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**LONG SERVICE LEAVE ACT 1976**

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## ANALYSIS

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**LONG SERVICE LEAVE**

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**No. 95 of 1976**

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**AN ACT to amend and consolidate the law relating to the granting of long service leave to employees, and for matters incidental thereto.**

**[15 December 1976]**

**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* 1976. Short title and repeal.

(2) The Acts that are specified in the Schedule are repealed.

Interpretation.  
Cf. No. 8 of  
1956, s. 2.

**2**—(1) In this Act, unless the contrary intention appears—

“ age for retirement ” means—

(a) in a case where an age for retirement is prescribed in an industrial award that is applicable to an employee, or is fixed by the terms of an employee’s contract of employment—the age so prescribed or fixed; or

(b) in any other case—the age of 65 years, in the case of a male, or 60 years in the case of a female;

“ business ” includes any trade, process, profession, or occupation, and any part thereof;

“ employee ” means a person who is employed by an employer to do any work for hire or reward, and includes an apprentice or any other person whose contract of employment requires him to learn or be taught any business;

“ employer ” means a person by whom an employee is employed, and includes the Crown;

“ industrial dispute ” means a dispute in relation to any matter affecting or relating to the relations of employers and employees in any business, or their respective rights, privileges, duties, or obligations;

“ inspector ” means a person who is appointed as an inspector for the purposes of this Act or is an inspector by virtue of section 4 (1), and includes the Secretary;

“ Secretary ” means the Secretary for Labour;

“ transmission ”, used in relation to an employer’s business, includes any transfer, conveyance, assignment, or succession, whether by agreement or by operation of law;

“ workers’ compensation ” means compensation payable under—

(a) the *Workers’ Compensation Act 1927* or a scheme in respect of which a certificate is in force under section 12 of that Act; or

(b) the *Workers’ (Occupational Diseases) Relief Fund Act 1954* or a scheme substituted for the provisions thereof under section 41 of that Act.

(2) Where an employee is employed in or about any premises in the business of an employer and the employment of the employee with that employer is terminated, and, not later than the expiration

of a period of two months from the date on which that employment was so terminated, the employee becomes employed in or about those premises in the business of some other employer, the business of the employer by whom his employment has been terminated shall, for the purposes of this Act, be deemed to have been transmitted to the employer by whom he so becomes employed if the business in which he so becomes employed is of the same, or substantially the same, kind as the business in which he was employed in the employment that has terminated.

(3) References in this Act to employment shall be construed as including references to employment on a regular basis, regardless of the number of hours worked by an employee.

**3** This Act does not apply to an employee who—

Non-application  
of Act.  
*Ibid.*, s. 3.

- (a) is an employee within the meaning of the *State Employees (Long-Service Leave) Act 1950*;
- (b) is entitled to long service leave under an award as defined by or under the *Coal Mining Industry Long Service Leave Act 1950*; or
- (c) is entitled to long service leave under Division III of Part VI of the *Local Government Act 1962*.

**4** (1) A person who is an inspector under the *Industrial Relations Act 1975* is, by virtue of his office, an inspector for the purposes of this Act.

Inspectors.  
*Ibid.*, s. 4.

(2) The Secretary is, by virtue of his office, an inspector for the purposes of this Act.

(3) The Governor may, under and in accordance with the provisions of the *Public Service Act 1973*, appoint such and so many persons as he considers necessary as inspectors for the purposes of this Act.

(4) Persons appointed as inspectors for the purposes of the *Long Service Leave Act 1956* shall be deemed to have been so appointed for the purposes of this Act.

What  
constitutes  
continuous  
employment.  
*Ibid.*, s. 5.

**5—(1)** For the purposes of this Act, employment (whether before or after the commencement of this Act) shall be deemed to be continuous notwithstanding—

- (a) the taking of any annual leave or long service leave;
- (b) any absence from work of the employee on a public holiday in accordance with the terms of his employment;
- (c) any absence from work on account of illness or injury that has been certified as necessary by a medical practitioner;
- (d) any interruption or ending of the employment by the employer, if the interruption or ending is made with the intention of avoiding obligations in respect of long service leave or annual leave;
- (e) any interruption arising directly or indirectly from an industrial dispute, but only if the employee returns to work in accordance with the terms of settlement of the dispute;
- (f) any absence from work, by leave of the employer, for the purpose of the employee attending a meeting of the Apprenticeship Commission of Tasmania or of any committee appointed under the *Apprentices Act 1942*;
- (g) the dismissal of an employee, if he is re-employed by the same employer within a period not exceeding two months after the date of the dismissal;
- (b) the standing down of an employee on account of slackness of trade, but only if the employee returns to work within 14 days after—
  - (i) receiving from the employer an offer of re-employment; or
  - (ii) the date on which the employer posts to the employee, by registered letter addressed to the employee at his last-known address, a notice to resume work;
- (i) any absence from work of the employee for the purpose of—
  - (i) complying with a summons to appear as a juror;
  - (ii) appearing to give evidence before any court or body before which or person before whom persons may by law be required to appear to give evidence;

- (iii) complying with any requirement or exercising any right to appear before such a court, body, or person as is referred to in sub-paragraph (ii), whether as a party to any proceedings or as a witness or otherwise; or
- (iv) attending a meeting of an industrial board established under the *Industrial Relations Act 1975* as a member thereof or otherwise exercising his functions as a member of such a board; or
- (j) any other absence of the employee from work by leave of the employer.

(2) In calculating the period of continuous employment of an employee, an interruption or absence of any of the kinds to which paragraphs (a), (b), (c), (d), (f), and (i) of subsection (1) relate shall be counted as part of the period of his employment, but an interruption or absence of any of the kinds to which paragraphs (e), (g), (h), and (j) of that subsection relate shall not be counted as part of the period of his employment.

(3) Without prejudice to the foregoing provisions of this section, employment shall not be regarded as being not continuous by reason only of the fact that, in accordance with the terms of his employment, an employee is engaged otherwise than full-time in that employment.

(4) Where a business is, whether before or after the commencement of this Act, transmitted from an employer (in this subsection referred to as "the transmittor") to another employer (in this subsection referred to as "the transmittee") and a person who at the time of the transmission was an employee of the transmittor in that business becomes an employee of the transmittee—

- (a) the continuity of the employment of that employee shall be deemed not to have been broken by reason of the transmission; and
- (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 transmittor.

(5) 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.

(6) For the purposes of subsection (5) 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*.

(7) Without prejudice to the provisions of subsection (6), 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 (5).

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

(9) Where the employment of an employee who is apprenticed to an employer has been continued by that employer upon or at any time within 3 months after the completion of the apprenticeship, the period of the apprenticeship shall be counted as part of the period of continuous employment of that employee with that employer.

(10) A period of service by an employee as a member of the naval, military, or air forces (other than as a member of the permanent force) of the Commonwealth shall be deemed to be employment with the employer by whom the employee was last employed before he commenced to serve as a member thereof.



(11) For the purposes of subsection (10), in the case of an employee whose last employment was temporary employment during a stand down period the expression “employer by whom the employee was last employed” means the employer who stood down the employee.

**6—**(1) For the purposes of this Act, the continuous employment of an employee by an employer by whom he is employed at the commencement of this Act shall, subject to this section, be deemed to have commenced on the actual date on which that employee was first employed by that employer before the commencement of this Act. Employment before the commencement of this Act. *Ibid.*, s. 6.

(2) Notwithstanding the provisions of subsection (1), in computing an employee’s entitlement to long service leave under this Act—

- (a) continuous employment before the commencement of the *Long Service Leave Act 1956*, to the extent to which it is in excess of 24 years, shall be disregarded; and
- (b) long service leave (or payment in lieu thereof) granted to the employee in respect of any period of employment that is, under this section, taken into account in computing the employee’s entitlement to long service leave under this Act shall be taken into account, and shall be deemed to have been leave taken under this Act.

**7—**(1) The Secretary may, subject to such conditions as he thinks fit to impose, exempt an employer from the operation of this Act in respect of all or any class of the employees employed by the employer where the Secretary is satisfied that— Exemptions. *Ibid.*, s. 7.

- (a) those employees are, or that class of employee is, under the terms of employment with the employer, entitled, under any scheme established or conducted by or on behalf of that employer, to benefits that are not less favourable to those employees, or that class of employees, than those prescribed by this Act; and
- (b) it is in the best interests of those employees, or that class of employees, that the exemption should be granted.

(2) An exemption granted under subsection (1) shall be granted so as to operate for such period, not exceeding 5 years, as the Secretary may determine, and may be renewed so as to operate for such further periods, not exceeding 5 years at any one time, as the Secretary may think desirable.

(3) Where the Secretary revokes or refuses to renew an exemption granted under this section, the continuous employment, before the date of the revocation or refusal, of the employees in respect of whom or, as the case may be, of the employees included in the class of employees in respect of which, the exemption was granted shall be taken into account for the purpose of computing their entitlement to long service leave under this Act, but—

(a) any period of long service leave granted to such an employee before that date pursuant to such a scheme as is referred to in subsection (1) (a) shall be deemed to have been a period of long service leave granted to him under the provisions of this Act; and

(b) any sum paid to such an employee in lieu of long service leave before that date pursuant to such a scheme shall be deemed to have been a payment in lieu of long service leave under the provisions of this Act.

(4) The Secretary shall not grant an exemption under this section in respect of any scheme that does not provide for the granting of long service leave, as such, to the employees to whom the scheme relates.

(5) Subsection (4) does not apply in respect of a scheme in respect of which an exemption was in force immediately before the commencement of the *Long Service Leave Act 1964* or any scheme varying, altering, or amending that scheme.

(6) The Secretary—

(a) may of his own motion; and

(b) shall, on the application of an organization of employers or of employees or of the relevant employer,

review any exemption granted by him pursuant to this section before the commencement of the *Long Service Leave Act 1964*.

(7) If, on such a review as is mentioned in subsection (6), the Secretary is of the opinion that the benefits under the scheme that is the subject of the exemption are not as favourable as those pre-

scribed by this Act or that it is no longer in the best interests of the employees to whom the scheme relates that the exemption should continue to operate, the Secretary may revoke the exemption or may determine that the exemption shall continue to operate only upon and subject to such terms and conditions as he may impose.

(8) An exemption or the renewal of an exemption granted under the *Long Service Leave Act 1956* shall be deemed to have been granted under this Act at the time it was actually granted.

8—(1) Subject to this Act, an employee is entitled to long service leave on ordinary pay in respect of continuous employment with one and the same employer.

Entitlement to long service leave.  
*Ibid.*, s. 8.

(2) Subject to subsection (4), the period of long service leave to which an employee is entitled under this Act is—

(a) on the completion by an employee of at least 15 years' continuous employment with his employer—

(i) 13 weeks' long service leave in respect of the first 15 years' continuous employment with his employer;

(ii)  $8\frac{2}{3}$  weeks' long service leave in respect of each additional 10 years' continuous employment with his employer; and

(iii) on the termination of his employment, an additional period of long service leave in respect of the number of years' continuous employment with his employer since the last accrual of entitlement to long service leave under the foregoing provisions of this paragraph, such period of long service leave as bears the same proportion to 13 weeks as that number of years bears to 15 years; or

(b) in the case of an employee to whom this paragraph applies by virtue of subsection (3) who has completed 7 years', but has not completed 15 years', continuous employment with his employer such period of long service leave as bears the same proportion to 13 weeks as the total period of the employee's continuous employment with his employer bears to 15 years.

(3) Subsection (2) (b) applies to—

(a) an employee who attains the age of retirement;

- (b) an employee whose employment is terminated on account of illness of such a nature as to justify the termination of that employment;
- (c) an employee who terminates his employment on account of incapacity or domestic or other pressing necessity of such a nature as to justify the termination of that employment; and
- (d) an employee whose employment is terminated by his employer for any reason other than the serious and wilful misconduct of the employee.

(4) In the case of an employee whose period of employment with an employer began before the commencement of the *Long Service Leave Act 1964* and whose period of continuous employment with his employer would entitle him to long service leave under this section, the period of long service leave to which that employee is entitled is the total of the following periods, namely:—

- (a) A period calculated on the basis of 13 weeks for 20 years' continuous employment before the date of the commencement of that Act; and
- (b) a period calculated on the basis of 13 weeks for 15 years' continuous employment on and after that date.

Payment in lieu of long service leave on death of employee.  
*Ibid.*, s. 9.

9—(1) If an employee who is entitled to long service leave under this Act dies before or while taking that leave his employer, unless he has paid to the employee, in advance, a sum equal to the amount of his ordinary pay in respect of the period of that leave, shall pay to the employee's personal representatives a sum equal to the amount of ordinary pay that would have been payable to the employee in respect of the period of long service leave not taken by the employee, less any amount already paid to the employee in respect of any long service leave not taken by him.

(2) Where an employee who has completed more than 15 years' continuous employment with an employer dies while still in the continuous employment of that employer, the employer (in addition to any sum payable under subsection (1)) shall pay to the employee's personal representatives, in respect of any period of that continuous employment that is after the last accrual of entitlement to long service leave under section 8 (2) (a), a sum equal to the amount of his ordinary pay for a period equalling one-sixtieth of the first-mentioned period.

(3) Where an employee who has completed at least 7 years' but less than 15 years' continuous service with an employer dies while still in the employment of that employer, the employer shall pay to the employee's personal representatives a sum equal to the amount of the employee's ordinary pay for a period equalling one-sixtieth of the period of his continuous employment.

**10** Where an employee becomes entitled to a period of long service leave under this Act, he may, by 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.  
*Ibid.*, s. 9A.

**11**—(1) Where, for the purposes of this Act, it is necessary to determine the ordinary pay of an employee for any period in respect of any employment (in this section referred to as "the relevant period"), that ordinary pay shall, subject to this section, be reckoned as a sum equivalent to the remuneration that he would reasonably be expected to have received in respect of that period from that employment if he had continued throughout that period to have worked therein.

Computation of "ordinary pay".  
*Ibid.*, s. 9B.

(2) For the purposes of subsection (1), the following provisions have effect, namely:—

- (a) It shall be assumed that, throughout the relevant period, the employee works his normal weekly number of hours of work and does not receive, or become entitled to, any payments by way of overtime or as a consequence of his working in excess of that weekly number of hours;
- (b) Where the employee is ordinarily employed on any shift or roster system or any other similar system whereby the times at which he is required to attend at his work vary from time to time, it shall be assumed, subject to paragraph (a), that he continues to be so employed throughout the relevant period;
- (c) Any payments to which the employee may have become entitled by way of disability allowance shall be disregarded;

- (d) Subject to paragraph (e), where the employee is provided with board and lodging by his employer, the cash value thereof shall be regarded as part of his remuneration;
- (e) Where, because the work done by the employee is in such a locality as to necessitate his sleeping elsewhere than at his genuine place of residence, or because of other special circumstances, board and lodging are provided, or payments in respect thereof are made, by his employer, the value of that board and lodging and the payments made in respect thereof shall be disregarded;
- (f) Subject to paragraphs (d) and (e), the value of any meals or refreshments provided for the employee, or any payments made in respect of meals or refreshments taken by him, shall be disregarded;
- (g) Any payments to which an employee may become entitled in respect of his travelling to or from, or in the course of, his work, or the use of a vehicle for that purpose, shall be disregarded; and
- (h) Any payments that are, or may be, made to an employee at the discretion of his employer by way of bonus shall be disregarded.

(3) Subject to the provisions of subsection (2), where the remuneration received by an employee in his employment depends on the results achieved by him, it shall be assumed, for the purposes of subsection (1), that the rate of his remuneration in that employment for the relevant period is the average rate of the remuneration received by him in that employment during the period of 3 months ending on the commencement of that period.

(4) Subject to subsections (2) and (3), where no ordinary rate of remuneration is fixed for an employee's work under the terms of his employment, the rate of his remuneration in that employment for the relevant period shall be taken to be the average rate of his remuneration in that employment during the period of 12 months ending on the commencement of the relevant period.

(5) Subsections (3) and (4) apply to a part of the remuneration of an employee as if references therein to his remuneration included references to a part of his remuneration.

(6) Where no normal weekly number of hours of work is fixed for an employee under the terms of his employment, his normal weekly number of hours of work shall, for the purposes of this

section, be taken to be the average weekly number of hours worked by him in that employment during the period of 12 months ending on the commencement of the relevant period.

(7) For the purposes of subsection (2), a disability allowance is any allowance payable to an employee as a consequence of his working in specified circumstances, being circumstances that involve, or are likely to involve, special danger, hardship, or inconvenience to the employee, but it does not include any such allowance in any case where it is reasonably to be expected that persons engaged in the type of employment in which the employee is ordinarily engaged would be entitled to that allowance for the whole, or the greater portion, of the time in which they are so engaged.

(8) The cash value of any board or lodging provided for an employee shall be deemed to be that fixed by or under the terms of his employment or, if it is not so fixed, shall be computed at such rate as may be agreed between the employer and employee or determined by the Secretary on the application of either of them.

(9) In the computation of the ordinary pay of an employee for a period for the purposes of section 9 or for the purposes of section 12 (4), any variation in the terms of his employment that would have come into effect during that period if he had remained in his employment shall be disregarded.

**12**—(1) Subject to this Act, when an employee becomes entitled to long service leave under this Act, that leave shall be granted by the employer as soon as practicable after the employee becomes entitled to it, having regard to the needs of the employer's establishment, but—

How and when long service leave shall be taken.  
*Ibid.*, s. 10.

- (a) the taking of the leave may be postponed to such date as is agreed upon between the employer and the employee or, in default of agreement, as the Secretary, having regard to the problems involved, directs, but no direction by the Secretary under this paragraph shall require the long service leave to commence before the expiration of 6 months after the date of the direction; and
- (b) in no case is any entitlement to long service leave lost or in any way affected by the foregoing provisions of this subsection or by any failure or refusal of the employer to grant the leave.

(2) Nothing in subsection (1), or in any agreement or direction made under this section, or in a determination made on an appeal against such a direction, requires an employee to take any long service leave, or any part of any long service leave, during any period in respect of which he is paid, or is entitled to be paid, any sum by way of workers' compensation and in which he is unable to work in his ordinary employment by reason of the injury or disablement in respect of which he is entitled to that workers' compensation.

(3) Where by virtue of subsection (2) any period of long service leave is not taken at the time agreed, directed or determined under this Act the agreement, direction, or determination shall be of no effect with respect to that period of long service leave, but nothing in this subsection prejudices the making of a further agreement or direction under this section with respect to that period of long service leave.

(4) Notwithstanding anything in this section, where the employment of an employee is for any reason terminated before he takes any long service leave to which he is entitled, or where any long service leave entitlement accrues to an employee because of the termination of his employment, the employee shall be deemed to have commenced to take his leave on the date of the termination of employment and to be entitled to be paid by his employer ordinary pay in respect of that leave accordingly.

(5) An employer and employee may agree that any accrued entitlement to long service leave shall be taken in two periods, but, except in pursuance of an agreement under this subsection, long service leave shall be taken in one period.

(6) The ordinary pay of an employee on long service leave shall be paid to him by the employer when the leave is taken, and shall be paid in one of the following ways, namely:—

- (a) In full when the employee commences his leave;
- (b) at the same times as it would have been paid if the employee were still on duty; or
- (c) In any other way agreed upon between the employer and the employee,

and the right to receive ordinary pay in respect of that leave accrues accordingly.

(7) In determining the amount of a payment required to be made in order to comply with subsection (6) (a) 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) Where an employee's pay in respect of a period of long service leave is paid in accordance with subsection (6) (b), it shall, if the employee, in writing, so requires, be made by cheque posted to a specified address.

(9) Long service leave under this Act is not inclusive of any trade holiday, public holiday, bank holiday, or annual leave to which an employee is entitled under the terms of his employment occurring during the period when the leave is taken.

(10) Except in the case of an employee to whom subsection (4) relates, nothing in this Act requires an employer to grant to an employee leave to which the employee has become entitled under this Act unless the period of leave to which the employee has become entitled is equal to or greater than 13 weeks in respect of his first period of entitlement and  $8\frac{2}{3}$  weeks in respect of a subsequent period of entitlement.

**13**—(1) A dispute—

(a) as to whether or when an employee is or has become entitled to long service leave or payment in lieu thereof, or a deceased employee's personal representatives are or have become entitled to payment in lieu of long service leave; or

(b) with respect to the rate of ordinary pay of an employee for the purposes of this Act,

shall be referred to and determined by the Secretary.

(2) In determining a dispute under this section the Secretary may act on such information as is available to him and he may inform himself on any matters which he considers relevant or, in his discretion, he may require that the dispute be heard and determined as prescribed except that, if specifically requested to do so by either the employer or the employee, he shall hear and determine the dispute as prescribed.

**14**—(1) Subject to subsection (2), an employer or employee who is aggrieved by any decision or determination of the Secretary under this Act (including any decision relating to the grant or refusal of an exemption under section 7, or the renewal or refusal to renew any exemption granted under that section), may appeal therefrom to a magistrate.

Settlement  
of disputes.  
*Ibid.*, s. 11.

Appeals.  
*Ibid.*, s. 12.

(2) An appeal under this section shall be instituted, heard, and determined as prescribed.

(3) The decision of the magistrate on the hearing of an appeal under this section is final.

(4) Where the decision of the magistrate under this section requires the payment of a sum of money by an employer to an employee, the magistrate may, without the necessity for any further application, order the employer to pay that sum to the employee.

Order for  
payment of  
moneys owing  
by an employer.  
*Ibid.*, s. 13.

**15**—(1) An employee, or the personal representative of a deceased employee, may apply to a magistrate, as prescribed, for an order directing the employer to pay to the employee or to his personal representatives, as the case requires, the full amount of any payment that has, at any time during the period of 3 years immediately preceding the date of the application, become due to the employee or to his personal representatives under this Act and the magistrate may make such an order.

(2) The magistrate shall, as prescribed, hear and determine any application made to him pursuant to this section and the determination of the magistrate on the hearing of the application is final.

(3) In any case where the question of a long service leave entitlement has been determined by the Secretary under section 13 or by a magistrate under that section or section 14, payment of that entitlement shall become due on the day of the determination.

Provision as  
to costs.  
*Ibid.*, s. 14.

**16**—(1) A magistrate may, on the hearing of an appeal under section 14 or an application under section 15, award costs to any party to the appeal or application, and may assess the amount of those costs.

(2) Where costs are awarded by a magistrate pursuant to this section, those costs are recoverable in the same manner as to costs ordered to be paid to a complainant or defendant in a conviction or an order under the *Justices Act 1959*.

(3) In the application to costs awarded pursuant to this section of the provisions of the *Justices Act 1959*, any reference in those provisions to a justice, or to two or more justices, shall be construed as a reference to a magistrate.

**17** Except as otherwise expressly provided in this Act, the provisions of this Act have effect notwithstanding any covenant, agreement, or arrangement to the contrary (whether entered into or made before or after the commencement of this Act), and no such covenant, agreement, or arrangement operates so as to annul, vary, or exclude any of the provisions of this Act.

Contracting out prohibited.  
*Ibid.*, s. 15.

**18** An employer shall keep or cause to be kept a long service leave record in such form as may be prescribed and containing the prescribed particulars.

Records to be kept by employers.  
*Ibid.*, s. 16.

**19**—(1) An inspector—

Powers of inspectors.  
*Ibid.*, s. 17.

- (a) may, at any reasonable time, enter, inspect, and examine the premises of an employer, or any premises in which he has reasonable cause to believe that a person is employed or that an offence against this Act has been committed;
- (b) may require an employer to produce, at such time and place as the inspector specifies, the long service leave record required by this Act to be kept by the employer, and inspect or make a copy of, or extract from, that record;
- (c) may make such examination and inquiry as he thinks necessary to ascertain whether the provisions of this Act have been, or are being, complied with by an employer or an employee; and
- (d) may exercise such other powers as may be prescribed.

(2) Nothing in this section shall be construed as conferring on an inspector any authority to enter any parts of a building that are used exclusively for the purposes of a private dwelling.

**20**—(1) No person shall—

Offences and penalty.  
*Ibid.*, s. 19.

- (a) make a false or misleading statement in, or a material omission from, a long service leave record that he is required by this Act to keep;
- (b) fail to comply with a requirement or direction lawfully given by an inspector under this Act, or to furnish any information lawfully demanded under this Act by an inspector; or
- (c) contravene or fail to comply with any provision of this Act that is applicable to him.

Penalty: \$200.

(2) In proceedings in respect of an offence against the provisions of subsection (1) (a), it is a good defence if it is proved to the satisfaction of the court that the statement or omission complained of resulted from an error made in good faith and without intention to mislead.

Time within which proceedings may be commenced. *Ibid.*, s. 20.

**21** Notwithstanding anything in the *Justices Act 1959*, proceedings in respect of an offence against this Act may be commenced at any time within one year after the cause of complaint arises.

Proceedings to be heard by a magistrate. *Ibid.*, s. 21.  
Prosecution not a bar to entitlement. *Ibid.*, s. 22.

**22** Proceedings in respect of an offence against this Act shall be heard and determined by a magistrate.

**23** Proceedings against an employer in respect of an offence against this Act do not prejudice or affect any right or benefit conferred by this Act on an employee in the employment of that employer or the personal representatives of a deceased employee who was in the employment of that employer.

Regulations. *Ibid.*, s. 23.

**24**—(1) The Governor may make regulations under this Act.

(2) In addition to any other matters that may be prescribed, the regulations may impose penalties, not exceeding \$40, for offences against the regulations.

## SCHEDULE

### (Section 1)

Number of Act	Title of Act
69 of 1960 ....	<i>Long Service Leave Act 1960</i>
74 of 1960 ....	<i>Stevedoring Industry Long Service Leave Act 1960</i>
13 of 1961 ....	<i>Long Service Leave Act 1961</i>
12 of 1963 ....	<i>Long Service Leave Act 1963</i>
50 of 1963 ....	<i>Long Service Leave Act (No. 2) 1963</i>
61 of 1964 ....	<i>Long Service Leave Act 1964</i>
3 of 1965 ....	<i>Long Service Leave Act 1965</i>
11 of 1966 ....	<i>Long Service Leave Act 1966</i>
36 of 1968 ....	<i>Long Service Leave Act 1968</i>
68 of 1972 ....	<i>Long Service Leave Act 1972</i>
86 of 1973 ....	<i>Long Service Leave Act 1973</i>