

STEVEDORING INDUSTRY.

No. 66 of 1962.

An Act to amend the *Stevedoring Industry Act*
1956-1961.

[Assented to 19th November, 1962.]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

1.—(1) This Act may be cited as the *Stevedoring Industry Act* 1962.

Short title
and citation.

(2) The *Stevedoring Industry Act* 1956-1961* is in this Act referred to as the Principal Act.

(3) The Principal Act, as amended by this Act, may be cited as the *Stevedoring Industry Act* 1956-1962.

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

Commence-
ment.

3.—(1) Section seven of the Principal Act is amended—

Interpretation.

(a) by inserting in sub-section (1.), before the definition of “award of the Commission”, the following definition:—

“ ‘annual leave’, in relation to a person, means annual leave to which he is entitled as a water-side worker;”;

(b) by

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

(b) by inserting in sub-section (1.), after the definition of “member”, the following definition:—

“ ‘person eligible for service pension’ means a person who is eligible for the grant of a service pension under the *Repatriation Act* 1920–1961 or would be so eligible but for section eighty-seven of that Act, and includes a person in receipt of such a pension; ”;

(c) by omitting from the definition of “registered irregular waterside worker” in sub-section (1.) the words “continuous port or a seasonal”;

(d) by omitting from sub-section (1.) the definition of “registered regular waterside worker” and inserting in its stead the following definition:—

“ ‘registered regular waterside worker’ means a registered waterside worker whose name is entered in Part A of the register of waterside workers at a port; ”; and

(e) by inserting in sub-section (1.), after the definition of “ship”, the following definition:—

“ ‘sick leave’, in relation to a person, means sick leave to which he is entitled as a waterside worker; ”.

(2.) The amendment made by paragraph (d) of the last preceding sub-section shall be deemed to have come into operation on the sixth day of June, One thousand nine hundred and sixty-one.

4. After section fifteen of the Principal Act the following section is inserted:—

Compensation
to members,
officers and
employees.

“ 15A. The *Commonwealth Employees’ Compensation Act* 1930–1959 applies to the Chairman and other members of the Authority, and to officers and employees of the Authority, as if they were employees within the meaning of that Act and—

(a) references in that Act to the Commonwealth were references to the Authority; and

(b) the Chairman and other members of the Authority were employed by the Authority.”.

General
provisions
with respect
to port quotas.

5. Section twenty-six of the Principal Act is amended by omitting from sub-section (5.) the words “continuous port or a seasonal”.

6. Section

6. Section twenty-seven of the Principal Act is amended by omitting sub-section (4.) and inserting in its stead the following sub-section:—

General provisions with respect to registration.

“(4.) The Authority shall not, otherwise than in accordance with this Act—

- (a) enter the name of a waterside worker in, or transfer the name of a waterside worker to, Part B of the register of waterside workers at a port; or
- (b) having so entered or transferred the name of a waterside worker, transfer his name to Part A of the register.”.

7. Section thirty of the Principal Act is amended by omitting paragraph (b) of sub-section (4.) and inserting in its stead the following paragraph:—

Registrations in excess of port quotas.

- “(b) who has not attained the age of sixty-five years and—
- (i) has, within the preceding period of three years, had his registration at a port cancelled at his own request;
 - (ii) has had his registration at a port cancelled under paragraph (b) of sub-section (1.) of section thirty-six of this Act on the ground that the Authority was satisfied that, by reason of his physical or mental condition, he was not capable of properly carrying out the duties of a waterside worker or might be a danger to others; or
 - (iii) has, before the commencement of the *Stevedoring Industry Act 1962*, had his registration at a port cancelled at his own request, being a request that the Authority is satisfied was made by him on grounds related to his physical or mental condition.”.

8. Section thirty-one A of the Principal Act is amended—

- (a) by omitting sub-section (1.) and inserting in its stead the following sub-section:—

Registration of waterside workers as irregular waterside workers.

“(1.) The register of waterside workers at a port shall consist of two Parts, to be called Part A and Part B of the register, respectively.”;

- (b) by omitting from sub-section (2.) the word “registered” (first occurring);
- (c) by inserting in paragraph (b) of sub-section (2.), after the words “sixty-five years”, the words “, or, if he is a person eligible for service pension, sixty years,”;

(d) by

- (d) by omitting from paragraph (c) of sub-section (2.) the words "from day to day; or" and inserting in their stead the words ", whether from day to day or otherwise, in accordance with the requirements applicable at the port to registered regular waterside workers;";
- (e) by inserting after paragraph (d) of sub-section (2.) the following word and paragraph:—
 " ; or (e) who, as at the fifteenth day of June, One thousand nine hundred and sixty-two, or at any time after that day and before the commencement of the *Stevedoring Industry Act 1962*, was a waterside worker registered at a port other than a port specified in the First Schedule or the Second Schedule to this Act and was regarded by the Authority as an irregular waterside worker,";
- (f) by omitting from paragraph (b) of sub-section (4.) the words "(not being stevedoring operations at a seasonal port at a time other than during a period declared by the Authority under sub-section (2.) of section forty-five B of this Act in relation to that port)";
- (g) by omitting from sub-section (8.) the word and letter " or (d) " and inserting in their stead the letters and word ", (d) or (e) " ; and
- (h) by omitting from sub-section (8.) the words "from day to day" and inserting in their stead the words ", whether from day to day or otherwise, in accordance with the requirements applicable at the port to registered regular waterside workers " .

Medical
examination of
registered
waterside
workers.

9. Section thirty-two A of the Principal Act is amended by omitting sub-section (2.) and inserting in its stead the following sub-section:—

"(2.) If, at any time, the Authority has reason to believe that—

- (a) the physical or mental condition of a registered waterside worker is such as to render him incapable of properly carrying out the duties of a waterside worker or a danger to others; or
- (b) the physical and mental condition of a registered irregular waterside worker who has not attained the age of sixty-five years is such that it would not be detrimental to his health if he were to become a registered regular waterside worker at the port at which he is registered,

the

the Authority may, by notice in writing served on him, require him to submit himself to medical examination by a medical practitioner specified in the notice at a time and place specified in the notice.”.

10. Section thirty-six of the Principal Act is amended—

- (a) by inserting after sub-section (3C.) the following sub-section:—

Cancellation
or suspension
of registration
of waterside
workers, &c.

“(3D.) Where the registration of a person as a waterside worker, or the entitlement of a registered waterside worker to attendance money, has been suspended under sub-section (1.) of this section by a person exercising a power delegated to him by the Authority under section fourteen of this Act, the Authority may, unless the waterside worker has filed a notice of appeal against the suspension under the next succeeding section or given notice under section thirty-seven B of this Act that he objects to the suspension, vary or set aside the suspension, but, where the Authority varies the suspension, it shall not increase the period, or the number of working days or days, for which the suspension would, but for the variation, have effect.”; and

- (b) by adding at the end thereof the following sub-section:—

“(6.) Where the Authority, under sub-section (3D.) of this section, varies or sets aside the suspension of the registration of a waterside worker or the suspension of the entitlement of a waterside worker to attendance money, or, under sub-section (4.) of this section, revokes the suspension of the registration of a waterside worker, the Authority may pay to the waterside worker such amount as the Authority thinks proper by way of compensation for any loss of wages, any loss of attendance money and any loss of payments for public holidays or for any loss of attendance money, as the case requires.”.

11.—(1.) Section thirty-seven of the Principal Act is amended—

Appeals.

- (a) by omitting paragraph (a) of sub-section (1.) and inserting in its stead the following paragraph:—

“(a) the registration of a person as a waterside worker has been cancelled or suspended under the last preceding section on a ground other than the ground referred to in paragraph (a) of sub-section (1.) of section thirty-seven B of this Act; or”;

- (b) by

- (b) by omitting paragraphs (c) and (d) of sub-section (1.);
- (c) by omitting from sub-section (1.) the words “, suspension, entry, transfer or refusal” (wherever occurring) and inserting in their stead the words “or suspension”; and
- (d) by omitting sub-section (2.) and inserting in its stead the following sub-section:—

“(2.) Upon consideration of such an appeal, the Commission may, as it thinks appropriate in the circumstances, confirm, vary or set aside the cancellation or the suspension and, where it sets aside a cancellation, may, if it thinks fit, substitute for the cancellation a period of suspension of registration.”.

(2.) The amendments made by the last preceding sub-section do not apply to or in relation to the cancellation or suspension of the registration of a waterside worker, or to the entry of the name of a registered waterside worker in, or the transfer of the name of a registered waterside worker to, Part A or Part B of a register of waterside workers, before the commencement of this Act or the refusal of the Authority before the commencement of this Act to transfer the name of a registered irregular waterside worker to Part A of a register.

Compensation
where appeal
upheld.

12. Section thirty-seven A of the Principal Act is amended—

- (a) by omitting from sub-section (1.) the words “loss of wages and attendance money” and inserting in their stead “any loss of wages, any loss of attendance money and any loss of payments for public holidays”; and
- (b) by inserting after sub-section (1.) the following sub-sections:—

“(1A.) Subject to the next succeeding sub-section, where—

- (a) the registration of a waterside worker is cancelled;
- (b) the Commission, upon consideration of an appeal against the cancellation, sets aside the cancellation; and
- (c) the waterside worker satisfies the Commission that his earnings during the period of cancellation were less than they would have been if the registration had not been cancelled and that it is reasonable that he should be paid compensation for the reduction in his earnings,

the Commission may, by order, direct the Authority to pay to the waterside worker such amount by way of compensation for the reduction in his earnings as the Commission thinks proper.

“(1B.) The

“(1B.) The Commission shall, in determining whether it is reasonable that the waterside worker should be paid compensation for the reduction in his earnings, and in determining the amount of the compensation that should be paid, have regard to all the circumstances of the case, including—

- (a) the circumstances out of which the cancellation of the registration of the waterside worker arose;
- (b) any failure by the waterside worker to furnish to the Authority at the inquiry held under section thirty-six of this Act in relation to the cancellation information furnished by him to the Commission on the hearing of the appeal to the Commission against the cancellation, being information that, in the opinion of the Commission, he might reasonably have been expected to furnish at the inquiry;
- (c) any delay in the prosecution of the appeal to the Commission against the cancellation;
- (d) the steps, if any, taken by the waterside worker to obtain other employment during the period of the cancellation; and
- (e) any income received by the waterside worker during the period of the cancellation, being income that, but for the cancellation, he would not have received.”.

13. After section thirty-seven A of the Principal Act the following section is inserted:—

“ 37B.—(1.) Subject to the next succeeding sub-section—

Medical
Boards.

- (a) the registration of a waterside worker shall not be cancelled or suspended under paragraph (b) of sub-section (1.) of section thirty-six of this Act on the ground that the Authority is satisfied that, by reason of his physical or mental condition, he is not capable of properly carrying out the duties of a waterside worker or may be a danger to others; and
- (b) the name of a registered waterside worker shall not, except upon application by him, be—
 - (i) transferred to Part B of a register of waterside workers in pursuance of paragraph (c) of sub-section (2.) of section thirty-one A of this Act; or
 - (ii) transferred to Part A of a register of waterside workers in pursuance of sub-section (8.) of that section,

unless

unless the Authority has served on the waterside worker a notice in writing of the proposed cancellation, suspension or transfer and—

- (c) the waterside worker has not, within fourteen days after service on him of the notice, given notice in writing to the Authority that he objects to the proposed cancellation, suspension or transfer; or
- (d) the waterside worker has, within fourteen days after service on him of the notice, given notice in writing to the Authority that he objects to the proposed cancellation, suspension or transfer and the objection has been disallowed under sub-section (6.) of this section.

“(2.) The last preceding sub-section does not apply in relation to the suspension of the registration of a waterside worker or to the transfer of the name of a registered waterside worker to Part B of a register if the Authority, before the registration is suspended or the transfer is made, certifies in writing that, to avoid the risk of danger to others, the registration should be suspended, or the transfer should be made, without delay.

“(3.) Where—

(a) the Authority—

- (i) suspends the registration of a waterside worker on the ground referred to in paragraph (a) of sub-section (1.) of this section; or
- (ii) transfers the name of a registered waterside worker to Part B of a register of waterside workers in pursuance of paragraph (c) of sub-section (2.) of section thirty-one A of this Act,

but sub-section (1.) of this section does not apply in relation to the suspension or transfer by reason of a certificate under the last preceding sub-section; or

- (b) a registered waterside worker makes application to the Authority for the transfer of his name to Part A of a register of waterside workers under sub-section (8.) of section thirty-one A of this Act but the Authority refuses the application,

the Authority shall, within seven days after the date of the suspension, transfer or refusal, serve on the waterside worker notice in writing of the suspension, transfer or refusal, and the waterside worker may, within fourteen days after service on him of the notice, give notice in writing to the Authority that he objects to the suspension, transfer or refusal.

“(4.) Where

“(4.) Where a registered waterside worker makes application to the Authority for the transfer of his name to Part A of a register of waterside workers under sub-section (8.) of section thirty-one A of this Act and, as at the expiration of a period of fourteen days after the application is made, the Authority has not transferred his name to Part A of the register, and has not served on the waterside worker notice in writing of refusal of the application, the Authority shall, at the expiration of that period, be deemed, for the purposes of the last preceding sub-section, to have refused to transfer his name and to have served on the waterside worker notice in writing of the refusal.

“(5.) Where, under sub-section (1.) or sub-section (3.) of this section, a registered waterside worker gives notice of objection to the Authority, the Authority shall, in accordance with the regulations, constitute a board consisting of three legally qualified medical practitioners and shall refer the objection to the board for consideration.

“(6.) The board shall consider the objection and, if the waterside worker satisfies the board that—

- (a) where the objection relates to the cancellation or suspension of the registration of the waterside worker—he is not, by reason of his physical or mental condition, incapable of properly carrying out the duties of a waterside worker or likely to be a danger to others;
- (b) where the objection relates to a transfer or to a proposed transfer of the name of the waterside worker to Part B, or to a refusal by the Authority to transfer the name of the waterside worker to Part A, of a register of waterside workers—his physical and mental condition is such that it would not be detrimental to his own health or to the expeditious, safe or efficient performance of stevedoring operations if he were to continue to be or were to become, as the case may be, a registered regular waterside worker at the port at which he is registered; or
- (c) where the objection relates to a proposed transfer of the name of the waterside worker to Part A of a register of waterside workers—his physical or mental condition is such that it would be detrimental to his own health or to the expeditious, safe or efficient performance of stevedoring operations if he were to become a registered regular waterside worker at the port at which he is registered,

the board shall uphold the objection, but, if it does not uphold the objection, it shall disallow the objection.

“(7.) Where

“(7.) Where a board constituted under this section upholds an objection made by a waterside worker under sub-section (3.) of this section, the Authority shall set aside the suspension of the registration of the waterside worker or transfer the name of the waterside worker to Part A of the register, as the case requires, and, if the objection was made to a suspension of registration or to the transfer of a name to Part B of a register, may pay to the waterside worker such amount by way of compensation for any loss of wages, any loss of attendance money and any loss of payments for public holidays as the Authority thinks proper.

“(8.) A question arising before a board constituted under this section shall be decided by a majority of the persons constituting the board.”.

Qualifying
service for
long service
leave.

14.—(1.) Section forty-five c of the Principal Act is amended—

(a) by omitting from sub-section (1.) the words “ Subject to section fifty-two A of this Act, the ” and inserting in their stead the word “ The ”;

(b) by omitting from paragraph (c) of sub-section (2.) the word “ or ”;

(c) by adding at the end of sub-section (2.) the following word and paragraph:—

“; or (e) a break in the continuity of his registration that occurred before the commencement of this Part if the Authority certifies in writing, for the purposes of this paragraph, that it is satisfied that—

(i) the cancellation was for the purpose of relieving him temporarily from his obligations as a registered waterside worker and was in the interests of the stevedoring industry or otherwise in the public interest and the break did not extend beyond a period that, having regard to the circumstances of the cancellation, was reasonable; or

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

(d) by

- (d) by omitting from paragraph (a) of sub-section (4.) the word and letter “ or (d) ” and inserting in their stead the letters and word “, (d) or (e) ”;
- (e) by adding at the end of paragraph (b) of sub-section (4.) the words “, less any days during that period that are qualifying days in relation to him ”;
- (f) by adding at the end of paragraph (c) of sub-section (4.) the words “, less any days during that first-mentioned period that are qualifying days in relation to him ”;
- (g) by adding at the end of paragraph (d) of sub-section (4.) the words “, less any days during that period that are qualifying days in relation to him ”;
- (h) by adding at the end of paragraph (e) of sub-section (4.) the words “, less any days during that first-mentioned period that are qualifying days in relation to him ”;
- (i) by omitting from paragraph (f) of sub-section (4.) all the words from and including the word “ less ” and inserting in their stead the words “ less any days during that period that are qualifying days in relation to him ”;
- (j) by omitting paragraph (g) of sub-section (4.) and inserting in its stead the following paragraph:—
 “ (g) any period before the commencement of this Part during which he was not required to attend or make himself available for employment as a waterside worker from day to day, less any days during that period that are qualifying days in relation to him; ”;
- (k) by omitting from sub-paragraph (v) of paragraph (h) of sub-section (4.) the word “ or ”;
- (l) by omitting paragraph (i) of sub-section (4.) and inserting in its stead the following paragraphs:—
 “ (i) any period during which he was unavailable for employment, whether with or without the permission of the Authority or any Board or Commission constituted under Commonwealth stevedoring legislation, less any days during that period that are qualifying days in relation to him by virtue of paragraph (d), (e), (f) or (g) of sub-section (9.) of this section; or
 “ (j) any day after he has attained the age of seventy years, not being—
 (i) a day before the commencement of this Part; or
 (ii) a day

(ii) a day after the commencement of this Part and before the commencement of the *Stevedoring Industry Act 1962* on which the person was registered at a port other than a continuous port or a seasonal port.”;

(m) by inserting after sub-section (6.) the following sub-sections:—

“(6A.) Where—

(a) the Authority certifies in writing, for the purposes of this sub-section, that it is satisfied that a person who has served as a member of the Defence Force for any period was, immediately before the commencement of that period, following the calling of a waterside worker at a port; and

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

then, for the purposes of sub-section (5.) of this section, the period shall be deemed to have commenced on the day on which the register was established and the person shall be deemed to have been, immediately before that day, registered at the port as a waterside worker under Commonwealth stevedoring legislation.

“(6B.) A person who, during any period included in the period that commenced on the twenty-first day of March, One thousand nine hundred and forty-four, and ended on the thirty-first day of August, One thousand nine hundred and forty-eight, was not registered as a waterside worker but was a member of the Sydney Crane and Auto Truck Branch, or the Sydney Mechanical Branch, of the Waterside Workers’ Federation of Australia and was employed as a waterside worker in stevedoring operations at the port of Sydney shall, for the purposes of this Part, be deemed to have been registered as a waterside worker at the port of Sydney during that first-mentioned period.”; and

(n) by

(n) by adding at the end thereof the following sub-sections:—

“ (8.) Where—

(a) the registration of a person as a waterside worker was, before the commencement of this sub-section, cancelled on his becoming an officer or other official of a Union; and

(b) the person—

(i) had not ceased to be an officer or official of the Union before the commencement of this sub-section; or

(ii) had ceased to be an officer or official of the Union before the commencement of this sub-section and, on so ceasing, had again been registered as a waterside worker,

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

“ (9.) In this section, ‘ qualifying days ’, in relation to a person, means—

(a) days on which the person was employed as a waterside worker;

(b) days in respect of which he was paid attendance money or, in respect of which he would, but for a suspension of his entitlement to attendance money, have become entitled to attendance money, under this Act or under an award or order made under Commonwealth stevedoring legislation;

(c) days on which he was not employed as a waterside worker but in respect of which he was paid in accordance with an award of the Commission by reason that the days were public holidays for the purposes of the award;

(d) days

- (d) days on which he was on—
- (i) annual leave;
 - (ii) long service leave under this Part, not being long service leave to which he became entitled under sub-section (3.) of section forty-five D of this Act; or
 - (iii) long service leave under a scheme which is a long service leave scheme for employees as defined in sub-section (11.) of section forty-five KA of this Act;
- (e) days, not exceeding fifteen days in any year ending on the thirtieth day of June—
- (i) on which he was on sick leave with pay;
 - (ii) on which, after the commencement of this sub-section, he was on sick leave that was granted by the Authority and was certified by a medical practitioner as being necessary on account of an illness or injury; or
 - (iii) on which he was incapacitated by reason of an injury or illness in respect of which he was paid compensation under a law of the Commonwealth or of a State or Territory of the Commonwealth relating to the payment of compensation to employees by virtue of the application of that law in relation to his employment as a waterside worker;
- (f) days included in any period for which he has, whether before or after the commencement of this Part, served as a member of the Defence Force or, if immediately before the commencement of the period he was not included in a class of registered waterside workers required to attend or make themselves available for employment as waterside workers from day to day throughout

throughout the year, in such part of that period as the Authority (acting in accordance with principles, if any, specified by the Minister) has, by instrument in writing, determined; and

- (g) where the person has, after the commencement of this sub-section, made a journey from a port at which he was registered to another port for the purpose of becoming registered at that other port and, in the opinion of the Authority, his registration at that other port was in the interests of the stevedoring industry—the days included in such period as is approved by the Authority as being reasonably necessary for the journey.”.

(2.) The amendments made by paragraphs (c), (d) and (m) of the last preceding sub-section shall be deemed to have come into operation on the sixth day of June, One thousand nine hundred and sixty-one.

(3.) Where a person to whom sub-section (8.) of section forty-five c of the Principal Act as amended by this Act applies is not a registered waterside worker on the date of commencement of this Act, the cancellation of his registration referred to in paragraph (a) of that sub-section is, by force of this sub-section, revoked with effect from and including that date.

15.—(1.) Section forty-five d of the Principal Act is amended—

Entitlement to long service leave.

- (a) by omitting sub-sections (2.) and (3.) and inserting in their stead the following sub-sections:—

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

(a) a person whose period of qualifying service is more than twenty years ceases to be a registered waterside worker by reason of his registration being cancelled at his request;

(b) a person whose period of qualifying service is ten years or more ceases to be a registered waterside worker and the Authority,

on

on the application of that person, certifies in writing that his ceasing to be so registered—

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

he shall, if the period of his qualifying service is not a multiple of ten years, be deemed to have been entitled immediately before he ceased to be so registered or
died,

died, as the case may be, to long service leave for a period determined in accordance with sub-section (4.) of this section.

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

(a) a registered waterside worker becomes a registered irregular waterside worker and the period of his qualifying service at the time he becomes a registered irregular waterside worker is ten years or more and is not a multiple of ten years; or

(b) a registered irregular waterside worker completes ten years’ qualifying service,

he shall be deemed to have been entitled, immediately before he became a registered irregular waterside worker or he completed ten years’ qualifying service, as the case may be, to a period of long service leave determined in accordance with the next succeeding sub-section.”; and

(b) by omitting sub-section (5.) and inserting in its stead the following sub-sections:—

“(5.) Sub-section (3.) of this section does not apply in relation to a waterside worker who has become or becomes a registered irregular waterside worker by virtue of paragraph (d) or paragraph (e) of sub-section (2.) of section thirty-one A of this Act unless the Authority certifies in writing that it is satisfied that his being a waterside worker referred to in that paragraph can be attributed to his physical or mental condition or to his age.

“(6.) Except as provided in the next succeeding sub-section, the entitlement of a person under this section to long service leave does not affect any other entitlement of that person under this section to long service leave.

“(7.) A period of long service leave to which a person has become entitled under sub-section (3.) of this section shall, if the person subsequently becomes entitled to long service leave under sub-section (1.) or (2.) of this section, or again becomes entitled to long service leave under sub-section (3.) of this section, be deducted from that subsequent entitlement.”.

(2.) Where—

(2.) Where—

(a) a person was, immediately before the date of commencement of this Act, a registered irregular waterside worker and—

(i) he had not completed ten years' qualifying service before that date; and

(ii) he is not a person who is entitled, by reason that the amendments made by paragraphs (c), (d) and (m) of sub-section (1.) of section fourteen of this Act are deemed by this Act to have come into operation on the sixth day of June, One thousand nine hundred and sixty-one, or by reason of the provisions of section twenty-five of this Act, to be regarded as having completed ten years' qualifying service before that first-mentioned date; and

(b) on that first-mentioned date, he is still a registered irregular waterside worker and, by virtue of the amendments made by this Act, the period of his qualifying service is ten years or more,

sub-section (3.) of section forty-five D of the Principal Act as amended by this Act shall apply to him as if he had completed ten years' qualifying service on that first-mentioned date and, for the purposes of sub-section (4.) of that section in the application of sub-section (3.) of that section to him, he shall be deemed to have completed ten years' qualifying service on that first-mentioned date.

(3.) Where, before the commencement of this Act, a person had become entitled to a period of long service leave under sub-section (3.) or (5.) of section forty-five D of the Principal Act, he shall, for the purposes of paragraph (d) of sub-section (9.) of section forty-five C, or of sub-section (7.) of section forty-five D, of the Principal Act as amended by this Act, be deemed to have become entitled to that period of long service leave under sub-section (3.) of section forty-five D of the Principal Act as so amended.

Special provisions applicable to certain waterside workers.

16.—(1.) Section forty-five E of the Principal Act is amended—

(a) by inserting after sub-section (1.) the following sub-sections:—

“(1A.) This section also applies to a person who—

(a) immediately before the twenty-eighth day of March, One thousand nine hundred and forty-seven,

forty-seven, was registered, or was deemed to be registered, as a waterside worker under Part V. of the National Security (Shipping Co-ordination) Regulations;

(b) as at the commencement of this sub-section, had been continuously registered as a waterside worker under Commonwealth stevedoring legislation since that date;

(c) was, as at the first day of May, One thousand nine hundred and sixty-one, registered as a waterside worker under this Act at a port other than a port specified in the First Schedule or the Second Schedule to this Act; and

(d) was not, as at the fifteenth day of June, One thousand nine hundred and sixty-two, or on any day after that day and before the commencement of this sub-section, a registered irregular waterside worker or a registered waterside worker regarded by the Authority as an irregular waterside worker.

“(1B.) A reference in the succeeding provisions of this section to the commencement of this Part shall, in relation to a person to whom this section applies by virtue of the last preceding sub-section, be read as a reference to the commencement of that sub-section.”;

(b) by inserting in sub-sections (3.) and (4.), after the words “sixty-five years” the words “, or, if he is a person eligible for service pension, sixty years,”; and

(c) by omitting from paragraph (c) of sub-section (4.) the words “at a continuous port or a seasonal port (otherwise than in Part B of the register)” and inserting in their stead the words “and has not, at any time during that period, been a registered irregular waterside worker or a waterside worker regarded by the Authority as an irregular waterside worker”

(2.) Where a person to whom section forty-five E of the Principal Act as amended by this Act applies by virtue of sub-section (1.) of that section—

(a) is a person eligible for service pension; and

(b) had attained the age of sixty years, but had not attained the age of sixty-five years, before the commencement of this Act,

he

he shall, for the purposes of sub-section (4.) of that section, be deemed to have attained the age of sixty years on the date of commencement of this Act, and, in the application of that sub-section to him, the reference in paragraph (b) of that sub-section to one month shall be read as a reference to two months.

(3.) Where—

(a) a person (including a person who ceased, by death or otherwise, to be a registered waterside worker before the date of commencement of this Act) did not, before that date, become entitled to be paid an amount under sub-section (3.) or sub-section (4.) of section forty-five E of the Principal Act but would have become so entitled if—

(i) the amendments made by paragraphs (c), (d) and (m) of sub-section (1.) of section fourteen of this Act had come into operation on the date of commencement of Part IIIA. of the Principal Act and paragraph (g) of sub-section (4.) of section forty-five C of the Principal Act had had effect on and from that date in the manner specified in section twenty-five of this Act; and

(ii) within the period specified in paragraph (c) of sub-section (3.), or the period specified in paragraph (b) of sub-section (4.), of section forty-five E of the Principal Act, he had, in a case where he did not so do, ceased to be a registered waterside worker upon the cancellation of his registration at his own request or become a registered irregular waterside worker at his own request; and

(b) in a case where he was a registered regular waterside worker immediately before the date of commencement of this Act—he ceases, within two months after that date, to be a registered waterside worker upon the cancellation of his registration at his own request or he becomes, within that period, a registered irregular waterside worker at his own request,

there shall be paid to him (or, if he has died, to his legal personal representative) an amount equal to the amount which he would be entitled, or would have been entitled, to receive in respect of long service leave for a period of thirteen weeks.

(4.) Sub-sections (5.) and (6.) of section forty-five E of the Principal Act as amended by this Act apply to and in relation

to

to the entitlement of a person under the last preceding sub-section as if it were an entitlement under that section.

17. Section forty-five J of the Principal Act is amended—

- (a) by omitting from sub-section (1.) the word “regular”;
- (b) by omitting from sub-section (3.) the word “regular” (wherever occurring); and
- (c) by adding at the end thereof the following sub-section:—

“ (5.) Where a person becomes entitled to long service leave under sub-section (3.) of section forty-five D of this Act, he shall, upon application being made by him, be paid, in respect of that long service leave, an amount equal to the assessed amount of pay that he would have received if he had taken that leave during a period commencing on the day on which he became entitled to it.”.

Payments in respect of long service leave, &c.

18.—(1.) After section forty-five K of the Principal Act the following section is inserted:—

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

Permanent waterside workers.

“ (2.) Where—

- (a) a person makes application to the Authority to take the whole or a part of any long service leave to which he is entitled under this Part; and
- (b) there is included in the qualifying service to which that long service leave relates a period (in this sub-section referred to as ‘the period of common service’) in respect of which he has, whether before or after the entitlement to that long service leave arose, become entitled to long service leave under a long service leave scheme for employees, whether or not he has taken the whole or any part of that leave,

the period of the long service leave to which he is entitled referred to in paragraph (a) of this sub-section shall, in lieu of the period that, but for this sub-section, would be the period of that leave, be a period equal to that last-mentioned period reduced by—

- (c) a period equal to one-eightieth of the period of common service; or

(d) the

- (d) the period of the long service leave to which he has become entitled under the long service leave scheme for employees or, if he became entitled to that long service leave in respect of a period of which the period of common service forms a part only, a period equal to such part of the period of that long service leave as the Authority certifies in writing to be, in its opinion, attributable to the period of common service,

whichever is the less.

“(3.) Where—

- (a) a person makes application to the Authority to take the whole or a part of any long service leave to which he is entitled under this Part; and
- (b) there is included in the qualifying service to which that long service leave relates a period (in this sub-section referred to as ‘the period of common service’) in respect of which he will or may, but has not, become entitled to long service leave under a long service leave scheme for employees,

the period of the long service leave to which he is entitled referred to in paragraph (a) of this sub-section shall, in lieu of the period that, but for this sub-section, would be the period of that leave, be a period equal to that last-mentioned period reduced by a period equal to one-eightieth of the period of common service.

“(4.) Where sub-section (3.), (4.) or (5.) of section forty-five of this Act applies in relation to long service leave to which a person is entitled under this Part, sub-sections (2.) and (3.) of this section apply in relation to that leave as if he had made application to take that leave immediately before he ceased to be a registered waterside worker, he died or he made application for payment of an amount in respect of that leave, as the case may be.

“(5.) Where—

- (a) a person becomes entitled to be paid an amount under section forty-five E of this Act; and
- (b) there is included in the period during which he has been registered as a waterside worker a period (in this sub-section referred to as ‘the period of common service’) in respect of which he has become entitled to long service leave under a long service leave scheme for employees, whether or not he has taken the whole or any part of that leave,

that section shall apply to him as if any reference in the section to a period of thirteen weeks were a reference to a period of thirteen weeks reduced by—

- (c) a period

- (c) a period equal to one-eightieth of the period of common service; or
- (d) the period of long service leave to which he has become entitled under the long service leave scheme for employees or, if he became entitled to that long service leave in respect of a period of which the period of common service forms a part only, a period equal to such part of the period of that long service leave as the Authority certifies in writing to be, in its opinion, attributable to the period of common service,

whichever is the less.

“(6.) Where—

- (a) a person becomes entitled to be paid an amount under section forty-five E of this Act; and
- (b) there is included in the period during which he has been registered as a waterside worker a period (in this sub-section referred to as ‘the period of common service’) in respect of which he will or may, but has not, become entitled to long service leave under a long service leave scheme for employees,

that section shall apply to him as if any reference in the section to a period of thirteen weeks were a reference to a period of thirteen weeks reduced by a period equal to one-eightieth of the period of common service.

“(7.) Where—

- (a) sub-section (3.) or sub-section (6.) of this section has applied in relation to a person; and
- (b) the Authority (whether before or after the person ceases to be a registered waterside worker) certifies in writing that it is satisfied that the person has not and will not become entitled to long service leave under a long service leave scheme for employees in respect of the period that, for the purposes of sub-section (3.) or sub-section (6.) of this section, was the period of common service,

the person shall, notwithstanding sub-section (6.) of section forty-five E of this Act, be deemed to have been entitled, immediately before the issue of the certificate, or, if the certificate is issued after he ceases to be a registered waterside worker, immediately before he so ceased, to long service leave under this Part for a period equal to one-eightieth of the period of common service.

“(8.) Where—

- (a) sub-section (3.) or sub-section (6.) of this section has applied in relation to a person;
- (b) the person has (whether before or after he ceases to be a registered waterside worker) become entitled to long service

service

service leave under a long service leave scheme for employees in respect of the period that, for the purposes of sub-section (3.) or sub-section (6.) of this section, was the period of common service; and

- (c) the Authority certifies in writing that the period equal to such part of that last-mentioned long service leave as, in its opinion, is attributable to the period of common service is less than one-eightieth of the period of common service,

the person shall, notwithstanding sub-section (6.) of section forty-five of this Act, be deemed to have become entitled, immediately before the issue of the certificate, or, if the certificate is issued after he ceases to be a registered waterside worker, immediately before he so ceased, to long service leave under this Part for a period equal to the difference.

“(9.) Where—

- (a) a person has been employed at a port on weekly hiring as a waterside worker in stevedoring operations during any period after the establishment of a register of waterside workers at the port under Commonwealth stevedoring legislation and before the expiration of two months after the commencement of this section, being a period during which he was not registered as a waterside worker but was a member of a Union; and
- (b) the person is registered as a waterside worker on the date of commencement of this section, or the person is not so registered on that date but—
- (i) he has been so registered during a period before that date;
 - (ii) his registration was cancelled on his becoming employed on weekly hiring as a waterside worker in stevedoring operations;
 - (iii) he is, on the date of commencement of this section, employed on weekly hiring as a waterside worker in stevedoring operations; and
 - (iv) he informs the Authority by notice in writing given within two months after that date that he wishes to become a registered waterside worker,

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

“(10.) For

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

“(11.) In this section—

‘ long service leave scheme for employees ’ means a scheme providing for long service leave for employees, whether provided by or under a law of a State or a Territory of the Commonwealth or by agreement or in any other way, but does not include the long service leave scheme provided for in this Part;

‘ permanent waterside worker ’ means a registered waterside worker employed on weekly hiring as a waterside worker in stevedoring operations;

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

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

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

(a) an entitlement to long service leave under a long service leave scheme for employees in respect of a period shall be deemed to be an entitlement to long service leave under that scheme in respect of any period that forms a part of that first-mentioned period; and

(b) a person shall be deemed to have been employed on weekly hiring during any period if the Authority certifies in writing that, during that period, the person was continuously employed by one employer.”.

(2.) For the purposes of section forty-five KA of the Principal Act as amended by this Act, an entitlement under sub-section (3.) of section sixteen of this Act shall be deemed to be an entitlement under section forty-five E of the Principal Act as so amended and that sub-section shall be deemed to form part of that last-mentioned section.

(3.) Where a person to whom sub-section (9.) of section forty-five KA of the Principal Act as amended by this Act applies is not a registered waterside worker on the date of commencement of this Act, the cancellation of his registration referred to in sub-paragraph (ii) of paragraph (b) of that sub-section is, by force of this sub-section, revoked with effect from and including the date on which he gives the notice referred to in sub-paragraph (iv) of that paragraph.

19. After

19. After section forty-five M of the Principal Act the following section is inserted:—

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

“45MA.—(1.) Where the Authority is satisfied that, by reason of the inadequacy or lack of records relating to stevedoring operations carried out at a port during any period, it is impossible to ascertain the qualifying service of a waterside worker who was, or of the waterside workers included in a class of waterside workers who were, registered at the port during the whole or any part of that period, then, in determining the qualifying service of that waterside worker or of those waterside workers, there shall be substituted such period as the Authority determines for the period or periods that, but for this section, would be included in his or their qualifying service by virtue of his or their registration at the port during that period or that part of that period.

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

Reduction of qualifying service for long service leave, &c., on account of participation in port stoppage.

20.—(1.) Section fifty-two A of the Principal Act is amended—

(a) by omitting paragraph (b) of sub-section (3.) and the word “and” immediately preceding that paragraph;

(b) by inserting after sub-section (4.) the following sub-section:—

“(4A.) The Commission shall not make a determination for the purposes of paragraph (b) of the last preceding sub-section after the commencement of this sub-section.”;

(c) by omitting from sub-section (7.) the words “before the Commission has made an order under sub-section (4.) of this section in relation to that declaration” and inserting in their stead the words “within fourteen days (or such longer period as the Commission allows) after the Authority has made or purported to make the declaration”; and

(d) by omitting sub-section (9.) and inserting in its stead the following sub-section:—

“(9.) Where the Authority makes a declaration under sub-section (1.) of this section, it shall not subsequently exercise its powers under section thirty-six of this Act in relation to the waterside workers identified in the declaration or in a supplementary declaration in respect of the acts or omissions that constituted their participation in the port stoppage to which the declaration relates unless the declaration

has

has been rescinded under this section on the ground that the making of the declaration was not authorized by this section by reason that the number of waterside workers who participated in the port stoppage did not exceed two hundred and fifty or one-third of the number of registered regular waterside workers registered at the port concerned.”.

(2.) Where—

- (a) the Authority has, before the date of commencement of this Act, made or purported to make a declaration under sub-section (1.) of section fifty-two A of the Principal Act; and
- (b) an order has not been made before that date under sub-section (4.) of that section in relation to the declaration,

the Authority shall, for the purposes of sub-section (7.) of section fifty-two A of the Principal Act as amended by this Act, be deemed to have made or purported to make, as the case may be, the declaration on that date.

21. After section fifty-two A of the Principal Act the following section is inserted:—

“ 52b.—(1.) Where—

- (a) a person dies and, by reason of his having been a waterside worker, moneys are payable by the Authority to him at the time of his death or become payable by the Authority to his legal personal representative; and
- (b) within one month after his death, probate of his will is not, and letters of administration of his estate are not produced to the Authority and notice in writing of the existence of a will and of an intention to prove it, or of an intention to take out letters of administration, is not given to the Authority,

Payment by
Authority on
death of
waterside
worker.

the Authority may, in its discretion, apply the moneys—

- (c) in payment of the funeral expenses of the person or in reimbursing any person who has paid those expenses; and
- (d) in payment of the balance to the widow or to a relation of the person or to such other person as the Authority, in the circumstances, thinks fit.

“ (2.) A claim does not lie against the Authority in respect of anything done by the Authority in pursuance of this section,
and,

and, where the Authority pays any moneys to a person under this section, it is not liable to pay those moneys to any other person, but this section does not relieve a person who receives moneys from the Authority under this section from any liability to account for or to apply the moneys in accordance with law.”.

Notice.

22. Section fifty-three of the Principal Act is amended by adding at the end thereof the following sub-section:—

“(4.) A notice which, under this Act, is required or permitted to be served by the Authority on a registered waterside worker may be served by sending it by post by letter addressed to him at his address last known to the Authority or by delivering it to him by any other means.”.

23. After section fifty-four of the Principal Act the following section is inserted:—

**False statements,
&c., in
connexion
with medical
examinations.**

“54A. A person shall not in connexion with any medical examination conducted for the purposes of this Act make a statement or furnish information that he knows to be false or misleading or does not believe to be true or do any act or thing that is calculated to deceive the Authority, a medical practitioner or a board constituted under section thirty-seven B of this Act.

Penalty: Twenty-five pounds.”.

**Waterside
workers who
ceased to be
registered
during the
period
1st May, to
5th June, 1961.**

24.—Where—

- (a) a registered waterside worker died during the period that commenced on the first day of May, and ended on the fifth day of June, One thousand nine hundred and sixty-one; or
- (b) a person otherwise ceased to be a registered waterside worker during that period and the Authority certifies in writing that his ceasing to be registered arose from circumstances of a kind referred to in paragraph (a), (b), (c) or (d) of sub-section (2.) of section forty-five D of the Principal Act,

the *Stevedoring Industry Act 1961*, and the amendments made by paragraphs (c), (d) and (m) of sub-section (1.) of section fourteen of this Act, shall be deemed to have come into operation in relation to him, and he shall be deemed to have been a registered regular waterside worker, immediately before he ceased to be a registered waterside worker, and any certificate issued in relation to him under this section has effect as if it were a certificate issued in relation to him under sub-section (2.) of section forty-five D of the Principal Act.

25. Paragraph

25. Paragraph (g) of sub-section (4.) of section forty-five c of the Principal Act shall be deemed to have had effect before the commencement of this Act in relation to a waterside worker who, in the opinion of the Authority, was a coal worker at the port of Melbourne at any time before the twenty-fourth day of June, One thousand nine hundred and fifty-three, as if provision had been made in that paragraph for deducting from the period first-mentioned in that paragraph any days during that period and before that date that are, in the opinion of the Authority, days on which the waterside worker was such a coal worker and are, in relation to the waterside worker, qualifying days as defined in sub-section (9.) of section forty-five c of the Principal Act as amended by this Act.

Melbourne
coal workers.