

**LONG SERVICE LEAVE (METALLIFEROUS
MINING INDUSTRY) ACT.**

Act No. 48, 1963.

An Act to make further provisions with respect to the entitlement to long service leave of workers in the metalliferous mining industry; to amend the Long Service Leave Act, 1955-1963, and the Industrial Arbitration Act, 1940-1961; and for purposes connected therewith. [Assented to, 13th December, 1963.] Elizabeth II,
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BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Long Service Leave (Metalliferous Mining Industry) Act, 1963". Short title,
citation and
commence-
ment.

(2) The Long Service Leave Act, 1955, as amended by the Long Service Leave (Amendment) Act, 1963, and by this Act, may be cited as the Long Service Leave Act, 1955-1963.

(3) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

(4) The Long Service Leave (Amendment) Act, 1963, is amended by omitting subsection two of section one. Consequen-
tial.

2. This Act shall be read and construed subject to the Commonwealth of Australia Constitution Act and so as not to exceed the legislative power of the State, to the intent that, where any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected. Construc-
tion.

3.

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Interpre-
tation.

3. (1) In this Act, unless the context or subject-matter otherwise indicates or requires,—

“Award” means an award for the time being in force under the Industrial Arbitration Act.

“Employer” means any person employing any worker or workers and includes the Crown.

“Industrial agreement” means an industrial agreement for the time being in force under the Industrial Arbitration Act and an agreement filed under section twelve of that Act.

“Industrial Arbitration Act” means the Industrial Arbitration Act, 1940, or any Act amending or replacing that Act.

“Inspector” means an inspector appointed under the Industrial Arbitration Act.

“Metalliferous mine” means any place, open cut, shaft, tunnel, drive, level or other excavation, drift, gutter, lead, vein, lode or reef wherein or whereby any operation is carried on for or in connection with the purpose of obtaining any mineral substance by any mode or method, and any place adjoining thereto on which any product of the metalliferous mine, as hereinbefore defined, is stacked, stored, crushed or otherwise treated and includes—

- (a) any quarry;
- (b) any place where two or more men are employed in connection with prospecting operations for the purposes of the discovery or exploration of or for any mineral substance whether by drilling, boring or any other method; and
- (c) so much of the surface of any place and the buildings, workshops, changehouses, structures and works thereon surrounding or adjacent to the shaft, outlets or site of a metalliferous mine, as hereinbefore defined, as are occupied, together with the mine, for the purposes of or in connection with the

the working of the mine, or the removal **No. 48, 1963**
from the mine of refuse, or the health,
safety or welfare of persons employed in,
at or about the mine.

“Mineral substance” means any substance specified in the Schedule to this Act.

“Ordinary pay”, in relation to any worker, means remuneration for the worker’s normal weekly number of hours of work calculated at his ordinary time rate of pay; and, where the worker is provided with board or lodging by his employer, includes the cash value of that board or lodging.

“Prescribed” means prescribed by this Act or by regulations.

“Quarry” means any place, open cut or excavation wherein or whereby any operation is carried on above ground for or in connection with the purpose of obtaining any mineral substance and any place adjoining thereto on which any product of the quarry, as hereinbefore defined, is stacked, stored, crushed or otherwise treated.

“Worker” means a person employed in, at or about a metalliferous mine, whether on salary or wages or piecework rates, or as a member of a butty-gang; and the fact that a person is working under a contract for labour only, or substantially for labour only, or as a lessee of any tools or other implements of production, shall not in itself prevent such person being held to be a worker.

(2) For the purposes of the definition of the term “ordinary pay” in subsection one of this section—

(a) the term “ordinary time rate of pay” in the case of a worker who is remunerated in relation to an ordinary time rate of pay fixed by the terms of his employment means the time rate of pay so fixed for the worker’s work under the terms of his employment, but does not include any amount payable to him in respect of shift work, overtime or other penalty

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penalty rates, and where two or more time rates of pay are so fixed means the higher or highest of those rates;

- (b) where a worker is remunerated otherwise than in relation to an ordinary time rate of pay so fixed, or partly in relation to an ordinary time rate of pay so fixed and partly in relation to any other manner, or where no ordinary time rate of pay is so fixed for a worker's work under the terms of his employment, the worker's ordinary pay shall be deemed to be the average weekly wage earned by him during the period actually worked by him during the twelve months immediately preceding the date on which he enters, or is deemed to have entered, upon long service leave, or the date of his death, as the case may require.

For the purposes of this paragraph the average weekly wage earned by a worker shall be the average of the amounts received by him each week under the terms of his employment after excluding any amount payable to him in respect of shift work, overtime or other penalty rates;

- (c) where during the period of twelve months immediately preceding the date on which he enters, or is deemed to have entered, upon long service leave, or the date of his death, as the case may require, the worker has received under the terms of his employment, any amount under any bonus, incentive or other similar scheme (other than any amount taken into consideration in assessing an average weekly wage in terms of paragraph (b) of this subsection) his ordinary pay shall be increased by a further sum namely the sum which the worker would have received each week in respect of such bonus, incentive or other similar scheme had such amount been paid by equal weekly payments throughout that period of twelve months;
- (d) where no normal weekly number of hours is fixed for a worker under the terms of his employment, the normal weekly number of hours shall be deemed

deemed to be the average weekly number of hours worked by him during the period of twelve months immediately preceding the date on which he enters, or is deemed to have entered, upon long service leave, or the date of his death, as the case may require;

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- (e) the cash value of any board and lodging provided for a worker shall be deemed to be its cash value as fixed by or under the terms of the worker's employment or, if it is not so fixed, shall be computed at the rate of thirty shillings, or such greater sum as may be prescribed in lieu thereof, a week for board and ten shillings, or such greater sum as may be prescribed in lieu thereof, a week for lodging.

(3) Where, by any provision of the Industrial Arbitration Act, a person who is engaged on work in, at or about a metalliferous mine is deemed for the purposes of that Act to be an employee and any other person is deemed for such purposes to be the employer of that employee, then for the purposes of this Act the person so deemed to be an employee shall be deemed to be a worker and the person so deemed to be the employer shall be deemed to be the employer of that worker.

4. (1) Except as otherwise provided in this Act, every worker shall be entitled to long service leave on ordinary pay in respect of his service with an employer. Service with the employer before the commencement of this Act as well as service with the employer after such commencement shall be taken into account for the purposes of this section.

Long service leave.
cf. Act No. 38, 1955, s. 4.

(2) (a) Subject to paragraph (c) of this subsection, the amount of long service leave to which a worker shall be so entitled shall—

- (i) in the case of a worker who has completed at least ten years' service with an employer be—

- (a) in respect of each ten years' service so completed, three months; and

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- (b) on the termination of the worker's services, in respect of the number of years' service with the employer completed since he last became entitled to an amount of long service leave, a proportionate amount on the basis of three months for ten years' service;
- (ii) in the case of a worker who has completed with an employer at least five years' service as an adult, and whose services are terminated by the employer for any reason or by the worker on account of illness, incapacity or domestic or other pressing necessity, or by reason of the death of the worker, be a proportionate amount on the basis of three months for ten years' service (such service to include service with the employer as an adult and otherwise than as an adult).

(b) For the purposes of paragraph (a) of this subsection "service as an adult"—

- (i) in the case of a worker employed to do any work for which the price, rate or wage has been fixed by an award made under the Commonwealth Conciliation and Arbitration Act 1904, as amended by subsequent Acts, or made under the Industrial Arbitration Act, or has been fixed by an industrial agreement made pursuant to or registered under the said Acts—means the period of service with an employer during which the remuneration applicable to the worker was at a rate not less than the lowest rate fixed under the award or industrial agreement for an adult male or adult female in the same trade, classification or calling as the worker;
- (ii) in the case of a worker being an apprentice the terms of whose employment are governed by an award applicable only to apprentices—means the period of service with an employer during which the remuneration applicable to the worker was at a rate not less than the rate prescribed by the award covering a journeyman carrying out work in the same trade, classification or calling as the worker;
- (iii)

- (iii) in the case of a worker employed to do any work for which no price, rate or wage has been fixed by any award or industrial agreement referred to in subparagraph (i) of this paragraph—means the period of service with the employer during which the worker was not less than twenty-one years of age. No. 48, 1963

(c) In the case of a worker whose service with an employer began before the commencement of this Act and whose service would entitle him to long service leave under this section, the amount of long service leave to which such worker shall be entitled shall be the sum of the following amounts—

- (i) an amount calculated on the basis of three months for twenty years' service in respect of the period of his service before such commencement; and
- (ii) an amount calculated on the basis of three months for ten years' service in respect of the period of his service as from such commencement.

(d) (i) A worker entitled under this section to long service leave in respect of a period of service with an employer shall not, except in pursuance of an agreement between the worker and the employer entitling the worker to leave in the nature of long service leave in addition to long service leave under this Act, be entitled otherwise than under the provisions of this Act to leave in the nature of long service leave in respect of that period of service with that employer.

(ii) Where before or after the commencement of this Act—

- (a) a worker has otherwise than in pursuance of this section been granted by an employer and taken any leave in the nature of long service leave in respect of a period of service with the employer; or
- (b) payment of the monetary value of leave in the nature of long service leave has been made to the worker or other person entitled thereto,

the leave so granted and taken or the leave in respect of which such payment has been made shall, except where such leave has been taken or payment has been made pursuant to an

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No. 48, 1963 an agreement referred to in subparagraph (i) of this paragraph, be deducted from any amount of long service leave to which such worker is entitled pursuant to this section in respect of that period of service with that employer.

(3) Subject to subsection five of this section, where a worker has become entitled to long service leave in respect of his service with an employer, the employer shall give to the worker and the worker shall take the leave—

- (a) as soon as is practicable having regard to the needs of the employer's establishment or, where the employer and the worker agree that the taking of the leave be postponed until an agreed date, as from that date;
- (b) in one continuous period or, if the worker and the employer so agree, in the following separate periods and not otherwise :—
 - (i) where the amount of the leave is three months, in two separate periods;
 - (ii) where the amount of the leave exceeds three months and does not exceed nineteen and one-half weeks, in two or three separate periods;
 - (iii) where the amount of leave exceeds nineteen and one-half weeks, in two, three or four separate periods.

(4) The long service leave provided by this section is exclusive of annual holidays but is inclusive of all other holidays occurring during the taking of any period of long service leave.

(5) (a) Where the services of a worker are terminated otherwise than by his death and any long service leave—

- (i) to which the worker was entitled has not been taken; or
- (ii) accrues to the worker upon such termination,

the worker shall be deemed to have entered upon the leave from the date of such termination and the employer shall forthwith pay to the worker in full his ordinary pay for the leave less any amount already paid to the worker in respect of that leave.

(b)

(b) Where a worker dies and any long service No. 48, 1963 leave—

- (i) to which the worker was entitled has not been taken; or
- (ii) accrues upon termination of the services of the worker by reason of his death,

the employer shall upon request by the worker's personal representative pay to the worker's personal representative in full the ordinary pay that would have been payable to the worker in respect of long service leave less any amount already paid to the worker in respect of that leave.

(6) The ordinary pay to be paid to a worker or his personal representative in respect of any period of long service leave shall be—

- (a) in the case of a worker who enters, or is deemed to have entered, upon a period of long service leave, the ordinary pay payable to the worker at the time he enters, or is deemed to have entered, upon the period of long service leave;
- (b) where a worker dies and any long service leave—
 - (i) to which the worker was entitled under this section has not been taken; or
 - (ii) accrues under this section upon termination of the services of the worker by reason of his death,

the worker's ordinary pay at the date of his death :

Provided that where by agreement made after long service leave has accrued the taking of the long service leave due to the worker, or any portion of it, is postponed, and the employer and the worker as a condition of the postponement agree that the ordinary pay to be paid in respect of the leave shall be that which would have been payable had the leave been taken at the date the agreement was entered into—

- (a) the ordinary pay shall be as so agreed; and
- (b) paragraphs (b), (c) and (d) of subsection two of section three of this Act shall have effect as if the words "the date on which he enters, or is deemed to

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to have entered, upon long service leave, or the date of his death, as the case may require" were omitted therefrom and the words "the date on which the agreement referred to in subsection six of section four of this Act was entered into" were substituted therefor.

(7) Subject to subsection five of this section, where a worker enters upon a period of long service leave, the employer of the worker shall pay to the worker the ordinary pay to be paid to the worker in respect of the period of leave in one of the following ways :—

- (a) in full when the worker commences the period of leave; or
- (b) at the same time as his ordinary pay would have been paid if the worker had remained on duty, in which case payment shall, if the worker in writing so requires, be made by cheque posted to an address specified by the worker; or
- (c) in any other way agreed between the employer and the worker,

and the ordinary pay shall become due to the worker accordingly.

(8) Except as provided in subsection five of this section, payment shall not be made by an employer to a worker in lieu of any long service leave or part thereof to which the worker is entitled under this Act nor shall any such payment be accepted by the worker.

(9) Any amount payable under this section—

- (a) to the personal representative of a worker, shall be recoverable by the personal representative of the worker; or
- (b) to a worker who dies before being paid such amount, shall be recoverable by the personal representative of the worker as payment due to the worker,

in like manner as a worker may recover any amount under section twelve of this Act.

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(10) The employer shall give to each worker at least one month's notice of the date from which it is proposed that the worker's long service leave shall be given and taken. No. 48, 1963

(11) For the purposes of this section—

(a) the service of a worker with an employer means the period during which the worker has served his employer under an unbroken contract of employment, whether or not during the whole of that period he was employed by his employer as a worker, within the meaning of this Act : Provided that a contract of employment shall be deemed not to have been broken by reason only of any interruption or determination thereof, whether occurring before or after the commencement of this Act, if the interruption or determination—

(i) has been made by the employer with the intention of avoiding any obligation imposed on him by this Act, the Long Service Leave Act, 1955-1963, or by an award made pursuant to section 88c of the Industrial Arbitration Acts, 1940-1955 ; or

(ii) has arisen directly or indirectly from an industrial dispute ; or

(iii) has been made by the employer by reason of slackness of trade :

Provided further that the period during which the contract has been so interrupted or determined shall not by reason only of this paragraph be taken into account in calculating the period of service ;

(b) where a worker has entered into a contract of employment with an employer within a period of twelve months after the completion of an apprenticeship with the employer the period of his apprenticeship shall be taken into account for the purpose of ascertaining the period of his service with that employer under that contract of employment ;

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(c) where a business, undertaking or establishment or any part thereof has, whether before or after the commencement of this Act, been transmitted from an employer (in this paragraph called the transmittor) to another employer (in this paragraph called the transmittee) and a person who at the time of the transmission was a worker in the employ of the transmittor in that business, undertaking, establishment or part thereof becomes a worker in the employ of the transmittee—

(i) the continuity of the contract of employment of the worker shall be deemed not to have been broken by reason of the transmission; and

(ii) the period of service which the worker has had with the transmittor or any prior transmittor shall be deemed to be service of the worker with the transmittee.

In this paragraph “transmission”, without limiting its ordinary meaning, includes transfer, conveyance, assignment or succession whether by agreement or operation of law, and “transmitted” has a corresponding meaning;

(d) any period during which a person served as a member of the naval, military or air forces of the Commonwealth or of the Civil Construction Corps established under the National Security Act 1939, as amended by subsequent Acts, of the Parliament of the Commonwealth, shall be deemed to be service of that person as a worker in the employ of the employer by whom that person was last employed before he commenced to serve as such member.

Exemptions.
cf. Act No.
38, 1955,
s. 5.

5. (1) Section four of this Act shall not apply to any worker who is employed by an employer as a member of a class of workers for whom provisions entitling the worker (whether

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(whether immediately or upon the fulfilment of certain conditions) to leave in the nature of long service leave are made—

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- (a) by an award or industrial agreement, whether made before or after the commencement of this Act, and such provisions are more favourable to the worker than those of section four of this Act; or
- (b) by or under any Act, other than this Act or the Industrial Arbitration Act.

Where the worker ceases to be a member of a class of workers as aforesaid and at the same time ceases to be in the employment of his employer his service as a member of such class shall not be service for the purposes of section four of this Act.

(2) (a) The Industrial Commission of New South Wales may, subject to such conditions as it thinks fit to impose, exempt any employer from the operation of the provisions of this Act relating to long service leave in respect of any workers in any case where it is satisfied that the workers are entitled to benefits under any scheme conducted by or on behalf of the employer, which scheme provides for the granting of long service leave as such to the workers on terms not less favourable than those specified in this Act and that it is in the best interests of the workers that the exemption should be granted.

(b) Any exemption granted to an employer in relation to long service leave pursuant to subsection four of section 88c of the Industrial Arbitration Acts, 1940-1955, or pursuant to the provisions of subsection two of section five of the Long Service Leave Act, 1955-1963, and in force immediately before the commencement of this Act shall, in so far as it relates to workers, be deemed to have been granted pursuant to paragraph (a) of this subsection.

(c) (i) Any exemption granted pursuant to paragraph (a) of this subsection shall not apply to an employer in respect of any worker who, within a period of three months after the date from which the exemption takes effect, or from the

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(ii) Any exemption deemed by paragraph (b) of this subsection to have been granted pursuant to paragraph (a) of this subsection shall not apply to an employer in respect of a worker who has before the commencement of this Act by notice in writing given pursuant to subsection (4A) of section 88c of the Industrial Arbitration Acts, 1940-1955, or pursuant to subparagraph (i) of paragraph (c) of subsection two of section five of the Long Service Leave Act, 1955-1963, elected to be subject to the provisions of an award or industrial agreement relating to long service leave, or to the provisions of the Long Service Leave Act, 1955, as amended by subsequent Acts, in lieu of those provided for in the scheme conducted by or on behalf of his employer or who after such commencement has by notice in writing to the employer elected to be subject to the provisions of this Act relating to long service leave in lieu of those provided for in the scheme conducted by or on behalf of the employer within the time within which he would have been entitled to make an election, as provided in the said subparagraph (i), had the said subparagraph continued to apply to workers after the commencement of this Act.

(iii) Notwithstanding any provision of any scheme referred to in subparagraph (i) or (ii) of this paragraph where a worker has given notice in writing as aforesaid, the worker shall be entitled to such benefits under the scheme, other than long service leave, as he would have been entitled to receive had he voluntarily left the service of the employer upon the date on which the notice was given: Except as aforesaid upon the notice being given the rights of any worker to any benefits under the scheme and the obligations under the scheme of the employer and any persons charged with the administration of the scheme in respect of that worker and any person claiming under the worker or in respect of his employment shall cease and determine.

(d)

(d) (i) The Industrial Commission of New South Wales may vary the terms of any exemption granted or deemed by paragraph (b) of this subsection to have been granted pursuant to paragraph (a) of this subsection or any condition subject to which the exemption was granted, and may revoke the exemption. No. 48, 1963

(ii) The said Industrial Commission may, of its own motion, and on application by an industrial union of employers or employees or an employer concerned, shall review the terms of any exemption granted before the commencement of this Act, which is deemed by paragraph (b) of this subsection to have been granted pursuant to paragraph (a) of this subsection.

Where after such a review the Commission is of the opinion that the benefits under a scheme, the subject of the exemption, are not as favourable as those specified in this Act, or that it is no longer in the best interests of the workers concerned that the exemption should continue to operate, the Commission may vary the terms of such exemption or any condition subject to which the exemption was or was deemed to have been granted, or may revoke the exemption.

6. Nothing contained in this Act shall limit or in any way affect the powers, authorities, duties and functions conferred and imposed on the Industrial Commission of New South Wales, or any member thereof, or on a conciliation committee or a conciliation commissioner by or under the Industrial Arbitration Act in respect of long service leave : Savings
as to
powers, etc.
cf. Act No.
38, 1955,
s. 6.

Provided that in the exercise and performance of such powers, authorities, duties and functions, the Commission or any member thereof or a conciliation committee or a conciliation commissioner shall not in any award or industrial agreement, whether made before or after the commencement of this Act, insert any provisions relating to long service leave for workers unless those provisions are more favourable to the workers than the provisions of section four of this Act or are applicable to persons who are not workers entitled to the long service leave provided by the said section.

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out pro-
hibited.cf. Act No.
38, 1955,
s. 7.

7. (1) The provisions of this Act shall have effect notwithstanding any stipulation to the contrary whether made before or after the commencement of this Act.

(2) No contract or agreement made or entered into either before or after the commencement of this Act shall operate to annul or vary or exclude any of the provisions of this Act.

Records to
be kept by
employer.
cf. Act No.
38, 1955,
s. 8.

8. Every employer shall keep or cause to be kept a long service leave record in or to the effect of the form and containing the particulars prescribed.

Powers of
inspectors.
cf. Act No.
38, 1955,
s. 9.

9. (1) Every inspector shall have power at any reasonable times—

- (a) to enter, inspect and examine the premises of any employer or any premises in which he has reasonable cause to believe that any person is employed;
- (b) to require an employer to produce, at such time and place as the inspector may specify, the long service leave record required to be kept under this Act;
- (c) to make such examination and inquiry as may be necessary to ascertain whether the provisions of this Act have been complied with;
- (d) to exercise all other powers that may be necessary to ensure the carrying out of the provisions of this Act.

(2) No inspector shall have any authority under this Act to enter those portions of a building which are used exclusively for the purposes of a private dwelling.

Penalties
and
offences.
cf. Act No.
38, 1955,
s. 10.

10. (1) Every person who contravenes or fails to comply in any respect with any provision of this Act shall be liable to a penalty not exceeding five hundred pounds.

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(2) Every person who—

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- (a) makes any false or misleading statement in, or any material omission from, any long service leave record which he is required to keep; or
- (b) obstructs any inspector in the exercise of his powers under this Act; or
- (c) fails to comply with any requirement or direction lawfully given by an inspector under this Act or to furnish any information lawfully demanded under this Act by an inspector,

shall be liable to a penalty not exceeding five hundred pounds.

(3) Any employer who does any act or thing for the purpose of or which has the effect of in any way whether directly or indirectly—

- (a) avoiding or evading any obligation imposed on him by this Act; or
- (b) defeating, evading, avoiding or preventing the operation of this Act in any respect,

shall be liable to a penalty not exceeding five hundred pounds.

(4) Where a person convicted of an offence against this Act is a body corporate, every person who at the time of the commission of the offence was a director or officer of the body corporate shall be deemed to have committed the like offence and be liable to the penalty provided by this Act for such offence accordingly, unless he proves that the offence was committed without his knowledge or that he used all due diligence to prevent the commission of the offence.

11. (1) All penalties imposed by this Act or the regulations made thereunder may be recovered summarily before a court of petty sessions holden before a stipendiary magistrate sitting alone or before an industrial magistrate appointed under the Industrial Arbitration Act.

Recovery
of
penalties.
cf. Act No.
38, 1955,
s. 11.

Proceedings

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No. 48, 1963 Proceedings for such recovery may be taken by an inspector or by the secretary of an industrial union of employers or employees whose members are engaged in any industry concerned, or by any person whose rights are impaired.

(2) In any such proceedings the stipendiary magistrate or industrial magistrate may, in addition to the imposition of any penalty, make such an order with respect to any payment due to a worker under this Act as might have been made in proceedings taken under section twelve of this Act. Such order may be made without motion and shall be a bar to further proceedings under section twelve of this Act in respect of such payment.

(3) In any proceedings under this section the magistrate before whom such proceedings are taken may award costs to either party and assess the amount of such costs. Such costs shall be according to a scale to be fixed by the Industrial Commission of New South Wales.

(4) The prosecutor may conduct his case personally or by his counsel, attorney or an agent duly authorised by him in writing.

Recovery
of long
service
leave pay.
cf. Act No.
38, 1955,
s. 12.

12. (1) Any worker may apply to a court of petty sessions holden before a stipendiary magistrate sitting alone, or to any industrial magistrate appointed under the Industrial Arbitration Act, for an order directing the employer to pay to the worker the full amount of any payment which has become due to the worker under this Act at any time during a period of two years immediately preceding the date of the application.

The magistrate may make any order he thinks just in the matter and may award costs to either party, and assess the amount of such costs.

Such costs shall be according to a scale to be fixed by the Industrial Commission of New South Wales.

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(2) In any case where the worker is a person employed to do any work for which the price or rate has been fixed by an award or industrial agreement, proceedings under this section may, with the consent in writing of the worker, be taken by the secretary or other officer of an industrial union registered as such under the Industrial Arbitration Act concerned in the industry to which the award or industrial agreement relates, in the name and on behalf of the worker. No. 48, 1963

Any amount ordered to be paid in proceedings under this subsection may be paid to the secretary or other officer and the receipt of the secretary or other officer shall be a sufficient discharge to the employer for the amount mentioned in the receipt.

Any amount so paid to the secretary or other officer (less any costs properly incurred in connection with the proceedings and not paid by the employer) shall be held by him on trust for the worker on whose behalf the proceedings were taken.

13. (1) Where the provisions of an award or industrial agreement in force immediately before the commencement of this Act entitling workers to long service leave are not more favourable to the workers than the provisions of section four of this Act the first-mentioned provisions shall, as from the commencement of this Act, be deemed to have been omitted from the award or industrial agreement. Variation of certain awards, etc. cf. Act No. 38, 1955, s. 13.

This subsection shall not apply to the provisions of any award or industrial agreement entitling persons, who are not workers entitled to long service leave under section four of this Act, to long service leave.

(2) Where pursuant to any provision of an award or industrial agreement to which subsection one of this section applies :—

- (a) any person before the commencement of this Act became entitled to long service leave in respect of a period of service with an employer and that person is not entitled under this Act to long service leave in respect of that period of service with that employer; or

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- (b) long service leave has before such commencement accrued upon termination of the services of any person with an employer by reason of that person's death,

nothing in subsection one of this section shall take away or affect the right of that person or of his personal representative to any payment in respect of such leave.

In relation to such payments all such proceedings may be taken or continued as might have been taken or continued had the said subsection not been enacted.

Provisions
as to en-
forcement
of awards,
etc.
cf. Act No.
38, 1955,
s.14.

14. The provisions of the Industrial Arbitration Act and the regulations made thereunder relating to proceedings before an industrial magistrate, the recovery of any penalty and the enforcement of any order for the payment of money and to appeals from any industrial magistrate to the Industrial Commission of New South Wales shall apply mutatis mutandis to proceedings before a court of petty sessions or an industrial magistrate for the recovery of any penalty or of any payment under this Act.

Regulations.

15. (1) The Governor 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.

(2) Such regulations may impose a penalty not exceeding fifty pounds for any breach thereof.

(3) The regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified in the regulations; and
- (c)

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(c) be laid before both Houses of Parliament within **No. 48, 1963** fourteen sitting days after the publication thereof if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

16. The Long Service Leave Act, 1955-1963, is amended **Amendment of Act No. 38, 1955. Sec. 3. (Interpretation.)** by inserting in subsection one of section three at the end of the definition of "Worker" the words "but does not include a person who is a worker within the meaning of the Long Service Leave (Metalliferous Mining Industry) Act, 1963".

SCHEDULE.

Sec. 3.

Alumina	Iron	Radio-active minerals
Antimony	Iron-ore	Rutile
Arsenic	Ironstone	Scheelite
Arsenical Pyrites	Lead	Silver
Bauxite	Limestone	Sulphur
Bismuth	Manganese	Tantalum
Cadmium	Mercury	Tin
Chromite	Molybdenite	Titanium
Cinnabar	Nickel	Tungsten and its ores
Cobalt	Osmiridium	Vanadium
Columbium	Oxide of Iron	Wolfram
Copper	Pitchblende	Wulfenite
Galena	Platinoid Minerals	Zinc
Gold	Platinum	Zircon
Ilmenite	Plumbago	Zirconia

POLICE