This PUBLIC BILL *originated in the* LEGISLATIVE ASSEMBLY, *and, having this day passed, is now ready for presentation to the* LEGISLATIVE COUNCIL *for its concurrence.*

ALLAN PICKERING,
Clerk of the Legislative Assembly.

Legislative Assembly Chamber,
Sydney, 26 *March,* 1963.

New South Wales

ANNO DUODECIMO

ELIZABETHÆ II REGINÆ

* *

Act No. , 1963.

An Act to make further provisions with respect to long service leave; for this purpose to amend the Long Service Leave Act, 1955; and for purposes connected therewith.

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 (Amendment) Act, 1963". Short title and citation.

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

2. (1) The Long Service Leave Act, 1955, is amended— Amendment of Act No. 38, 1955.

(a) by omitting paragraph (a) of subsection two of section three and by inserting in lieu thereof the following paragraphs : — Sec. 3. (Interpretation.)

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

(a1) 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;

(a2)

(a2) 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 (a1) 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;

(b) (i) by omitting paragraph (a) of subsection two of section four and by inserting in lieu thereof the following paragraphs:— Sec. 4. (Long service leave.)

(a) Subject to paragraph (a2) 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 fifteen years service with an employer be—

(a) in respect of fifteen years service so completed, three months; and

(b) in respect of each ten years service with the employer completed since he last became entitled to long service leave, eight and two-third weeks; and

(c) on the termination of the worker's services, in respect of the number of years service with

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 fifteen years service; and

(ii) in the case of a worker who has completed at least ten years service but less than fifteen years with an employer and whose services with the employer are terminated or cease for any reason, be a proportionate amount on the basis of three months for fifteen years service; and

(iii) 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 fifteen years service (such service to include service with the employer as an adult and otherwise than as an adult).

(a1) 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

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) 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.

(a2) In the case of a worker, whose service with an employer began before the commencement of the Long Service Leave (Amendment) Act, 1963, and whose service would entitle him to long service leave under this section, the

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 fifteen years service in respect of the period of his service as from such commencement.

(ii) by omitting from paragraph (b) of the proviso to subsection six of the same section the symbols "(a)" and by inserting in lieu thereof the symbols "(a1)";

(iii) by omitting from paragraph (b) of subsection eleven of the same section the words "six months" and by inserting in lieu thereof the words "twelve months";

(c) by inserting at the end of section five the following new subsections:— Sec. 5. (Exemptions.)

(3) As from the date of commencement of the Long Service Leave (Amendment) Act, 1963, no exemption shall be granted pursuant to paragraph (a) of subsection two of this section to any employer, in respect of any scheme conducted by or on behalf of the employer, which does not provide for the granting of long service leave, as such, to the workers covered by such scheme.

(4) 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, or deemed by paragraph (b) of subsection two of this section to have been granted, pursuant to paragraph (a) of that subsection before the commencement of the Long Service Leave (Amendment) Act, 1963. Where

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.

(d) (i) by omitting from subsection two of section thirteen the words "this Act" where firstly and thirdly occurring and by inserting in lieu thereof the words "the Long Service Leave (Amendment) Act, 1963,"; Sec. 13. (Savings.)

(ii) by omitting from subsection four of the same section the words "this Act" where firstly occurring and by inserting in lieu thereof the words "the Long Service Leave (Amendment) Act, 1963,";

(iii) by omitting from the same subsection the words "subsection one or" where firstly occurring;

(iv) by omitting from the same subsection the words "one or" where secondly occurring.

(2) The amendment made by subparagraph (i) of paragraph (b) of subsection one of this section shall not operate to entitle a worker—

(a) who has been granted long service leave under the Long Service Leave Act, 1955, before the commencement of this Act to long service leave under that Act, as amended by this Act; or

(b) who has not been granted long service leave under the Long Service Leave Act, 1955, to long service leave under that Act, as well as long service leave under that Act, as amended by this Act,

in respect of the same period of service with an employer.

BY AUTHORITY:
V. C. N. BLIGHT, GOVERNMENT PRINTER, SYDNEY, NEW SOUTH WALES—1963
[8*d*.]

LONG SERVICE LEAVE (AMENDMENT) BILL, 1963.

EXPLANATORY NOTE.

THE objects of this Bill are—

(a) to increase the amount of long service leave to which a worker is entitled under the Long Service Leave Act, 1955;

(b) to amend the definition of ordinary pay in that Act so as to assure that certain amounts are taken into account in assessing the value of long service leave;

(c) to provide that no exemption from the provisions of the abovementioned Act shall be granted in future in respect of a scheme which does not provide for the granting of long service leave;

(d) to empower the Industrial Commission to review exemptions from such provisions at present in operation and in certain circumstances to vary or revoke such exemptions;

(e) to make other provisions incidental to or consequential upon the foregoing.

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PROOF

No. , 1963.

A BILL

To make further provisions with respect to long service leave; for this purpose to amend the Long Service Leave Act, 1955; and for purposes connected therewith.

[MR. LANDA;—13 *March*, 1963.]

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:—

Short title and citation.

1. (1) This Act may be cited as the "Long Service Leave (Amendment) Act, 1963".

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

2. (1) The Long Service Leave Act, 1955, is amended— Amendment of Act No. 38, 1955.

(a) by omitting paragraph (a) of subsection two of section three and by inserting in lieu thereof the following paragraphs: — Sec. 3. (Interpretation.)

5 (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 10 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 rates, and where two or more time rates of pay are so fixed means the 15 higher or highest of those rates;

(a1) 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 20 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 25 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 30 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 35 employment after excluding any amount payable to him in respect of shift work, overtime or other penalty rates;

(a2)

(a2) 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 (a1) 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;

(b) (i) by omitting paragraph (a) of subsection two of section four and by inserting in lieu thereof the following paragraphs:— Sec. 4. (Long service leave.)

(a) Subject to paragraph (a2) 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 fifteen years service with an employer be—

(a) in respect of fifteen years service so completed, three months; and

(b) in respect of each ten years service with the employer completed since he last became entitled to long service leave, eight and two-third weeks; and

(c) on the termination of the worker's services, in respect of the number of years service with

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 fifteen years service; and

(ii) in the case of a worker who has completed at least ten years service but less than fifteen years with an employer and whose services with the employer are terminated or cease for any reason, be a proportionate amount on the basis of three months for fifteen years service; and

(iii) 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 fifteen years service (such service to include service with the employer as an adult and otherwise than as an adult).

(a1) 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

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) 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.

(a2) In the case of a worker, whose service with an employer began before the commencement of the Long Service Leave (Amendment) Act, 1963, and whose service would entitle him to long service leave under this section, the

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 fifteen years service in respect of the period of his service as from such commencement.

(ii) by omitting from paragraph (b) of the proviso to subsection six of the same section the symbols "(a)" and by inserting in lieu thereof the symbols "(a1)";

(iii) by omitting from paragraph (b) of subsection eleven of the same section the words "six months" and by inserting in lieu thereof the words "twelve months";

(c) by inserting at the end of section five the following new subsections:— Sec. 5. (Exemptions.)

(3) As from the date of commencement of the Long Service Leave (Amendment) Act, 1963, no exemption shall be granted pursuant to paragraph (a) of subsection two of this section to any employer, in respect of any scheme conducted by or on behalf of the employer, which does not provide for the granting of long service leave, as such, to the workers covered by such scheme.

(4) 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, or deemed by paragraph (b) of subsection two of this section to have been granted, pursuant to paragraph (a) of that subsection before the commencement of the Long Service Leave (Amendment) Act, 1963. Where

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.

(d) (i) by omitting from subsection two of section thirteen the words "this Act" where firstly and thirdly occurring and by inserting in lieu thereof the words "the Long Service Leave (Amendment) Act, 1963,"; Sec. 13. (Savings.)

(ii) by omitting from subsection four of the same section the words "this Act" where firstly occurring and by inserting in lieu thereof the words "the Long Service Leave (Amendment) Act, 1963,";

(iii) by omitting from the same subsection the words "subsection one or" where firstly occurring;

(iv) by omitting from the same subsection the words "one or" where secondly occurring.

(2) The amendment made by subparagraph (i) of paragraph (b) of subsection one of this section shall not operate to entitle a worker—

(a) who has been granted long service leave under the Long Service Leave Act, 1955, before the commencement of this Act to long service leave under that Act, as amended by this Act; or

(b) who has not been granted long service leave under the Long Service Leave Act, 1955, to long service leave under that Act, as well as long service leave under that Act, as amended by this Act,

in respect of the same period of service with an employer.

BY AUTHORITY:
V. C. N. BLIGHT, GOVERNMENT PRINTER, SYDNEY, NEW SOUTH WALES—1963

New South Wales

ANNO DUODECIMO

ELIZABETHÆ II REGINÆ

* *

Act No. 13, 1963.

An Act to make further provisions with respect to long service leave; for this purpose to amend the Long Service Leave Act, 1955; and for purposes connected therewith. [Assented to, 1st April, 1963.]

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: —

Short title and citation.

1. (1) This Act may be cited as the "Long Service Leave (Amendment) Act, 1963".

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

Amendment of Act No. 38, 1955.

2. (1) The Long Service Leave Act, 1955, is amended—

Sec. 3. (Interpretation.)

(a) by omitting paragraph (a) of subsection two of section three and by inserting in lieu thereof the following paragraphs:—

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

(a1) 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;

(a2)

(a2) 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 (a1) 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;

(b) (i) by omitting paragraph (a) of subsection two of section four and by inserting in lieu thereof the following paragraphs:— Sec. 4. (Long service leave.)

(a) Subject to paragraph (a2) 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 fifteen years service with an employer be—

(a) in respect of fifteen years service so completed, three months; and

(b) in respect of each ten years service with the employer completed since he last became entitled to long service leave, eight and two-third weeks; and

(c) on the termination of the worker's services, in respect of the number of years service with

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 fifteen years service; and

(ii) in the case of a worker who has completed at least ten years service but less than fifteen years with an employer and whose services with the employer are terminated or cease for any reason, be a proportionate amount on the basis of three months for fifteen years service; and

(iii) 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 fifteen years service (such service to include service with the employer as an adult and otherwise than as an adult).

(a1) 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

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) 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.

(a2) In the case of a worker, whose service with an employer began before the commencement of the Long Service Leave (Amendment) Act, 1963, and whose service would entitle him to long service leave under this section, the

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 fifteen years service in respect of the period of his service as from such commencement.

(ii) by omitting from paragraph (b) of the proviso to subsection six of the same section the symbols "(a)" and by inserting in lieu thereof the symbols "(a1)";

(iii) by omitting from paragraph (b) of subsection eleven of the same section the words "six months" and by inserting in lieu thereof the words "twelve months";

Sec. 5. (Exemptions.)

(c) by inserting at the end of section five the following new subsections:—

(3) As from the date of commencement of the Long Service Leave (Amendment) Act, 1963, no exemption shall be granted pursuant to paragraph (a) of subsection two of this section to any employer, in respect of any scheme conducted by or on behalf of the employer, which does not provide for the granting of long service leave, as such, to the workers covered by such scheme.

(4) 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, or deemed by paragraph (b) of subsection two of this section to have been granted, pursuant to paragraph (a) of that subsection before the commencement of the Long Service Leave (Amendment) Act, 1963. Where

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.

(d) (i) by omitting from subsection two of section thirteen the words "this Act" where firstly and thirdly occurring and by inserting in lieu thereof the words "the Long Service Leave (Amendment) Act, 1963,"; Sec. 13. (Savings.)

(ii) by omitting from subsection four of the same section the words "this Act" where firstly occurring and by inserting in lieu thereof the words "the Long Service Leave (Amendment) Act, 1963,";

(iii) by omitting from the same subsection the words "subsection one or" where firstly occurring;

(iv) by omitting from the same subsection the words "one or" where secondly occurring.

(2) The amendment made by subparagraph (i) of paragraph (b) of subsection one of this section shall not operate to entitle a worker—

(a) who has been granted long service leave under the Long Service Leave Act, 1955, before the commencement of this Act to long service leave under that Act, as amended by this Act; or

(b) who has not been granted long service leave under the Long Service Leave Act, 1955, to long service leave under that Act, as well as long service leave under that Act, as amended by this Act,

in respect of the same period of service with an employer.

BY AUTHORITY:
V. C. N. BLIGHT, GOVERNMENT PRINTER, SYDNEY, NEW SOUTH WALES—1963

I certify that this PUBLIC BILL, *which originated in the* LEGISLATIVE ASSEMBLY, *has finally passed the* LEGISLATIVE COUNCIL *and the* LEGISLATIVE ASSEMBLY *of* NEW SOUTH WALES.

ALLAN PICKERING,
Clerk of the Legislative Assembly.

Legislative Assembly Chamber,
Sydney, 28 *March,* 1963.

New South Wales

ANNO DUODECIMO

ELIZABETHÆ II REGINÆ

* *

Act No. 13, 1963.

An Act to make further provisions with respect to long service leave; for this purpose to amend the Long Service Leave Act, 1955; and for purposes connected therewith. [Assented to, 1st April, 1963.]

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 (Amendment) Act, 1963". Short title and citation.

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

2.

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

HOWARD T. FOWLES,
Chairman of Committees of the Legislative Assembly.

Amendment of Act No. 38, 1955.

2. (1) The Long Service Leave Act, 1955, is amended—

Sec. 3. (Interpretation.)

(a) by omitting paragraph (a) of subsection two of section three and by inserting in lieu thereof the following paragraphs:—

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

(a1) 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;

(a2)

(a2) 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 (a1) 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;

(b) (i) by omitting paragraph (a) of subsection two of section four and by inserting in lieu thereof the following paragraphs:— Sec. 4. (Long service leave.)

(a) Subject to paragraph (a2) 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 fifteen years service with an employer be—

(a) in respect of fifteen years service so completed, three months; and

(b) in respect of each ten years service with the employer completed since he last became entitled to long service leave, eight and two-third weeks; and

(c) on the termination of the worker's services, in respect of the number of years service with

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 fifteen years service; and

(ii) in the case of a worker who has completed at least ten years service but less than fifteen years with an employer and whose services with the employer are terminated or cease for any reason, be a proportionate amount on the basis of three months for fifteen years service; and

(iii) 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 fifteen years service (such service to include service with the employer as an adult and otherwise than as an adult).

(a1) 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

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) 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.

(a2) In the case of a worker, whose service with an employer began before the commencement of the Long Service Leave (Amendment) Act, 1963, and whose service would entitle him to long service leave under this section, the

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 fifteen years service in respect of the period of his service as from such commencement.

(ii) by omitting from paragraph (b) of the proviso to subsection six of the same section the symbols "(a)" and by inserting in lieu thereof the symbols "(a1)";

(iii) by omitting from paragraph (b) of subsection eleven of the same section the words "six months" and by inserting in lieu thereof the words "twelve months";

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(c) by inserting at the end of section five the following new subsections:—

(3) As from the date of commencement of the Long Service Leave (Amendment) Act, 1963, no exemption shall be granted pursuant to paragraph (a) of subsection two of this section to any employer, in respect of any scheme conducted by or on behalf of the employer, which does not provide for the granting of long service leave, as such, to the workers covered by such scheme.

(4) 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, or deemed by paragraph (b) of subsection two of this section to have been granted, pursuant to paragraph (a) of that subsection before the commencement of the Long Service Leave (Amendment) Act, 1963. Where

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.

(d) (i) by omitting from subsection two of section thirteen the words "this Act" where firstly and thirdly occurring and by inserting in lieu thereof the words "the Long Service Leave (Amendment) Act, 1963,"; Sec. 13. (Savings.)

(ii) by omitting from subsection four of the same section the words "this Act" where firstly occurring and by inserting in lieu thereof the words "the Long Service Leave (Amendment) Act, 1963,";

(iii) by omitting from the same subsection the words "subsection one or" where firstly occurring;

(iv) by omitting from the same subsection the words "one or" where secondly occurring.

(2) The amendment made by subparagraph (i) of paragraph (b) of subsection one of this section shall not operate to entitle a worker—

(a) who has been granted long service leave under the Long Service Leave Act, 1955, before the commencement of this Act to long service leave under that Act, as amended by this Act; or

(b) who has not been granted long service leave under the Long Service Leave Act, 1955, to long service leave under that Act, as well as long service leave under that Act, as amended by this Act,

in respect of the same period of service with an employer.

In the name and on behalf of Her Majesty I assent to this Act.

E. W. WOODWARD,
Governor.

Government House,
Sydney, 1st April, 1963.