

STEVEDORING INDUSTRY.

No. 53 of 1956.

An Act relating to the Stevedoring Industry.

[Assented to 30th June, 1956.]

BE 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 1956*. Short title.
2. This Act shall come into operation on a date to be fixed by Commencement.
Proclamation.
3. This Act is divided into Parts, as follows :— Parts.
 - Part I.—Preliminary (Sections 1-9).
 - Part II.—The Australian Stevedoring Industry Authority (Sections 10-23).
 - Part III.—Port Quotas and Registration of Employers and Waterside Workers (Sections 24-45).
 - Part IV.—Financial Provisions (Sections 46-52).
 - Part V.—Miscellaneous (Sections 53-60).
4. This Act binds the Crown in right of the Commonwealth or a Crown to be bound.
State, including an authority of the Commonwealth or a State.

Repeal.

5.—(1.) The *Stevedoring Industry Act* 1949 is repealed.

(2.) Part II. of the *Stevedoring Industry Act* 1954 is repealed.

(3.) The *Stevedoring Industry Act* 1954, as amended by this Act, may be cited as the *Stevedoring Industry Act* 1954–1956.

Transitional provisions.

6.—(1.) In this section, unless the contrary intention appears—
“ industrial dispute ” has the same meaning as in the *Stevedoring Industry Act* 1949–1954 ;

“ the Court ” means the Commonwealth Court of Conciliation and Arbitration.

(2.) The Court constituted as provided by the *Stevedoring Industry Act* 1949–1954 is empowered to continue and complete the hearing and determination of—

(a) an industrial dispute ;

(b) a matter under section thirty-four of the *Stevedoring Industry Act* 1949–1954 ; and

(c) an appeal under section twenty-five of that Act,

the hearing and determination of which had been begun by the Court, but had not been completed, before the commencement of this Act, and, for the purposes of this sub-section, the *Conciliation and Arbitration Act* 1904–1955, the regulations in force under that Act and the *Stevedoring Industry Act* 1949–1954 continue in force as if the *Conciliation and Arbitration Act* 1956, and this Act, had not been enacted.

(3.) In the continuation of a hearing under the last preceding sub-section, the Court shall have regard to any evidence given and arguments adduced during that portion of the hearing which took place before the commencement of this Act.

(4.) Where—

(a) an award or order continued in force, or purporting to have been continued in force, by, under or by virtue of the *Stevedoring Industry Act* 1949, or that Act as amended from time to time ;

(b) an order of the Australian Stevedoring Industry Board made under that Act, or that Act as amended from time to time, which amended or varied an award or order referred to in the last preceding paragraph ; or

(c) an award or order of the Court made under that Act, or that Act as amended from time to time, other than an order to which a provision of section forty-nine of the *Conciliation and Arbitration Act* 1956 extends,

was in force immediately before the date of commencement of this Act, the award or order shall not cease to be in force by reason of the enactment of this Act.

(5.) An award or order to which the last preceding sub-section applies, or an award or order made by virtue of sub-section (2.) of this section—

- (a) shall, for the purposes of this Act and the *Conciliation and Arbitration Act 1904–1956*, be deemed to be an award or order made by the Commission under Division 4 of Part III. of that last-mentioned Act; and
- (b) shall have effect, and proceedings may be taken thereon or in relation thereto (whether by way of enforcement or otherwise), under that last-mentioned Act as though it were an award or order of the Commission so made.

(6.) Where an order of the Australian Stevedoring Industry Board made under the *Stevedoring Industry Act 1949*, or under that Act as amended from time to time, (not being an order referred to in paragraph (b) of sub-section (4.) of this section) was in force immediately before the date of commencement of this Act, the order shall not cease to be in force by reason of the enactment of this Act and shall be deemed to be an order of the Authority made under section eighteen of this Act.

(7.) An order referred to in paragraph (a) or (b) of sub-section (4.) of this section, and continued in force by that sub-section, being an order which has not been varied or revoked by the Court by virtue of sub-section (2.) of this section or by the Commission under Division 4 of Part III. of the *Conciliation and Arbitration Act 1904–1956*, may be varied or revoked by the Authority by an order which the Authority is empowered to make under section eighteen of this Act.

(8.) The reference in sub-section (2.) of section nineteen of this Act to an award of the Commission shall be read as not including a reference to an order which may be varied or revoked by the Authority under the last preceding sub-section.

(9.) All property and rights which, immediately before the date of commencement of this Act, were vested in the Australian Stevedoring Industry Board, are, by force of this section, vested in the Authority, and all liabilities to which the Board was subject immediately before that date, shall, upon that date, be deemed to become the liabilities of the Authority.

(10.) A reference to the Australian Stevedoring Industry Board in a contract, agreement or other instrument to which the Board was, immediately before the date of commencement of this Act, a party shall, after that date, be read as a reference to the Authority.

(11.) Where, immediately before the date of commencement of this Act, the Australian Stevedoring Industry Board maintained a register of employers, or a register of waterside workers, at a port in pursuance of the *Stevedoring Industry Act 1949–1954*, that register shall, upon that date, be deemed to have been established by the Authority in pursuance of this Act.

(12.) A person who, immediately before the date of commencement of this Act, was registered at a port under the *Stevedoring Industry Act* 1949-1954 as an employer or waterside worker shall, upon that date, be deemed to be registered at that port under this Act as an employer or waterside worker, as the case may be.

(13.) Where, before the date of commencement of this Act, a person had applied for registration as an employer or as a waterside worker under the *Stevedoring Industry Act* 1949-1954, and that application had not, before that date, been finally dealt with by the Australian Stevedoring Industry Board, that application shall, upon that date, be deemed to have been made under this Act.

(14.) Where, immediately before the date of commencement of this Act, the suspension of the registration of an employer under section twenty-three of the *Stevedoring Industry Act* 1949-1954, or the suspension of the registration of a waterside worker under section twenty-four of that Act, (including a suspension the operation of which had been postponed under sub-section (3.) of section twenty-five of that Act) was in force, the suspension shall, upon that date, have effect as if it had been effected under section thirty-five or thirty-six of this Act, as the case may be.

(15.) Where, immediately before the date of commencement of this Act, the postponement of the operation of a suspension was in force under sub-section (3.) of section twenty-five of the *Stevedoring Industry Act* 1949-1954, the postponement shall, upon that date, have effect as if it had been effected under sub-section (3.) of section thirty-seven of this Act.

(16.) Where, before the date of commencement of this Act, the Australian Stevedoring Industry Board had determined the quota for a port under section twenty-two of the *Stevedoring Industry Act* 1949-1954, and that determination was in force immediately before that date, the quota so determined shall, upon that date, be deemed to have been determined under this Act by the Authority as the quota for that port, but shall cease to be the quota for the port upon the expiration of a period of three months after that date or the determination of a quota for the port under section twenty-five of this Act, whichever first occurs.

(17.) Where, immediately before the date of commencement of this Act, an employment bureau was being administered by the Australian Stevedoring Industry Board in pursuance of the *Stevedoring Industry Act* 1949-1954, that employment bureau shall, upon that date, be deemed to have been established by the Authority in pursuance of this Act.

Interpretation.

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

“award of the Commission” means an award of the Commission under the *Conciliation and Arbitration Act* 1904-1956, and includes an order of the Commission under that 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 a person to whom paragraph (a), (b) or (c) of this definition applies ;

“ employment bureau ” means an employment bureau for waterside workers established by the Authority in pursuance of this Act ;

“ Inspector ” means an Inspector appointed by the Authority under this Act ;

“ member ” means a member of the Authority, and includes the Chairman of the Authority ;

“ prescribed representative of employers ” means—

(a) the Oversea Shipping Representatives’ Association ;

(b) the Australasian Steamship Owners’ Federation ;

(c) the Independent Steamship Owners’ Association ; or

(d) any prescribed employer or prescribed association of employers ;

“ registered employer ” means a person registered as an employer under this Act ;

“ registered waterside worker ” means a person registered as a waterside worker 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 a wharf ; and

(e) haulage or trucking from ship to shed or shed to ship, and includes—

- (f) the removal or replacing of beams or hatches ;
- (g) the handling of dunnage or ballast ;
- (h) the preparing or cleaning of holds ; and
- (i) the preparation of gear for use in connexion with the loading or unloading of ships,

when that work is performed by a person who is a member, or has applied for membership, of a Union or by a person registered as a waterside worker under Part V. of the National Security (Shipping Co-ordination) Regulations immediately before the commencement of the *Stevedoring Industry Act 1947* ;

“the association of employers”, in relation to a port, means such association, if any, of employers at that port, as, in the opinion of the Authority, represents the interests in relation to stevedoring operations of the majority of employers at that port ;

“the Australian Stevedoring Industry Board” means the Australian Stevedoring Industry Board established under the *Stevedoring Industry Act 1949-1954* ;

“the Authority” means the Australian Stevedoring Industry Authority established under this Act ;

“the Commission” means the Commonwealth Conciliation and Arbitration Commission ;

“the Court” means the Commonwealth Industrial Court ;

“Union” means the Waterside Workers’ Federation of Australia, the North Australian Workers’ Union or any organization of employees specified in a declaration in force under section nine of this Act and “the Union” means—

- (a) in relation to a port, other than the port of Darwin, at which, immediately before the commencement of this Act, a register of waterside workers was maintained in pursuance of the *Stevedoring Industry Act 1949-1954*—the Waterside Workers’ Federation of Australia ;
- (b) in relation to the port of Darwin—the North Australian Workers’ Union ; and
- (c) in relation to any other port in respect of which a declaration under section nine of this Act is in force—the organization of employees specified in the declaration ;

“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 person who is a member, or has applied for membership, of a Union or a person registered as a waterside worker under Part V. of the National Security (Shipping Co-ordination) Regulations immediately before the commencement of the *Stevedoring Industry Act 1947* 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 ;
- (l) members of the Sydney Coal Lumpers Union while loading or unloading coal in the port of Sydney ;
- (m) persons employed, directly or indirectly, at a port in or in connexion with stevedoring operations which consist of the loading or unloading, into or from ships, of loose bulk cargo by means of equipment based on the shore, not being persons employed, in relation to a particular class of loose bulk cargo, in operations which, before the commencement of this Act, were ordinarily performed at that port by members of a Union in connexion with the loading or unloading by those means of loose bulk cargo of that class ; or

(n) persons in the regular employment of a person engaged in an industrial undertaking, being persons whose duties include the performance of stevedoring operations in connexion with that undertaking;

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

“ working day ”, in relation to a port, means a day other than Saturday, Sunday or a day which is a holiday for waterside workers at that port.

(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.

(3.) A reference in this Act to stevedoring operations shall be read as a reference to stevedoring operations only in so far as those operations relate to trade and commerce with other countries or among the States or are performed in a Territory of the Commonwealth.

Performance
of functions
and exercise
of powers by
Authority.

8. The Authority shall perform its functions, and exercise its powers, under this Act with a view to securing the expeditious, safe and efficient performance of stevedoring operations.

Unions.

9. Where, after the commencement of this Act, the Authority establishes a register of waterside workers at a port, other than a port at which, immediately before the commencement of this Act, a register of waterside workers was maintained in pursuance of the *Stevedoring Industry Act 1949-1954*, the Authority shall declare, by notice published in the *Gazette*, that an organization of employees (being an organization of employees registered as such under the *Conciliation and Arbitration Act 1904-1956* or under a law of a State or a Territory of the Commonwealth) specified in the declaration is, for the purposes of this Act, the Union in relation to that port.

PART II.—THE AUSTRALIAN STEVEDORING INDUSTRY AUTHORITY.

Australian
Stevedoring
Industry
Authority.

10.—(1.) There shall be an Australian Stevedoring Industry Authority, which shall consist of—

(a) a Chairman ;

(b) a member experienced in industrial affairs by reason of having been an employer in any industry or having been otherwise associated with management in industry ; and

(c) a member experienced in industrial affairs by reason of having been associated with trade union affairs.

(2.) The Authority shall be a body corporate with perpetual succession and a common seal and may acquire, hold and dispose of real and personal property and shall be capable of suing and being sued in its corporate name.

(3.) All courts, judges and persons acting judicially shall take judicial notice of the seal of the Authority affixed to any document and shall presume that it was duly affixed.

(4.) The exercise of the powers, or the performance of the functions, of the Authority is not affected by reason only of there being a vacancy in the office of a member of the Authority.

11.—(1.) The Chairman and the other members of the Authority shall be appointed by the Governor-General and, subject to the next succeeding section, shall hold office for such period, not exceeding seven years, as the Governor-General specifies, but shall be eligible for re-appointment. Members of the Authority.

(2.) A member shall be paid such remuneration and allowances as the Governor-General determines.

(3.) If a member is a member of the Commission, he is not entitled to receive any salary or allowance in respect of his office of member of the Commission, but his holding of that office is not affected by reason of his holding office as a member under this Act.

12. The office of a member shall be vacated if—

(a) he engages in paid employment outside the duties of his office ;

(b) he becomes bankrupt or insolvent, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit ;

(c) he becomes permanently incapable of performing his duties or is guilty of misbehaviour ;

(d) except on leave granted by the Minister, he absents himself from duty for fourteen consecutive days or for twenty-eight days in any twelve months ; or

(e) he resigns his office by writing under his hand addressed to the Governor-General and his resignation is accepted,

and the Governor-General declares, by notice in the *Gazette*, that the office has become vacant. Vacation of office of members.

**Meetings of
the Authority.**

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

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

(3.) At a meeting of the Authority, two members constitute a quorum.

(4.) A question arising at a meeting of the Authority shall be decided by a majority of the votes of the members present.

(5.) In the event of an equality of votes—

(a) if the Chairman is present—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 Authority ; or

(b) if the Chairman is not present—the question shall be postponed until the next meeting of the Authority.

**Delegation by
Authority.**

14.—(1.) The Authority may, either generally or in relation to any port, by writing under its seal, delegate to a person any of its powers or functions under this Act (except this power of delegation and the power of the Authority to make orders under section eighteen of this Act) so that the delegated powers or functions may be exercised by the delegate in accordance with the instrument of delegation.

(2.) A delegation under this section shall be exercised subject to any conditions determined by the Authority from time to time and such a delegation is revocable at will and does not prevent the exercise of a power or the performance of a function by the Authority.

**Service of
the Authority.**

15.—(1.) Subject to this section, the Authority may appoint such officers as it thinks necessary to assist it in the exercise of its powers and the performance of its functions under this Act.

(2.) The officers of the Authority shall constitute the Service of the Authority.

(3.) Subject to the next succeeding sub-section, a person shall not be appointed to the Service of the Authority unless—

(a) he is a British subject ;

(b) the Authority is satisfied, upon medical examination, as to his health and physical fitness ; and

(c) he makes and subscribes, before a person authorized under the law of the Commonwealth or of a State or Territory of the Commonwealth to take affidavits, an oath or affirmation of allegiance in accordance with the form in the Schedule to the Constitution.

(4.) The Authority may, with the approval of the Minister, appoint to the Service of the Authority a person who is not a British subject and has not made and subscribed the oath or affirmation of allegiance.

(5.) The appointment, transfer or promotion of a person to a position the salary, or the maximum salary, of which exceeds Two thousand pounds per annum, or such higher amount per annum as the Minister determines, is subject to the approval of the Minister.

(6.) The terms and conditions of employment of officers appointed under this section are such as are determined by the Authority with the approval of the Public Service Board.

(7.) The Authority may employ such temporary or casual employees as it thinks fit on such terms and conditions as are determined by the Authority with the approval of the Public Service Board.

(8.) The maximum number of officers and employees of each designation whose duties are primarily of an administrative or clerical nature shall be a number approved by the Public Service Board.

(9.) A person who, immediately before the date of commencement of this Act, was an officer or employee of the Australian Stevedoring Industry Board shall, from that date, continue in the employment of the Authority upon the same terms and conditions as those upon which he was employed by the Board immediately before that date until he is appointed as an officer of the Authority under sub-section (1.) of this section, he enters into the employment of the Authority under sub-section (7.) of this section or his employment under this sub-section otherwise ceases.

(10.) Where an officer or employee of the Authority was, immediately before he became an officer or employee of the Authority, an officer of the Public Service of the Commonwealth—

- (a) he retains his existing and accruing rights ;
- (b) for the purpose of determining those rights, his service as an officer or employee of the Authority shall be taken into account as if it were service in the Public Service of the Commonwealth ; and
- (c) the *Officers' Rights Declaration Act 1928-1953* applies as if this Act and section had been specified in the Schedule to that Act.

16. The Authority has, for the purposes of this Act, power—

- (a) subject to the approval of the Minister where the amount involved exceeds Ten thousand pounds—
 - (i) to purchase land, buildings or wharves ;
 - (ii) to erect buildings ;
 - (iii) to dispose of land, buildings or wharves acquired by, or vested in, the Authority ;
 - (iv) to purchase, or take on hire, plant, equipment, stocks or other goods ; and

Powers of
Authority in
relation to
land, &c.

- (v) to dispose of plant, equipment, stocks or other goods acquired by, or vested in, the Authority ;
- (b) subject to the approval of the Minister in the case of a lease for a period exceeding five years, to take on lease land, buildings or wharves ; and
- (c) to do anything incidental to any of its powers under this section.

**Functions of
the Authority.**

17.—(1.) The functions of the Authority are—

- (a) to regulate the performance of stevedoring operations ;
- (b) to undertake or control, until the Minister otherwise directs, the performance of stevedoring operations at a port in respect of which there is in force for the time being a declaration in writing by the Minister that an emergency exists ;
- (c) to pay to registered waterside workers—
 - (i) attendance money payable under an award of the Commission ;
 - (ii) amounts payable under sub-section (12.) of section forty of this Act ; and
 - (iii) any other amounts payable by the Authority to registered waterside workers under an award of the Commission ;
- (d) to ensure that sufficient waterside workers are available for stevedoring operations at each port and that their labour is used to the best advantage ;
- (e) to establish and administer employment bureaux for waterside workers ;
- (f) to make arrangements for allotting waterside workers to stevedoring operations so as to ensure, as far as practicable, a fair distribution of work in stevedoring operations amongst registered waterside workers, including arrangements under which waterside workers who have been allotted to stevedoring operations may be transferred to other stevedoring operations, whether or not the transfer involves a change of employers ;
- (g) to determine the method of, and other matters relating to, the engagement of waterside workers for stevedoring operations, including the time at which waterside workers allotted to stevedoring operations shall present themselves for work at the place where those operations are to be performed ;
- (h) to make arrangements for facilitating the engagement of waterside workers for stevedoring operations, including arrangements which will avoid the unnecessary attendance of waterside workers at employment bureaux ;

- (i) to regulate the conduct of waterside workers in and about employment bureaux, wharves and ships ;
- (j) to provide or assist in providing, at places where satisfactory provision therefor is not, in the opinion of the Authority, made by employers or any other person or authority, first-aid equipment, medical attendance, ambulance services, rest rooms, sanitary and washing facilities, canteens, cafeteria, dining rooms and other amenities for waterside workers ;
- (k) to train, or arrange for the training of, persons in stevedoring operations ;
- (l) to investigate means of improving, and to encourage employers to introduce methods and practices that will improve, the expedition, safety and efficiency with which stevedoring operations are performed ;
- (m) to investigate methods, and to assist and encourage employers in devising and adopting methods, for the satisfactory performance of stevedoring operations in rain ;
- (n) to investigate the causes of delays in the performance of stevedoring operations and, in particular, delays in the arrival of cargo at, and the removal of cargo from, wharves ;
- (o) to encourage safe working in stevedoring operations and the use of articles and equipment, including clothing, designed for the protection of workers engaged in stevedoring operations and, where necessary, to provide waterside workers with articles and equipment designed for that purpose ;
- (p) to obtain and publish information relating to the stevedoring industry ; and
- (q) to exercise such powers, and perform such functions, as the Commission, by award or order, directs.

(2.) In regulating the performance of stevedoring operations under this Act, the Authority shall, except to such extent as, in the opinion of the Authority, is essential for the proper performance of that function, avoid imposing limitations upon employers with respect to their control of waterside workers engaged by them and their manner of performance of stevedoring operations.

(3.) In the performance of its functions under sub-section (1.) of this section, the Authority shall have regard to the desirability of encouraging employers to engage waterside workers for regular employment in stevedoring operations and waterside workers to offer for regular employment with employers in stevedoring operations.

18.—(1.) For the purpose of the performance of its functions under the last preceding section, the Authority may, subject to this section, make such orders, and do all such other things, as it thinks fit.

Powers of
Authority to
make orders.

(2.) Before making an order under the last preceding sub-section, the Authority shall consult as to the need for, and the proposed terms of, the order with such representatives as it thinks fit of such registered employers and of such Unions as, in the opinion of the Authority, are likely to be affected by the order.

(3.) A consultation under the last preceding sub-section may, if the Authority, of its own motion or upon the request of a prescribed representative of employers or a Union, so determines, take the form of a hearing of which notice in writing shall be given by the Authority to such prescribed representatives of employers, to such registered employers and to such Unions as, in the opinion of the Authority, should be given an opportunity of being present at the hearing.

(4.) The following provisions apply to and in relation to a hearing under the last preceding sub-section :—

- (a) the procedure in relation to the hearing is within the discretion of the Authority ;
- (b) the Authority is not bound to act in a formal manner and is not bound by any rules of evidence but may inform itself on any matter in such manner as it thinks just ;
- (c) the Authority may determine the periods which are reasonably necessary for the fair and adequate presentation of the respective views of the persons appearing before the Authority and require that those views be presented within the respective periods so determined ;
- (d) the Authority may take evidence on oath or affirmation and for that purpose, the Chairman of the Authority, or a person authorized by him in that behalf, may administer an oath ;
- (e) the Authority may require evidence or views to be presented in writing and may decide the matters upon which the Authority will hear oral evidence or views ;
- (f) the Authority may conduct the hearing or any part of the hearing in private ;
- (g) the Authority may conduct the hearing in the absence of a person to whom notice of the hearing has been given who has been required, under sub-section (1.) of section fifty-four of this Act, to attend to give evidence before the Authority at the hearing ; and
- (h) the Authority may permit representation of any person appearing before the Authority by counsel, solicitor or paid agent.

(5.) An order under this section shall not be expressed to apply to a particular person or to a particular stevedoring operation, but may be expressed to apply—

- (a) to persons included in a class of persons ;
- (b) to a class or kind of stevedoring operations ; or
- (c) at a particular place.

19.—(1.) Subject to sub-section (4.) of section eighty-four of the *Conciliation and Arbitration Act 1904–1956*, an order of the Authority has effect notwithstanding anything inconsistent therewith contained in an award of the Commission (whether made before or after the making of the order by the Authority) and the award of the Commission is, to the extent of the inconsistency, of no effect. Inconsistency.

(2.) The Authority shall not make an order which, in the opinion of the Authority, will be inconsistent with an award of the Commission unless the Authority has first consulted with the presidential member of the Commission assigned for the purpose of exercising the powers of the Commission under Division 4 of Part III. of the *Conciliation and Arbitration Act 1904–1956*, and the presidential member has agreed to the making of the order.

20.—(1.) Orders made by the Authority—

Orders of the
Authority.

(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.

(2.) A person shall not contravene or fail to comply with a provision of an order made by the Authority which is applicable to him.

Penalty : Where the offence is committed by a waterside worker, Twenty-five pounds ; in any other case, Two hundred and fifty pounds.

(3.) For the purpose of sections one hundred and nine, one hundred and thirty-eight and one hundred and eighty-eight of the *Conciliation and Arbitration Act 1904–1956*, an order of the Authority which was made after a hearing under sub-section (3.) of section eighteen of this Act shall be deemed to be an award of the Commission.

21.—(1.) Where a declaration by the Minister that an emergency exists is in force in respect of a port, the Authority may, for the purpose of the performance of its function under paragraph (b) of sub-section (1.) of section seventeen of this Act, give such directions as it thinks fit. Directions of
the Authority.

(2.) A direction under this section may be given orally or in writing.

(3.) 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.

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

(4.) Where a direction is given orally, the Authority shall, within twenty-four hours thereafter, record the direction in writing and, as soon as practicable, serve personally or by post a copy of the record on the person to whom the direction was given.

(5.) 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 Ten pounds ; in any other case, One hundred pounds.

(6.) A direction under this section, to the extent that it is inconsistent with an order of the Authority or an award of the Commission, is of no effect.

Orders and
directions of
Authority not
to be
challenged.

22. An order or direction of the Authority shall not be challenged, appealed against, reviewed, quashed or called in question, or be subject to prohibition, mandamus or injunction, in any court on any account whatever.

Inspectors.

23.—(1.) The Authority may appoint an officer or employee of the Authority to be an Inspector for the purposes of this Act.

(2.) The duties of an Inspector are—

(a) to make such investigations and reports in relation to stevedoring operations as the Authority or the Commission directs ;

(b) to suggest to employers and waterside workers, in appropriate cases, means by which stevedoring operations may be performed with greater expedition, safety and efficiency and the labour of waterside workers may be used to better advantage ;

(c) in a case where—

(i) a dispute as to the manner of performing a particular stevedoring operation has arisen between waterside workers and an employer, or such a dispute is threatened, impending or probable ; and

(ii) one or more of those waterside workers or that employer requests the Inspector to express his opinion as to the manner in which that stevedoring operation should be performed,

to so express his opinion ;

(d) to exercise such powers and perform such functions as an Inspector is required or permitted to exercise or perform under an order of the Authority or an award of the Commission ; and

(e) such other duties as the Authority directs the Inspector to perform.

(3.) An Inspector shall furnish to the Authority, in writing, particulars of any opinion expressed by him under paragraph (c) of the last preceding sub-section and of the circumstances in which the opinion was expressed.

(4.) For the purpose of carrying out his duties under this Act, an Inspector may, at any time during working hours—

- (a) enter any wharf or ship ;
- (b) inspect any stevedoring operations and any material, machinery, appliances or articles used for or in connexion with stevedoring operations and any books, documents, papers or things relating to stevedoring operations ; and
- (c) interview any person.

(5.) A person shall not hinder or obstruct an Inspector in the exercise of his duties or make to an Inspector, acting in the course of his duties, a statement, whether oral or in writing, which is false or misleading.

Penalty : Fifty pounds.

PART III.—PORT QUOTAS AND REGISTRATION OF EMPLOYERS AND WATERSIDE WORKERS.

24. The Authority may, for the purposes of this Part, define the limits of any port. Limits of ports.

25. For the purposes of—

- (a) ensuring that a sufficient number of waterside workers of the necessary physical fitness, and with the necessary competence and efficiency, are available for the expeditious, safe and efficient performance of stevedoring operations at each port at which stevedoring operations are performed and, in particular, ensuring that the average earnings of waterside workers at each such port will be such as to attract to, and retain in, the stevedoring industry at the port such a number of such waterside workers ;
- (b) furthering the objective of the decasualization of waterfront labour and ensuring that the labour of waterside workers available for stevedoring operations at each such port is not wasted or used otherwise than to the best advantage ; and
- (c) promoting industrial peace at each such port,

Determination of port quotas and establishment of registers of employers and waterside workers.

the Authority shall—

- (d) from time to time determine, by instrument in writing, the quota of waterside workers for each such port, that is to say, the number of waterside workers which, in the opinion of the Authority, is required for the proper and effective conduct of stevedoring operations at the port ; and
- (e) establish and maintain a register of employers, and a register of waterside workers, at each such port.

General provisions with respect to port quotas.

26.—(1.) The Authority shall, before determining the quota for a port under the last preceding section—

- (a) consult with such representatives as it thinks fit of the Union in relation to the port and of registered employers ; and
- (b) take into consideration such information as, in the opinion of the Authority, is the best information available to the Authority with respect to the probable movements of ships through the port during the period of twelve months next following the making of the determination and the probable volume and kinds of cargo which will require the performance of stevedoring operations at the port during that period.

(2.) Where the Authority determines the quota for a port under this section, the Authority shall, as soon as practicable, give notice of the making of the determination—

- (a) to the Union in relation to the port ;
- (b) if there is a branch of that Union at the port—to that branch ;
- (c) to each prescribed representative of employers ; and
- (d) to the association of employers at the port.

(3.) The Authority shall consider whether the quota for a port should be varied—

- (a) whenever so requested by a Union or by a prescribed representative of employers ; and
- (b) in any event, at least once in each period of twelve months.

(4.) If, at any time, the Authority considers that the quota at a port should be varied, the Authority shall, subject to this Act, determine another quota for the port under the last preceding section.

General provisions with respect to registration.

27.—(1.) The Authority may determine the person with whom an application for registration as an employer, or as a waterside worker, shall be lodged, and the form in which such an application shall be made.

(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.

(3.) The Authority shall not cancel or suspend the registration of a registered employer or a registered waterside worker except at his own request or in accordance with this Act.

Registration of employers.

28. Where—

- (a) a person applies for registration as an employer at a port ;
- (b) that person has the means—
 - (i) of carrying out stevedoring operations at the port in an expeditious, safe and efficient manner ; and
 - (ii) of discharging the duties and obligations of an employer under this Act ; and

- (c) a previous registration of that person as an employer has not been cancelled under section twenty-three of the *Stevedoring Industry Act 1949-1954* or under section thirty-five of this Act or, if a previous registration of that person as an employer has been so cancelled, the Authority is satisfied that, having regard to the circumstances of the cancellation of the previous registration and such other matters as are relevant, it would be proper to register that person as an employer,

the Authority shall register that person as an employer at the port.

29.—(1.) Where—

- (a) a person applies for registration as a waterside worker at a port ;
- (b) that person—
- (i) satisfies the reasonable requirements of the Authority as to the age, physical fitness, competence and suitability of persons to be registered as waterside workers ; and
 - (ii) is a member, or satisfies the Authority that he has applied for membership, of the Union in relation to the port ; and
- (c) a previous registration of that person as a waterside worker has not been cancelled under section twenty-four of the *Stevedoring Industry Act 1949-1954* or under section thirty-six of this Act or, if a previous registration of that person as a waterside worker has been so cancelled, the Authority is satisfied that, having regard to the circumstances of the cancellation of the previous registration and such other matters as are relevant, it would be proper to register that person as a waterside worker,

Registration of
waterside
workers.

the Authority shall, subject to the next two succeeding sections, register that person as a waterside worker at the port.

(2.) Where a person applies for registration as a waterside worker at a port and the Authority is not required to register that person under the last preceding sub-section, the Authority may register that person at the port but, if the registration of that person at the port would be prejudicial to the purposes specified in section twenty-five of this Act, the Authority shall refuse to so register that person.

(3.) Before registering a person as a waterside worker at a port (including a person to be registered by virtue of sub-section (2.) of the next succeeding section or sub-section (5.) of section thirty-one of this Act), the Authority shall—

- (a) consult with the association of employers at the port as to the competence and suitability of the person for work in stevedoring operations ; and

- (b) if the association of employers informs the Authority, in writing, that it objects to the registration of the person—consult with the Union in relation to the port, or, if there is a branch of that Union at the port, with that branch, and with the association of employers, with respect to the objection of the association of employers.

Registrations
in excess of
port quotas.

30.—(1.) Subject to this section, the Authority shall not register a person as a waterside worker at a port if, by so doing, the number of waterside workers registered at the port would be increased to a number in excess of the quota for the port.

(2.) Where the Authority declares, in writing, that, in the opinion of the Authority—

- (a) the demands for the performance of stevedoring operations at a port specified in the declaration during a period specified in the declaration, being a period not exceeding six months, will not be met unless such number of waterside workers in excess of the quota for the port as is specified in the declaration is temporarily available at the port for the performance of those stevedoring operations; and

- (b) the circumstances are not such as to warrant that quota being increased,

the Authority may, at any time during the period specified in the declaration when the number of waterside workers registered at the port is less than the sum of that quota and the number specified in the declaration, register a person as a waterside worker at the port for a period which will expire not later than the period specified in the declaration.

(3.) The Authority shall—

- (a) before making a declaration in relation to a port under the last preceding sub-section, consult with such representatives as it thinks fit of the Union in relation to the port and of registered employers; and

(b) after making the declaration, serve a copy of the declaration—

- (i) on the Union in relation to the port;
- (ii) if there is a branch of that Union at the port—on that branch;
- (iii) on each prescribed representative of employers; and
- (iv) on the association of employers at the port.

(4.) Sub-section (1.) of this section does not prevent the Authority from registering as a waterside worker at a port a person—

- (a) who is registered at another port; or
- (b) who, within the preceding period of three years, has had his registration at a port cancelled at his own request.

(5.) Where a person is registered as a waterside worker at a port and the Authority registers that person as a waterside worker at another port, the Authority shall cancel his registration at that first-mentioned port.

31.—(1.) Subject to this section, the Authority shall not register a person as a waterside worker at a port unless the application for registration of that person has been submitted to the Authority on behalf of that person by the Union in relation to the port.

Applications
for registration
to be submitted
through Union.

(2.) Where—

- (a) the number of waterside workers registered at a port is less than the quota for the port ; and
- (b) the Authority is of the opinion that, unless it takes action under this section, the number of waterside workers so registered will continue to be less than the quota,

the Authority may, by notice published in a newspaper circulating in the neighbourhood of the port or in such other manner as the Authority thinks fit, invite persons who desire to be registered as waterside workers at the port to apply to the Authority accordingly not later than a date specified in the notice.

(3.) A notice under the last preceding sub-section shall specify the number of additional waterside workers that the Authority proposes to register at the port.

(4.) The Authority shall serve a copy of a notice under sub-section (2.) of this section on the Union in relation to the port and, if there is a branch of that Union at the port, on that branch.

(5.) Where, at the expiration of a period of seven days after the date specified in the notice as the date not later than which applications for registration may be made, the number of waterside workers registered at the port is still less than the quota for the port, the Authority may register as a waterside worker at the port a person who, by reason of his application for registration not having been submitted on his behalf by the Union in relation to the port, would, but for this sub-section, be ineligible for registration by virtue of sub-section (1.) of this section.

(6.) The Authority shall, before registering a person as a waterside worker at a port by virtue of the last preceding sub-section, consult with the Union in relation to the port or, if there is a branch of that Union at the port, with that branch, as to the competence and suitability of the person for work in stevedoring operations.

(7.) If a declaration is in force in respect of a port under sub-section (2.) of the last preceding section—

- (a) a reference in this section to the quota for a port shall, in relation to that port, be read as including a reference to a number equal to the sum of the quota for that port and the number specified in the declaration ; and

- (b) a notice under sub-section (2.) of this section in relation to the port shall, in addition to complying with sub-section (3.) of this section, specify the number of waterside workers, if any, that the Authority proposes to register at the port by virtue of sub-section (2.) of the last preceding section and the maximum period for which a waterside worker may be so registered.

Registered
waterside
workers in
excess of quota.

32.—(1.) Where—

- (a) the number of waterside workers registered at a port is in excess of the quota for the port;
- (b) the Union in relation to the port, or a prescribed representative of employers, requests the Authority to take action under this section; and
- (c) the Authority, after consulting with such representatives as it thinks fit of that Union and of registered employers, is of the opinion that—
- (i) the quota for the port is, for a period of at least six months, likely to remain at a number less than the number of waterside workers registered at the port; and
- (ii) the number of waterside workers registered at the port is not, within that period, likely to be reduced by reason of death, cancellation of the registration of waterside workers or any other cause, to a number equal to or less than the quota for the port,

the Authority may, subject to the next succeeding sub-section, cancel or suspend the registration of so many waterside workers registered at the port as it thinks fit, but so that the number of registered waterside workers at the port is not reduced to less than the quota for the port.

(2.) Where the Authority has determined the quota for a port under section twenty-five of this Act and, before the expiration of a period of twelve months after the date of that determination, the Authority makes a further determination under that section reducing the quota for the port, the Authority shall not, before the expiration of that period, exercise its powers under the last preceding sub-section so as to reduce the number of waterside workers registered at the port to less than that first-mentioned quota.

(3.) The Authority shall not, under this section, cancel or suspend the registration of a waterside worker who, immediately before the twenty-eighth day of March, One thousand nine hundred and forty-seven (being the date on which the *Stevedoring Industry Act 1947* received the Royal Assent), was a member of the Waterside Workers' Federation of Australia or a person registered as a waterside worker under Part V. of the National Security (Shipping Co-ordination) Regulations.

(4.) Subject to the last preceding sub-section, where, under this section, the Authority cancels or suspends the registration of waterside workers at a port, the waterside workers whose registration is cancelled or suspended shall be the waterside workers last registered at that port.

(5.) Where the number of waterside workers registered at a port, being a port at which the registration of waterside workers has been cancelled or suspended under sub-section (1.) of this section, has become less than the quota for that port, the Authority shall grant priority in the registration of, or in the revocation of suspension of the registration of, waterside workers at that port to waterside workers whose registration has been so cancelled or suspended and shall register, or revoke the suspension of the registration of, waterside workers whose registration was so cancelled or suspended in their order of seniority as determined by the length of their registration prior to its cancellation or suspension.

33.—(1.) A registered employer—

Employers' obligations.

- (a) shall not act in a manner whereby the expeditious, safe and efficient performance of stevedoring operations is prejudiced or interfered with ;
- (b) shall provide proper supervision of the performance of stevedoring operations by waterside workers engaged by him ; and
- (c) shall ensure that, as far as is practicable—
 - (i) stevedoring operations for which he has engaged waterside workers are expeditiously, safely and efficiently performed ; and
 - (ii) the labour of waterside workers engaged by him for stevedoring operations is used to the best advantage.

(2.) An employer who contravenes or fails to comply with a provision of the last preceding sub-section is guilty of an offence against this Act punishable upon conviction by a fine of not less than One hundred pounds and not more than One thousand pounds.

34.—(1.) An employer who has committed an offence against this Act may be charged accordingly before the Court and the Court may impose the penalty provided by this Act in respect of that offence.

Punishment of offences by employers.

(2.) Proceedings before the Court under this section may be instituted by the Authority by summons upon information, without indictment.

(3.) The jurisdiction of the Court under this section shall be exercised by a single Judge.

Cancellation or suspension of registration of employers.

35.—(1.) If the Court, on the application of the Authority, is satisfied that an employer registered at a port—

- (a) does not have the means of carrying out stevedoring operations at the port in an expeditious, safe and efficient manner or of discharging the duties and obligations of an employer under this Act ;
- (b) has failed to comply with an order or direction of the Authority under this Act or an award of the Commission ; or
- (c) has been convicted of an offence against this Act,

the Court may order the Authority to cancel the registration of the employer, or to suspend his registration until the expiration of such period as the Court directs, and thereupon the Authority shall cancel or suspend the registration of the employer accordingly.

(2.) The powers of the Court under the last preceding sub-section are in addition to any power of the Court to impose a pecuniary penalty upon a registered employer in respect of an offence.

(3.) The jurisdiction of the Court under this section shall be exercised by a single Judge.

Cancellation or suspension of registration of waterside workers.

36.—(1.) Where, after such inquiry as it thinks fit, the Authority is satisfied that a registered waterside worker—

- (a) is, by reason of misconduct in or about an employment bureau, or a wharf or ship, unfit to be a registered waterside worker ;
- (b) is, by reason of his physical or mental condition or his incompetence or inefficiency, not capable of properly carrying out the duties of a waterside worker or may be a danger to others ;
- (c) has acted in a manner whereby the expeditious, safe or efficient performance of stevedoring operations has been prejudiced or interfered with ;
- (d) has not attended regularly for employment as a waterside worker ;
- (e) has failed—
 - (i) to offer for or accept employment as a waterside worker ;
 - (ii) to commence, continue or complete an engagement for employment as a waterside worker ; or
 - (iii) to perform any stevedoring operations which he was lawfully required to perform ;
- (f) has been convicted of an offence against this Act ; or
- (g) has failed to comply with an order or direction of the Authority under this Act or an award of the Commission,

the Authority may cancel or suspend the registration of the waterside worker.

(2.) The suspension of the registration of a waterside worker at a port under the last preceding sub-section has effect until the expiration of such period, or of such number of working days at the port, as the Authority directs.

(3.) For the purposes of the last preceding sub-section, "working day", in relation to a port, does not include a day declared by the Authority, in writing, to be a day on which there has been a concerted failure by all or any of the waterside workers registered at the port to comply with a provision of this Act, an order or direction of the Authority under this Act or an award of the Commission.

(4.) The Authority may, before holding an inquiry under this section in respect of a waterside worker, suspend the registration of the waterside worker and may at any time revoke that suspension.

(5.) In considering whether the registration of a waterside worker should be cancelled or suspended under this section, the Authority may take into account any disciplinary action which has been taken against that waterside worker by a Union of which he is a member.

37.—(1.) Where the registration of a person as a waterside worker is cancelled or suspended under the last preceding section, that person may, within fourteen days after the date of the cancellation or suspension or within such further period as the Court allows, appeal to the Court, by filing a notice of appeal in the prescribed form with the prescribed officer of the Court, against the cancellation or suspension and, upon consideration of any such appeal, the Court may confirm, vary or set aside the cancellation or suspension. Appeals.

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

(3.) The Authority 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.) The jurisdiction of the Court under this section shall be exercised by a single Judge.

38. Where the registration of an employer or waterside worker has been suspended under this Act, the employer or waterside worker shall be deemed not to be registered as an employer or waterside worker under this Act at any time when the suspension is in force. Effect of suspension.

39.—(1.) Subject to the next succeeding section, a person, whether on his own behalf or as an agent or servant of another person, shall not, except with the consent of the Authority, engage a person for employment as a waterside worker for work in stevedoring operations 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 at that port under this Act. Unregistered persons not to be employed as waterside workers.

Penalty : One hundred pounds.

(2.) Nothing in the last preceding sub-section or in the next succeeding section prevents 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.

Engagement of
unregistered
waterside
workers in
special
circumstances

40.—(1.) The Authority shall not exercise its powers under this section before such date, being a date not earlier than the first day of January, One thousand nine hundred and fifty-seven, as the Minister, by notice in the *Gazette*, determines.

(2.) Where the Authority is of the opinion—

- (a) that, by reason of the sudden occurrence of an unusually heavy demand for the performance of stevedoring operations at a port or by reason of interruptions in stevedoring operations at a port, the expeditious, safe and efficient performance of stevedoring operations at the port is likely to be prejudicially affected for a period of at least five days ; and
- (b) that the circumstances are not such as to warrant an increase in the quota for the port or the registration of waterside workers at the port under sub-section (2.) of section thirty of this Act,

the Authority, after consulting with such representatives as it thinks fit of the Union in relation to the port and of registered employers, may declare, by instrument in writing, that, until the declaration ceases to be in force, the employment of unregistered waterside workers at the port is, in the public interest, permitted in accordance with this section.

(3.) Subject to the next succeeding sub-section, where a declaration under the last preceding sub-section is in force in respect of a port, a person may, notwithstanding sub-section (1.) of the last preceding section, engage a person who is not a registered waterside worker for employment as a waterside worker for work in stevedoring operations on a wharf or ship at the port—

- (a) between the hour of five o'clock in the afternoon and midnight on a working day at the port ; and
- (b) at any time on a Saturday or Sunday.

(4.) The last preceding sub-section does not authorize the engagement for employment at a port on a particular day of a person who is not a registered waterside worker unless—

- (a) his name appears in the record, if any, maintained by the Authority at the port under the next succeeding sub-section ;
- (b) his engagement for that day has been approved by the Authority ; and
- (c) a registered waterside worker is not available for and prepared to accept that employment.

(5.) The Authority may, at any port, establish and maintain a record of persons who are prepared to accept employment as waterside workers at the port under this section.

(6.) The Authority may determine the person with whom an application by a person for the inclusion of his name in a record maintained at a port under the last preceding sub-section shall be lodged, and the form in which such an application shall be made.

(7.) A person shall not, in an application for the inclusion of his name in a record maintained by the Authority under sub-section (5.) of this section, make a statement or furnish information which is false or misleading.

Penalty : Twenty-five pounds.

(8.) Where—

(a) the Authority is satisfied that, if a person whose name appears in a record maintained under sub-section (5.) of this section were a registered waterside worker, sufficient grounds would exist for cancelling or suspending his registration by virtue of paragraph (a), (b), (c), (e), (f) or (g) of sub-section (1.) of section thirty-six of this Act ; or

(b) a person whose name appears in such a record fails, without reasonable excuse, to comply with a request by the Authority to attend at an employment bureau at the port at which the record is maintained,

the Authority may strike the name of that person from the record.

(9.) The Authority shall revoke a declaration made by the Authority under sub-section (2.) of this section as soon as the Authority is of the opinion that the circumstances which gave rise to the making of the declaration no longer exist.

(10.) Where the Authority makes a declaration in respect of a port under sub-section (2.) of this section, or revokes such a declaration under the last preceding sub-section, it shall forthwith give notice of the making of the declaration or of the revocation, as the case may be, to—

(a) the Union in relation to the port ;

(b) if there is a branch of that Union at the port—that branch ;

(c) each prescribed representative of employers ; and

(d) the association of employers at the port.

(11.) Subject to any order of the Authority or award of the Commission, a person who is not a registered waterside worker and is engaged for employment as a waterside worker by virtue of this section is, in respect of the work on which he is employed and the period of his engagement as approved by the Authority, entitled to the same remuneration and subject to the same terms and conditions of employment as would be applicable to him if he were a registered waterside worker.

(12.) If—

- (a) the Authority makes a declaration in respect of a port under sub-section (2.) of this section and, by virtue of that declaration, persons are engaged for employment as waterside workers under sub-section (3.) of this section ;
- (b) in respect of any period of seven days in the period of twenty-eight days immediately following the revocation of that declaration, the earnings (including attendance money), as a waterside worker, of a waterside worker registered at the port are less than the amount calculated by multiplying by ten the rate of attendance money per day payable on the first day of that period of seven days ; and
- (c) the waterside worker has made himself available for employment as a waterside worker on each working day during that period of seven days and, on each day during that period on which he was engaged for employment as a waterside worker, has observed and complied with the terms and conditions of employment applicable to him,
- the Authority shall pay to the waterside worker an amount equal to the difference between the amount of those earnings and the amount so calculated.

(13.) Where a waterside worker is paid, or is entitled to be paid, an amount under the last preceding sub-section in respect of a period of seven days, he is not entitled to be paid an amount under that sub-section in respect of another period of seven days which includes a day included in that first-mentioned period of seven days.

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

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

Penalty : One hundred pounds.

Application of section 144 of Conciliation and Arbitration Act.

42. A person who is registered under this Act as a waterside worker at a port, or whose name appears in a record maintained at a port by the Authority under sub-section (5.) of section forty of this Act, shall, for the purposes of section one hundred and forty-four of the *Conciliation and Arbitration Act 1904-1956*, be deemed to be employed in the industry in which members of the Union in relation to the port are employed.

Union rules not to discriminate.

43.—(1.) A rule of a Union (whether adopted before or after the commencement of this Act) which would have the effect of discriminating against persons registered as waterside workers by virtue of sub-section (5.) of section thirty-one of this Act, whether in relation

to their seeking admission to the Union or as members of the Union or otherwise, is, to the extent of its application in relation to such persons, void and of no effect, and an alteration which would have the effect of so discriminating shall not be made to the rules of a Union.

(2.) A person registered as a waterside worker at a port by virtue of sub-section (2.) of section thirty of this Act, or a person whose name appears in a record maintained at a port by the Authority under sub-section (5.) of section forty of this Act, may, notwithstanding anything contained in the rules of the Union in relation to the port, be admitted to the membership of the Union for the period of his registration or for the period during which his name so appears, as the case may be.

(3.) Provision shall be made in the rules of a Union whereby the amount payable to the Union by—

- (a) a person registered as a waterside worker at a port by virtue of sub-section (2.) of section thirty of this Act who becomes a member of the Union for the period of his registration ; or
- (b) a person whose name appears in a record maintained at a port by the Authority under sub-section (5.) of section forty of this Act and who becomes a member of the Union for the period during which his name so appears,

in respect of any subscription or fee is fixed at an amount which is not in excess of such amount as is reasonable having regard to the limited duration of his membership of the Union or to the limited opportunities available to him for employment as a waterside worker, as the case may be, and, if the rules of a Union fail to so provide, the Court is empowered, upon application by the Authority, to fix the amount of any subscription or fee payable to the Union by persons so registered or whose names so appear, and who so become members, at such amount as the Court considers reasonable.

(4.) The jurisdiction of the Court under the last preceding sub-section shall be exercised by a single Judge.

(5.) A reference in this section to a Union shall be read as including a reference to a branch of a Union.

44.—(1.) A person shall not, by violence to the person or property of a person, by threat, intimidation or incitement of any kind to any person, or, without reasonable cause or excuse, by boycott or threat of boycott of a person or property or discriminatory action, prevent, hinder or dissuade—

- (a) a person from applying to be registered as a waterside worker by virtue of sub-section (5.) of section thirty-one of this Act ;
- (b) a registered waterside worker from offering for, obtaining or accepting employment, or working, as a waterside worker in stevedoring operations ;

Boycott of
waterside
workers, &c.

- (c) a person from employing or offering to employ a registered waterside worker as a waterside worker in stevedoring operations ;
- (d) a registered waterside worker from continuing to be so registered ;
- (e) a person from applying to have his name included in a record maintained by the Authority under sub-section (5.) of section forty of this Act ;
- (f) a person from offering for, obtaining or accepting employment, or working, as a waterside worker by virtue of section forty of this Act ;
- (g) a person from employing or offering to employ a person as a waterside worker by virtue of section forty of this Act ; or
- (h) a person whose name appears in a record maintained by the Authority under sub-section (5.) of section forty of this Act from continuing to have his name so recorded.

(2.) A registered waterside worker shall not, without reasonable cause or excuse, refuse to accept employment or perform work in stevedoring operations with another person who is a registered waterside worker or is employed as a waterside worker by virtue of section forty of this Act.

(3.) In proceedings for an offence arising under either of the last two preceding sub-sections, proof of reasonable cause or excuse lies upon the person charged.

Penalty : Where the offence is committed by a body corporate, Five hundred pounds ; in any other case, Fifty pounds.

Proof of
certain matters.

45. In proceedings arising under the last preceding section or under section one hundred and forty-four of the *Conciliation and Arbitration Act* 1904-1956, a certificate in writing signed by a member of the Authority, or by an officer of the Authority authorized in writing by the Authority 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, was a person whose name appeared in a record maintained by the Authority under sub-section (5.) of section forty of this Act at a port specified in the certificate, or, by virtue of that section, was employed, or had offered for employment, as a waterside worker at a port specified in the certificate, is evidence that, on that date, that person was so registered, the name of that person so appeared, or that person was so employed or had so offered for employment, as the case may be.

PART IV.—FINANCIAL PROVISIONS.

Payment of
stevedoring
industry charge
to Authority.

46. There shall be paid to the Authority, out of the Consolidated Revenue Fund, which is appropriated accordingly, amounts equal to the amounts raised under the *Stevedoring Industry Charge Act* 1947-1954 after the commencement of this Act.

47.—(1.) The Authority may borrow money for temporary purposes on overdraft from the Commonwealth Bank of Australia or from such other bank as the Treasurer approves, upon the guarantee of the Treasurer, but the aggregate of the amounts borrowed by the Authority under this sub-section and not repaid shall not exceed Five hundred thousand pounds. Borrowings
by the
Authority.

(2.) The Treasurer may, for and on behalf of the Commonwealth, guarantee the repayment of any moneys (including interest thereon) borrowed by the Authority under the last preceding sub-section.

(3.) The Treasurer may, out of moneys appropriated by the Parliament for the purposes of this Act, make advances to the Authority of such amounts and upon such terms as he thinks fit.

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

48.—(1.) The Authority shall open and maintain an account or accounts with the Commonwealth Bank of Australia, and may open and maintain an account or accounts with such other bank or banks as the Treasurer approves. Authority's
bank accounts.

(2.) The Authority shall pay all moneys received by it into an account referred to in the last preceding sub-section.

49.—(1.) Subject to any direction of the Minister and to the next succeeding sub-section, the moneys of the Authority shall be applied only— Application
of moneys.

- (a) in payment or discharge of the expenses, charges and obligations incurred or undertaken by the Authority in the exercise of its powers and the performance of its functions under this Act or any other Act;
- (b) in payment of remuneration, salaries, fees and allowances under this Act; and
- (c) in making the payments referred to in paragraph (c) of sub-section (1.) of section seventeen of this Act.

(2.) Moneys of the Authority not immediately required for the purposes of the Authority may be invested on fixed deposit with the Commonwealth Bank of Australia or with any other bank approved by the Treasurer, or in securities of the Commonwealth.

(3.) The Authority may, with the approval of the Treasurer, make provision in its accounts in the nature of reserves.

50. The Authority shall keep proper accounts and records in accordance with the accounting principles generally applied in commercial practice and shall do all things necessary to ensure that all payments out of its moneys are correctly made and properly authorized and that adequate control is maintained over its assets and the incurring by it of liabilities. Accounts.

51.—(1.) The Auditor-General shall inspect and audit the accounts and records of financial transactions of the Authority, and shall forthwith draw the Minister's attention to any irregularity Audit.

disclosed by the inspection and audit which, in the opinion of the Auditor-General, is of sufficient importance to justify his so doing.

(2.) The Auditor-General shall, at least once in each year, report to the Minister the results of the inspection and audit carried out under the last preceding sub-section.

(3.) The Auditor-General or an officer authorized by him is entitled at all reasonable times to full and free access to all accounts, records, documents and papers of the Authority relating directly or indirectly to the receipt or payment of moneys by the Authority or to the acquisition, receipt, custody or disposal of assets by the Authority.

(4.) The Auditor-General or an officer authorized by him may make copies of or take extracts from any such accounts, records, documents or papers.

(5.) The Auditor-General or an officer authorized by him may require a member of the Authority, or an officer or employee of the Authority, to furnish him with such information in the possession of the member, officer or employee, or to which the member, officer or employee has access, as the Auditor-General or authorized officer considers necessary for the purposes of an inspection or audit under this Act, and the member, officer or employee shall comply with the requirement.

**Exemption
from taxation.**

52. The Authority is not subject to taxation under any law of a State to which the Commonwealth is not subject.

PART V.—MISCELLANEOUS.

Notices.

53.—(1.) A notice or other document which, under this Act, is required or permitted to be given to or served on a prescribed representative of employers may be given or served by sending it by post, or by delivering it by any other means, to such person as is, from time to time, by notice in writing to the Authority, authorized by the prescribed representative of employers to receive notices and other documents on behalf of the prescribed representative of employers.

(2.) A notice or other document which, under this Act, is required or permitted to be given to or served on the association of employers at a port may be given or served by sending it by post, or by delivering it by any other means, to such person as is, from time to time, by notice in writing to the Authority, authorized by the association of employers at the port to receive notices and other documents on behalf of the association of employers or, if a person is not so authorized, to any employer who is a member of the association of employers.

(3.) A notice or other document which, under this Act, is required or permitted to be given to or served on a Union, or a branch of a Union, may be given or served by sending it by post, or by delivering it by any other means, to an officer of the Union or to an officer of the branch, as the case may be.

54.—(1.) The Authority may require a person—

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

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

(2.) The Authority 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 Authority, or a person authorized by him in that behalf, may administer an oath.

(3.) A person shall not—

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

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.

55.—(1.) A Union, or a prescribed representative of employers, may, from time to time, in writing, request the Authority to regard such person as is, or such persons as are, specified in the request (being a person or persons who may be readily communicated with by the Authority) as the representative or representatives of the Union or of the prescribed representative of employers, as the case may be, for the purposes of the consultations referred to in sub-section (2.) of section eighteen, paragraph (a) of sub-section (1.) of section twenty-six, sub-section (3.) of section thirty, paragraph (c) of sub-section (1.) of section thirty-two, or sub-section (2.) of section forty, of this Act, or such of those provisions as are specified in the request.

(2.) Where, under this Act, the Authority is, in relation to any act or thing to be performed or done by the Authority, required to consult with any representative, association, Union, branch of a Union or any other person, body or authority, and the Authority performs or does that act or thing without so consulting, that failure does not invalidate the act or thing performed or done.

56. The Authority shall furnish to the Minister such information relating to the exercise of its powers and the performance of its functions under this Act as the Minister requires.

Furnishing of information.

Consultations.

Minister may require information.

Monthly
reports by
Authority.

57. The Authority shall, as soon as practicable after the last day in each month, make public, by such means as it thinks fit, a report giving particulars of—

- (a) stoppages of work by registered waterside workers during that month ; and
- (b) delays in the performance of stevedoring operations during that month due to the failure of registered employers to comply with a provision of this Act, of an order or direction of the Authority or of an award of the Commission.

Annual report.

58.—(1.) The Authority shall—

- (a) as soon as possible after the commencement of this Act prepare and furnish to the Minister a report on the operations of the Australian Stevedoring Industry Board during the year which ended on the thirtieth day of June, One thousand nine hundred and fifty-six ;
- (b) as soon as possible after the thirtieth day of June, One thousand nine hundred and fifty-seven, prepare and furnish to the Minister a report on the operations of the Authority, and the operations, if any, of the Australian Stevedoring Industry Board, during the year ending on the thirtieth day of June, One thousand nine hundred and fifty-seven ; and
- (c) as soon as possible after the thirtieth day of June in the year One thousand nine hundred and fifty-eight, and in each succeeding year, prepare and furnish to the Minister a report on the operations of the Authority during the year ending on that date.

(2.) A report furnished under the last preceding sub-section shall be accompanied by financial statements, in such form as the Treasurer approves, in respect of the period covered by the report.

(3.) Before furnishing the financial statements to the Minister, the Authority shall submit them to the Auditor-General, who shall report to the Minister—

- (a) whether the statements are based on proper accounts and records ;
- (b) whether the statements are in agreement with the accounts and records and show fairly the financial operations and the state of the affairs of the Authority ;
- (c) whether the receipt, expenditure and investment of moneys, and the acquisition and disposal of assets, by the Authority during the year have been in accordance with this Act ; and
- (d) as to such other matters arising out of the statements as the Auditor-General considers should be reported to the Minister.

(4.) The Minister shall lay the report and financial statements of the Authority, together with the report of the Auditor-General, before each House of the Parliament within fifteen sitting days of that House after their receipt by the Minister.

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

(a) against—

- (i) the Commonwealth ;
- (ii) the Minister ;
- (iii) the Authority ;
- (iv) a member of the Authority ; or
- (v) an officer, employee, servant or agent of the Commonwealth or of the Authority,

in respect of the printing or publishing of a report, or a portion of a report, under either of the last two preceding sections ; or

(b) in respect of the publication in a newspaper, or by means of broadcasting or television, of such a report or a portion of such a report.

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

60. 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.

Proceedings for
defamation
not to lie.

Regulations.