

THE COMMON SEAL of STOCKS & HOLDINGS LTD. was hereunto affixed by authority of the Board of Directors in the presence of:—

(L.S.)

E. Graff DIRECTOR
J. S. Milner DIRECTOR
E. Dillon SECRETARY

LONG SERVICE LEAVE.

No. 68 of 1972.

AN ACT to amend the *Long Service Leave Act 1956*. [17 January 1973.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

- 1**—(1) This Act may be cited as the *Long Service Leave Act 1972*. Short title and citation.
(2) The *Long Service Leave Act 1956*, as subsequently amended, is in this Act referred to as the Principal Act.

- 2** Section two of the Principal Act is amended— Interpretation.
- (a) by omitting from subsection (1) the definition of “Chief Inspector”; and
- (b) by inserting in that subsection after the definition of “ordinary pay” the following definition:—
“ ‘Secretary’ means the Secretary for Labour;”.

What
constitutes
continuous
employment.

3 Section five of the Principal Act is amended—

(a) by omitting paragraph (b) of subsection (3) and substituting therefor the following paragraph:—

“(b) the period of employment of the employee with the transmittee shall be deemed to include the period of his employment, and any period deemed to be a period of his employment, with the transmitter.”; and

(b) by inserting after that subsection the following subsections:—

“(3A) Where an employee transfers from employment with a corporation to employment with a corporation associated with that corporation—

(a) the continuity of his employment shall be deemed not to have been broken by reason only of his so transferring; and

(b) the period of his employment with the corporation to employment with which he so transfers shall be deemed to include the period of his employment, and any period deemed to be a period of employment, with the corporation from employment with which he so transfers.

“(3B) For the purposes of subsection (3A) of this section a corporation shall be deemed to be associated with another corporation if those corporations are related to each other within the meaning of the *Companies Act 1962*.

“(3C) Without prejudice to the provisions of subsection (3B) of this section, where—

(a) an employee is transferred from employment with one corporation to employment with another;

(b) the directors of each of those corporations are substantially the same or the corporations are under substantially the same management; and

(c) the employee believes on reasonable grounds that he has remained in employment with the same employer,

this Act has effect in relation to that transfer as if those corporations were associated corporations within the meaning of subsection (3A) of this section.

“(3D) In this section the expressions ‘corporation’ and ‘director’ have respectively the same meanings as they have for the purposes of the *Companies Act 1962*.”.

4 Section eight of the Principal Act is amended—Entitlement
to long
service leave.

- (a) by inserting in paragraph (b) of subsection (2), after the word “applies”, the words “by virtue of subsection (2A) of this section”;
- (b) by omitting from paragraph (b) of subsection (2) the words “not completed fifteen years’ continuous service with his employer but has completed the requisite period of” and substituting therefor the words “completed seven years’, but has not completed fifteen years’”; and
- (c) by omitting subsection (2B).

5 Section nine of the Principal Act is amended—Payment in
lieu of long
service leave
on death of
employee.

- (a) by omitting from subsection (3) the word “eight” and substituting therefor the word “seven”; and
- (b) by omitting subsection (4).

6 After section nine of the Principal Act the following section is inserted:—

“9A Where an employee becomes entitled to a period of long service leave under this Act, he may, by mutual agreement with his employer, elect to accept payment in lieu of the period of long service leave to which he is so entitled and if he so elects the employer may pay him accordingly a sum equal to the amount of his ordinary pay in respect of a period commencing on the date specified in the election, or, if no date is so specified, the date of the election, and of the length of that period of long service leave.”

Payment
in lieu of
long service
leave by
agreement.**7** Section ten of the Principal Act is amended by omitting subsection (4A) and substituting therefor the following subsection:—How and when
long service
leave shall
be taken.

“(4A) In determining the amount of a payment required to be made in order to comply with paragraph (a) of subsection (4) of this section any variation in the terms or conditions of the employment of the employee that comes into effect during the period of the long service leave shall be disregarded, but, upon the termination of the period of the long service leave, the employer shall adjust the amount of the payment so as to accord with the variation.”

8 After section ten of the Principal Act the following section is inserted:—

“10A—(1) A certificate under subsection (2A) of section eight may be issued by the Secretary on the application of the person to whose employment it relates.

Issue of
certificates
by Secretary.

“(2) Before issuing such a certificate as is referred to in subsection (1) of this section the Secretary shall serve on the employer a copy of the application together with a notice stating that before such day as may be specified in the notice (being a day not earlier than twenty-eight days after the service thereof) he may, by notice in writing served on the Secretary, object to the issue of the certificate

“(3) A notice required to be served on a person under this section may be so served—

(a) by delivering it to him personally; or

(b) by sending it by certified mail addressed to him at his usual or last known place of abode or business.

“(4) An objection made in accordance with subsection (2) of this section and not withdrawn shall be heard and determined by the Secretary as prescribed and, in accordance with his determination, the Secretary shall issue, or refuse to issue, the certificate.”.

Appeals.

9 Section twelve of the Principal Act is amended—

(a) by omitting from subsection (1) the word “An” (first occurring) and substituting therefor the words “Subject to subsection (1A) of this section, an”; and

(b) by inserting after that subsection the following subsection:—

“(1A) An employer is not entitled to appeal against a certificate under subsection (2A) of section eight unless he has objected, in accordance with subsection (2) of section ten A, to the issue thereof and that objection has not been withdrawn.”.

Minor amendments.

10 The Principal Act is amended in the manner set forth in the schedule.

Transitory provisions.

11—(1) The amendments effected by section three shall be deemed to have always had effect, except that (assuming that they so had effect) they do not apply to any employment that terminated prior to the first day of January 1967.

(2) The amendments effected by sections four or five of this Act do not apply in respect of the death of an employee or the termination of any employment that occurred before the commencement of this Act or in respect of any period of long service leave granted so as to commence before that commencement.

(3) The amendments effected by sections eight and nine of this Act do not apply in a case where an application for a certificate under subsection (2A) of section eight of the Principal Act has been made before the commencement of this Act.

THE SCHEDULE.

(Section 10.)

MINOR AMENDMENTS OF THE PRINCIPAL ACT.

1. The following provisions of the Principal Act are amended by omitting therefrom the words “Chief Inspector” (wherever occurring) and substituting therefor, in each case, the word “Secretary”, namely:—

The definition of “inspector” in subsection (1) of section two;
Paragraph (c) of subsection (2) of section two;
Subsection (2) of section four;
Section seven;

Paragraphs (b) and (c) of subsection (2A) and subsection (3) of section eight;

Paragraph (a) of subsection (1) of section ten;

Section eleven;

Subsection (1) of section twelve.

2. The following provisions of the Principal Act are amended by omitting therefrom the word "police" (wherever occurring) and substituting therefor, in each case, the word "stipendiary", namely:—

Subsections (1) and (3) of section twelve;

Section thirteen;

Section fourteen;

Section twenty-one.

3. Section three of the Principal Act is amended by omitting from paragraph (c) the words "the *Municipal Employees' Long Service Leave Act 1951*" and substituting therefor the words "Division III of Part VI of the *Local Government Act 1962*".

4. Section four of the Principal Act is amended by omitting from subsection (1) the words "*Factories Act 1910*" and substituting therefor the words "*Factories, Shops, and Offices Act 1965*".

5. Section fourteen of the Principal Act is amended—

(a) by omitting from subsection (2) the words following the words "under the" and substituting therefor the words "*Justices Act 1959*"; and

(b) by omitting from subsection (3) the words "mentioned in subsection (2) of this section" and substituting therefor the words "of the *Justices Act 1959*".

EDUCATION (No. 2).

No. 69 of 1972.

AN ACT to amend the *Education Act 1932*.

[17 January 1973.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—(1) This Act may be cited as the *Education Act (No. 2.)* Short title and citation.
1972.

(2) The *Education Act 1932*, as subsequently amended, is in this Act referred to as the Principal Act.