Co-ordination) Regulations.

Unregistered persons not to be employed as waterside workers.

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

Penalty : One hundred pounds.

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

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

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

Penalty : One hundred pounds.

Application of sections 33 and 34.

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

Waterside Employment Committees.

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

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

(3.) In the event of the illness or absence of the Chairman, the Commission may appoint one of its officers to be Acting Chairman and the Acting Chairman shall have and may exercise all the powers and functions of the Chairman.

(4.) The members of the Committee (other than the Chairman) shall be appointed by the Minister from panels of persons nominated by the employers and the Federation, respectively, and shall hold office during the pleasure of the Minister.

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

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

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

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

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

- (a) whenever so required by the Committee ;
- (b) whenever so directed by the Chairman of the Commission ; and
- (c) within seven days after the receipt by him of an application for a meeting signed by a member of the Committee giving reasons which, in the Chairman's opinion, justify a meeting of the Committee,

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

(10.) The Committee may make rules, not inconsistent with this Act, in relation to the proceedings of the Committee.

(11.) The Committee may hear such evidence as it thinks fit.

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

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

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

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

**37.—(1.)** A Committee shall have, in relation to the port in respect of which it has been appointed, such powers and functions of the Commission as the Commission assigns to it.

**Powers and  
functions of  
Committee.**

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

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

**Exercise of  
certain  
functions  
by members  
of Waterside  
Employment  
Committees.**

**38.—(1.)** The Commission may, in relation to any port, authorize—

- (a) the Chairman of the Committee appointed in respect of that port, a member of that Committee who is a representative of employers and a member of that Committee who is a representative of employees; or
- (b) the Chairman of the Committee appointed in respect of that port,

to exercise the powers and functions of the Commission under sections twenty-nine, thirty and forty of this Act and any reference in any of those sections to the Commission shall be deemed to include a reference to any body of persons, or any person, exercising the powers and functions of the Commission by virtue of this section.

(2.) Notwithstanding the assignment to a Committee under the last preceding section of the powers and functions of the Commission, in relation to any port, under sections twenty-nine and thirty of this Act, the Commission may direct that those powers and functions shall not be exercised in relation to that port except by a body of persons, or by a person, empowered to exercise the powers and functions of the Commission under those sections by virtue of the last preceding sub-section.

(3.) A body of persons or a person exercising, by virtue of this section, the powers and functions of the Commission under the last preceding section shall, upon the completion of an inquiry in respect of any person, forthwith furnish to the Commission a report of its proceedings.

**Appeals.**

**39.—(1.)** A person aggrieved by a decision by a Waterside Employment Committee, or by a body of persons, or by a person, exercising the powers and functions of the Commission by virtue of the last preceding section, may appeal to the Commission against the decision and, upon consideration of any such appeal, the Commission may confirm, vary or set aside the decision appealed against.

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

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

(4.) When considering an appeal under this section, the Commission shall receive such evidence as in its opinion is necessary for the determination of the appeal, and shall give the parties interested an opportunity of stating their respective cases in a manner specified by the Commission.

**40.**—(1.) The Commission may require any person—

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

Information to be furnished.

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

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

(3.) A person shall not—

- (a) refuse or fail to comply with any requirement made in pursuance of sub-section (1.) or (2.) of this section; or
- (b) with intent to evade the provisions of this section, destroy, mutilate, deface, secrete or remove any book, document or other paper.

Penalty: Fifty pounds.

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

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

Payment of stevedoring industry charge to Commission.

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

Power of Commission to borrow money



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

(3.) The Treasurer may make advances to the Commission of such amounts and upon such terms as he thinks fit.

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

Commission's  
bank accounts.

**43.**—(1.) The Commission shall open and maintain an account with the Commonwealth Bank of Australia into which it shall pay all moneys received by it.

(2.) The Commission may, with the approval of the Treasurer, open accounts, for the purpose of making payments, with the Commonwealth Bank of Australia or with any other bank.

Signature of  
cheques.

**44.** Cheques drawn on any account referred to in the last preceding section shall be signed in such manner as the Commission directs.

Application of  
Commission's  
moneys.

**45.** Subject to any direction of the Minister, the moneys of the Commission—

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

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

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

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

Reserves for  
depreciation,  
&c.

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

Accounts.

**47.** The Commission shall keep accounts in such form as the Treasurer approves.

Audit.

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

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

Exemption  
from taxation.

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

**50.**—(1.) The Commission shall, not later than the thirty-first day of August in each year, prepare and furnish to the Minister a report on the operations of the Commission during the year ending on the last preceding thirtieth day of June, together with financial accounts in respect of that year in such form as the Treasurer approves. Annual report.

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

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

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