

# STEVEDORING INDUSTRY.

No. 75 of 1954.

An Act to amend the *Stevedoring Industry Act* 1949, and to provide for an Inquiry into certain matters.

[Assented to 16th November, 1954.]

**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 :—

## PART I.—PRELIMINARY.

1. This Act may be cited as the *Stevedoring Industry Act* 1954. Short title.
2. This Act shall come into operation on the day on which it receives the Royal Assent. Commencement.
3. This Act is divided into Parts, as follows :—Parts.
  - Part I.—Preliminary.
  - Part II.—Amendments of the *Stevedoring Industry Act* 1949.
  - Part III.—Committee of Inquiry.

PART II.—AMENDMENTS OF THE STEVEDORING INDUSTRY ACT  
1949.

## Citation.

4.—(1.) The *Stevedoring Industry Act* 1949\* is in this Part referred to as the Principal Act.

(2.) The Principal Act, as amended by this Part, may be cited as the *Stevedoring Industry Act* 1949–1954.

## Registers of employers and waterside workers.

5. Section twenty of the Principal Act is amended by adding at the end thereof the following sub-section :—

“(2.) A person shall not, in an application for registration as an employer or waterside worker, make a statement or furnish information which is false or misleading.

Penalty : ‘Twenty-five pounds.’”.

## Registration of employers and waterside workers.

6. Section twenty-one of the Principal Act is amended by omitting sub-section (2.) and inserting in its stead the following sub-sections :—

“(2.) Except at such ports as the Board determines, a person shall not be registered as a waterside worker at a port unless—

- (a) the number of waterside workers registered at the port is less than the quota, if any, determined for the port by the Board under the next succeeding section ;
- (b) the application of the person for registration is lodged with the Board by an employer registered at the port and there is endorsed on the application a recommendation by the employer that the application be accepted ;
- (c) the person satisfies any requirement of the Board as to the age and physical condition of waterside workers ;
- (d) the Board has given to the branch of the Federation at the port notice in writing of the intention of the Board to register the person and, if notice of objection to the registration is given to the Board by the branch under the next succeeding sub-section, the Board has, after considering the objection, disallowed it ; and
- (e) the person is a member, or satisfies the Board that he has applied for membership, of the Federation.

“(3.) Where the Board has given to a branch of the Federation under paragraph (d) of the last preceding sub-section notice of the intention of the Board to register a person as a waterside worker, the branch may, within fourteen days after the notice was given, give notice in writing to the Board that the branch objects, on grounds stated in the notice to the Board, to the registration.

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\* Act No. 39, 1949.

“ (4.) A notice by the Board to a branch of the Federation under paragraph (d) of sub-section (2.) of this section may be given by sending it by post to the general secretary of the Federation or to the secretary of the branch or by leaving it at the office of the branch.

“ (5.) A notice by a branch of the Federation to the Board under sub-section (3.) of this section shall be given by sending it by post to the Board at such office of the Board as is specified for the purpose in the notice given to the branch under paragraph (d) of sub-section (2.) of this section or by leaving it at that office.

“ (6.) The provisions of sub-section (2.) of this section do not prevent the registration as a waterside worker at a port of any person who is registered as a waterside worker at another port.”

7. Section twenty-two of the Principal Act is amended by inserting in sub-section (4.), after the word “ Committee ”, the words “ at that port, the association of employers, if any, at that port which, in the opinion of the Board, represents the interests in relation to stevedoring operations of the majority of employers at that port ”. Port quotas.

8. After section twenty-nine of the Principal Act the following section is inserted in Part III. :—

“ 29A. For the purposes of section eighty-three A of the *Conciliation and Arbitration Act 1904-1952*, a certificate in writing signed by a member of the Board, or by an officer of the Board authorized in writing by the Board to issue certificates under this section, certifying that, on a date specified in the certificate, a person specified in the certificate was registered as a waterside worker at a port specified in the certificate is evidence that, on that date, that person was so registered.”. Proof of certain matters.

### PART III.—COMMITTEE OF INQUIRY.

9. In this Part, unless the contrary intention appears— Definitions.

“ reasonable excuse ”, in relation to an act or omission by a person served with a summons to attend the Committee of Inquiry or appearing as a witness before the Committee, means an excuse that would excuse an act or omission of a similar nature by a person summoned as a witness, or appearing as a witness, before a court of law ;

“ the Committee of Inquiry ” or “ the Committee ” means the Committee of Inquiry appointed under this Part, and includes the members of the Committee sitting for the purposes of this Part.

10.—(1.) As soon as practicable after the commencement of this Act, a Committee of Inquiry shall be appointed in accordance with this section. Committee of Inquiry.

(2.) The Committee shall consist of a Chairman and two other members, who shall be appointed by the Minister.

Matters  
to be  
inquired into.

11.—(1.) The Committee shall inquire into and report to the Minister upon the facts relating to—

- (a) the functioning of the stevedoring industry and the factors affecting the efficiency of stevedoring operations ;
- (b) the arrangements for the regulation and control of stevedoring operations and of persons employed in the stevedoring industry and for the settlement of disputes, and the maintenance of discipline, in the stevedoring industry ;
- (c) the costs of or connected with stevedoring operations and the extent to which those costs have, since the commencement of the *Stevedoring Industry Act 1947*, affected rates of freight for the transport of goods by sea ;
- (d) the profits made from stevedoring operations by companies or other persons engaged exclusively or otherwise in the stevedoring industry, including profits so made by companies or other persons engaged in whole or in part in shipping operations and deriving profits either directly or indirectly from stevedoring operations ;
- (e) such particular matters related to the stevedoring industry (whether included in the preceding paragraphs or not) as the Minister directs ; and
- (f) the increases in rates of freight for the transport of goods by sea which have occurred since the commencement of the *Stevedoring Industry Act 1947* and the causes of those increases.

(2.) In the last preceding sub-section—

- (a) references to the stevedoring industry or to stevedoring operations shall be read as references to that industry or those operations only in so far as it relates or they relate to trade or commerce with other countries or among the States or in or with a Territory of the Commonwealth ; and
- (b) the reference in paragraph (f) to the transport of goods by sea shall be read as a reference to the transport of goods by sea in the course of trade or commerce with other countries or among the States or in or with a Territory of the Commonwealth.

Power to send  
for witnesses  
and documents.

12.—(1.) The Chairman of the Committee may, by writing under his hand, summon a person to attend the Committee at a time and place named in the summons, and then and there to give evidence and to produce any documents, books or writings in his custody or control which he is required by the summons to produce.

(2.) A summons under this section may be served personally or by being left at the usual place of abode of the person named in the summons.

13.—(1.) Any member of the Committee may administer an oath to a person appearing as a witness before the Committee, whether the witness has been summoned or appears without being summoned, and that member or any other member of the Committee may examine the witness upon oath.

Power to examine upon oath.

(2.) Where a witness to be examined before the Committee conscientiously objects to take an oath, he may make an affirmation that he so objects and that the evidence he will give will be the truth, the whole truth and nothing but the truth.

(3.) An affirmation so made is of the same force and effect, and entails the same liabilities, as an oath.

14.—(1.) A person served with a summons to attend the Committee shall not, without reasonable excuse—

Penalty for failing to attend or produce documents.

(a) fail to attend the Committee ; or

(b) fail to produce any document, book or writing in his custody or control which he was required by the summons to produce.

Penalty : Five hundred pounds or imprisonment for three months.

(2.) It is a defence in proceedings under this section for failing without reasonable excuse to produce a document, book or writing if it is proved that the document, book or writing was not relevant to the inquiry.

15. A person who has been summoned to attend the Committee as a witness shall appear and report himself from day to day unless excused by the Chairman of the Committee or until he is released from further attendance by the Chairman of the Committee.

Duty of witness falling to continue in attendance.

Penalty : Five hundred pounds or imprisonment for three months.

16.—(1.) If a person who has been summoned to attend the Committee as a witness fails to attend or appear before the Committee as required by either of the last two preceding sections, the Chairman of the Committee may, on proof by statutory declaration of the service of the summons, issue a warrant for the apprehension of that person.

Arrest of witness failing to appear.

(2.) A warrant so issued authorizes the apprehension of the person and his being brought before the Committee and his detention in custody for that purpose until he is released by order of the Chairman of the Committee.

(3.) A warrant so issued may be executed by a person who is a member of the police force of a State or Territory of the Commonwealth or a Peace Officer holding office under the *Peace Officers Act* 1925, or by any person to whom it is addressed, and the person executing it has power to break and enter any place, building or vessel for the purpose of executing the warrant.

(4.) The apprehension of a person under this section does not relieve him from any liability incurred by him by reason of his failure to attend or appear before the Committee.

Penalty for refusing to be sworn or to give evidence.

17.—(1.) A person appearing as a witness before the Committee shall not, without reasonable excuse—

- (a) refuse or fail to be sworn or to make an affirmation ; or
- (b) refuse or fail to answer a question relevant to the inquiry put to him by a member of the Committee.

Penalty : Five hundred pounds or imprisonment for three months.

(2.) For the purposes of this section, a question put to a person by a barrister or solicitor appearing before the Committee, or by some other person authorized by the Committee to appear before it, not being a question disallowed by the Committee, shall be deemed to have been put by a member of the Committee.

Act or omission on different days to constitute separate offences.

18. Where a person has on any day done or omitted to do something and his act or omission amounts to an offence against section fourteen or seventeen of this Act, and does or omits to do the same thing at a meeting of the Committee held on some other day, each such act or omission is a separate offence.

Evidence may be taken in private.

19.—(1.) The Committee may, if it thinks proper, take evidence in private and no person who is not expressly authorized by the Committee to be present shall be present during the taking of that evidence.

(2.) Without affecting the generality of the last preceding sub-section, the Committee may take evidence in private upon the application of a witness on the ground that the taking of the evidence in public would be unfairly prejudicial to him.

(3.) The Committee may direct that any evidence given before it, or the contents of any document, book or writing produced at the inquiry, shall not be published.

(4.) A person shall not make a publication in contravention of a direction given under the last preceding sub-section.

Penalty : Five hundred pounds or imprisonment for three months.

Penalty in case of offence committed after previous conviction.

20. Where a person who has been convicted of an offence against section fourteen or seventeen of this Act is subsequently convicted of an offence against either of those sections, being an offence committed by him after the first-mentioned conviction, he is liable to a penalty of not less than Five hundred pounds and not more than One thousand pounds, together with imprisonment for such period, not exceeding three months, as the court thinks fit to order.

Power of Committee in relation to documents produced.

21. The Committee, a member of the Committee or a person thereto authorized in writing by the Chairman of the Committee may inspect any documents, books or writings produced before the Committee and may retain them for such reasonable period as it or he thinks fit and may make copies, or take extracts from them, of such matters as are relevant to the inquiry.

**22.** A barrister or solicitor appointed by the Attorney-General to assist the Committee, a barrister or solicitor authorized by the Committee to appear before it for the purpose of representing any person, or any other person authorized by the Committee to appear before it, may, so far as the Committee thinks proper, examine or cross-examine any witness on any matter which the Committee deems relevant to the inquiry and a witness so examined or cross-examined has the same protection and is subject to the same liabilities as if he were examined by a member of the Committee.

Examination  
of witnesses by  
counsel, &c.

**23.—(1.)** A person summoned to appear as a witness, or appearing as a witness, before the Committee shall be paid such expenses in respect of his attendance as the Chairman of the Committee determines, or, in the absence of a determination, as are provided by the scale of allowances payable to witnesses summoned under the *Royal Commissions Act 1902–1933*.

Expenses of  
witnesses.

(2.) The claim to allowance of any such person, certified by the Chairman of the Committee, shall be paid by the Commonwealth out of moneys lawfully available for the purpose.

**24.** A person shall not use, cause, inflict or procure any violence, punishment, damage, loss or disadvantage to a person for or on account of that person having appeared as a witness before the Committee or for or on account of any evidence given by that person before the Committee.

Injury to  
witness.

Penalty : Five hundred pounds or imprisonment for one year.

**25.—(1.)** An employer shall not dismiss an employee from his employment, or prejudice an employee in his employment, for or on account of the employee having appeared as a witness before the Committee or for or on account of the employee having given evidence before the Committee.

Dismissal by  
employers of  
witnesses.

Penalty : Five hundred pounds or imprisonment for one year.

(2.) In proceedings for an offence against this section, it lies upon the employer to prove that an employee shown to have been dismissed or prejudiced in his employment was dismissed or prejudiced for some reason other than a reason mentioned in the last preceding sub-section.

**26.** A person shall not—

- (a) wilfully insult or disturb the Committee ;
- (b) interrupt the proceedings of the Committee ;
- (c) use insulting language towards the Committee or a member of the Committee ;
- (d) by writing or speech use words false and defamatory of the Committee or of a member of the Committee ;

Offences  
against the  
Committee.

- (e) by writing or speech use words calculated—
- (i) to influence improperly a person in relation to evidence which he may give before the Committee ;
  - (ii) to influence improperly a witness before the Committee ; or
  - (iii) to bring the Committee or a member of the Committee into disrepute ; or
- (f) in any manner commit a wilful contempt of the Committee, not being a contempt which is a contravention of or failure to comply with any of the provisions of section fourteen, fifteen, seventeen or nineteen of this Act.

Penalty : One hundred pounds or imprisonment for three months.

Protection of members of the Committee, barristers and witnesses.

27.—(1.) Each member of the Committee has, in the exercise of his duty as a member of the Committee, the same protection and immunity as a Justice of the High Court.

(2.) A barrister or solicitor appearing before the Committee, and every other person authorized by the Committee to appear before it, has the same protection and immunity as a barrister has in appearing for a party in proceedings in the High Court.

(3.) Subject to this Part, a witness summoned to attend or appearing before the Committee has the same protection, and is, in addition to the penalties provided by this Part, subject to the same liabilities in any civil or criminal proceeding, as a witness in proceedings in the High Court.

Proceedings for defamation not to lie.

28.—(1.) No action or proceeding, civil or criminal, lies—

- (a) against the Commonwealth, against a Minister, or against a servant or agent of the Commonwealth, in respect of the printing or publishing of—
- (i) a transcript of proceedings of the Committee ; or
  - (ii) a report of the Committee ; or
- (b) in respect of the publication in a newspaper, or by means of broadcasting, of—
- (i) a fair and accurate report of proceedings of the Committee ; or
  - (ii) a report of the Committee,
- not being a publication in contravention of section nineteen of this Act.

(2.) This section does not limit or abridge any privilege existing apart from this section.



29.—(1.) Where evidence of proceedings before the Committee (including questions asked of witnesses and answers given or statements made by witnesses) is admissible in any Federal or State Court or Court of a Territory of the Commonwealth, the evidence may be given by the production of a document certified under the hand of the person who is or was the Chairman of the Committee to be a transcript of the proceedings. Evidence of proceedings.

(2.) Judicial notice shall be taken of the signature of the person who is or was the Chairman of the Committee, and of the fact that he is or was the Chairman.

30. The proceedings of the Committee are a judicial proceeding for the purposes of Part III. of the *Crimes Act* 1914–1950 and the Committee is a tribunal for the purposes of that Part. Application of Part III. of Crimes Act.