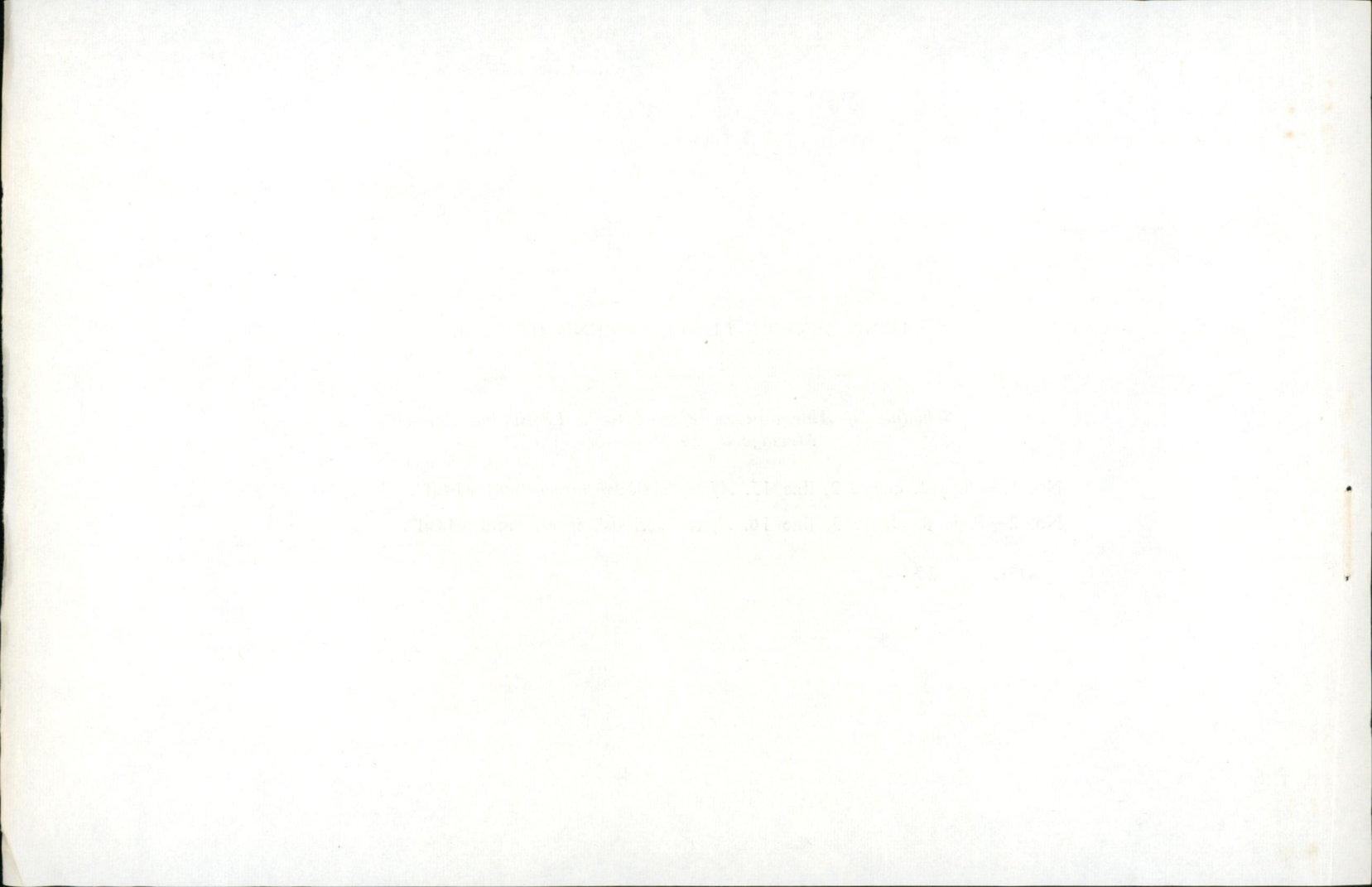


LONG SERVICE LEAVE (AMENDMENT) BILL.

*Schedule of Amendments referred to in Legislative Council's
Message of 29 November, 1967.*

No. 1.—Page 2, clause 2, line 15. *After* “serious” *insert* “and wilful”.

No. 2.—Page 8, clause 3, line 16. *After* “serious” *insert* “and wilful”.



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.

I. P. K. VIDLER,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 16 November, 1967.*

The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.

J. R. STEVENSON,
Clerk of the Parliaments.

*Legislative Council Chamber,
Sydney, 29 November, 1967.*

New South Wales



ANNO SEXTO DECIMO

ELIZABETHÆ II REGINÆ

Act No. , 1967.

An Act to make further provisions with respect to long service leave; for this purpose to amend the Long Service Leave Act, 1955–1965, and the Long Service Leave (Metalliferous Mining Industry) Act, 1963; 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:—

- 5 **1.** (1) This Act may be cited as the "Long Service Leave (Amendment) Act, 1967".

Short title
and citation.

(2)

Long Service Leave (Amendment).

(2) The Long Service Leave Act, 1955, as amended by subsequent Acts and by this Act, may be cited as the Long Service Leave Act, 1955-1967.

(3) The Long Service Leave (Metalliferous Mining Industry) Act, 1963, as amended by the Decimal Currency Act, 1965, and by this Act, may be cited as the Long Service Leave (Metalliferous Mining Industry) Act, 1963-1967.

2. The Long Service Leave Act, 1955-1965, is amended— Amendment of Act No. 38, 1955.

10 (a) (i) by inserting in paragraph (a) of subsection two of section four after the word "subsection" the words "and subsection thirteen of this section"; Sec. 4. (Long service leave.)

15 (ii) by inserting in subparagraph (iii) of the same paragraph after the words "for any reason" the words "other than the worker's serious and wilful misconduct,";

(b) (i) by inserting at the end of subsection three of the same section the following words :—

20 Provided that where any leave has been given to and taken by the worker pursuant to subsection (3A) of this section, this subsection shall apply to and in respect of so much only of the leave to which the worker has become entitled as has not been so given and taken.

25 (ii) by inserting next after the same subsection the following new subsection :—

30 (3A) If the employer and the worker so agree, a period of long service leave of not less than one month may be given by the employer, and taken by the worker, wholly or partly in advance before the worker has become entitled to any long service leave or to the amount so agreed to be given and taken. No such agreement shall, for the purposes of paragraph (b) or (c) of subparagraph (i) of paragraph (a) of

35

Long Service Leave (Amendment).

of subsection two of this section, be deemed to confer on the worker an entitlement to long service leave.

- 5 (c) (i) by inserting in subparagraph (ii) of paragraph (a) of subsection five of the same section after the word "termination" the words "and has not been taken";
- 10 (ii) by inserting in the same paragraph after the words "the worker shall" the words "; subject to subsection thirteen of this section,";
- (iii) by inserting in paragraph (b) of the same subsection after the word "death" the words "and has not been taken";
- 15 (iv) by inserting at the end of the same subsection the following new paragraph :—

20 (c) On the termination of the services of a worker who had taken any leave pursuant to subsection (3A) of this section his employer may, subject to this paragraph and subsection thirteen of this section, deduct from any remuneration payable on such termination in respect of the worker's services—

- 25 (i) if the worker had not become entitled to any long service leave in the course of or upon the termination of his services—ordinary pay for the leave so taken; or
- 30 (ii) if the worker had become so entitled—ordinary pay for the excess, if any, over his total entitlement of the period or total of the periods of long service leave on ordinary pay given pursuant to this Act by that employer to and taken by the worker.

The

Long Service Leave (Amendment).

The amount so deducted shall not exceed the lesser of—

- 5 (i) the ordinary pay which would have been payable for the period of leave or excess leave, as the case may be, had it been taken on such termination; and
- 10 (ii) (a) where the period in respect of which the deduction is to be made is of the same duration as the leave taken, the ordinary pay for the period during which the leave was taken; or
- 15 (b) where the period in respect of which the deduction is to be made is not of the same duration as the leave taken, the ordinary pay for the lowest paid period during the leave taken which is of the same duration as the
- 20 period in respect of which the deduction is to be made.
- 25 (d) by inserting in paragraph (d) of subsection eleven of the same section after the word "shall" the words ", subject to subsection twelve of this section,";
- (e) by inserting next after the same subsection the following new subsections :—
- 30 (12) (a) Paragraph (d) of subsection eleven of this section shall not, where the period during which a person served as a member of the naval, military or air forces of the Commonwealth commenced by enlistment or appointment in any such force after the second day of September, one thousand nine hundred and forty-five, apply to
- 35 and in respect of that period unless, pursuant to an

Act

Long Service Leave (Amendment).

5 Act of the Parliament of the Commonwealth of Australia enacted before or after the commencement of the Long Service Leave (Amendment) Act, 1967, that person was entitled to apply to be reinstated in his former civil employment on the termination of his period of service as such a member and he did not, at the expiration of the period during which that right subsisted, continue as a member of such a force.

10 (b) For the purposes of this subsection, the former employer to whom application for reinstatement is required to be made pursuant to an Act of the Parliament of the Commonwealth of Australia referred to in paragraph (a) of this subsection shall, notwithstanding anything contained in
15 any such Act, be deemed to be and always to have been the employer by whom the member of the naval, military or air forces of the Commonwealth was last employed before the commencement of the
20 service, as such a member, entitling him to apply to be reinstated in civil employment.

(13) (a) In this subsection—

25 “Award” means award or industrial agreement made under the Commonwealth Conciliation and Arbitration Act 1904 of the Parliament of the Commonwealth of Australia, or an award made or an industrial agreement filed under the Industrial Arbitration Act, 1940, or any Act
30 amending or replacing either of those Acts.

“Corporation” means any body corporate formed or incorporated in or outside New South Wales.

35 “Holding company” and “subsidiary” have and shall be deemed always to have had the meanings respectively ascribed thereto by the Companies Act, 1961, or any Act amending or replacing that Act.

“Termination”

Long Service Leave (Amendment).

“Termination” means termination by any person or by any cause.

(b) For the purposes of this subsection—

(i) where a corporation is—

5

(a) the holding company, or

(b) a subsidiary, or

(c) a subsidiary of the holding company,

10

of another corporation, the first mentioned corporation and that other corporation shall, and no two corporations shall in any other case, be deemed to be related to each other;

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(ii) a worker shall be deemed to have transferred from the service of an employer to the service of another employer, only if before, concurrently with or within a period of two months after the termination of his services with the first mentioned employer he entered into a contract of employment with that other employer, and the transfer shall be deemed to have occurred at the time of that termination.

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(c) Where before or after the commencement of the Long Service Leave (Amendment) Act, 1967, a worker has transferred from the service of an employer (in this paragraph called the first employer) being a corporation to the service of another employer being a corporation related to the first employer at the time of that transfer, then for the purposes of this section—

30

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

(ii)

Long Service Leave (Amendment).

5 (ii) the period of service which the worker had
had with the first employer before the com-
mencement of his service with that other
employer (including any service which by
reason of a prior transfer or prior transfers
or for any other reason he is deemed by
this section or, for the purposes of long
service leave for such service, he is deemed
by any Act or award to have had with the
10 first employer) shall be deemed to be
service of the worker with that other
employer.

15 (d) Where before or after the commence-
ment of the Long Service Leave (Amendment)
Act, 1967, a worker has entered into a contract
of employment with an employer, being a corpora-
tion, within a period of twelve months after the
completion of an apprenticeship with another
20 employer, being a corporation which at the time
of such entry into employment was related to the
first mentioned employer, the period of his appren-
ticeship shall be taken into account for the
purpose of ascertaining the period of his service
with the first mentioned employer under that
25 contract of employment.

30 (e) Where the services of a worker with
an employer are terminated and that employer
is a corporation to which any other corporation
is related at the time of that termination, the
services of the worker shall not, for the purposes
of subsections two and five of this section, be
deemed to have been so terminated if he transfers
to the employment of any such related corporation.

35 (f) A worker or his personal representa-
tive shall not be entitled by virtue of this subsection
to long service leave or payment therefor in respect
of any period of service if in respect of that period
of service an employer was required by any other
provisions of this Act, or by any other Act or any
award,

Long Service Leave (Amendment).

award, to give to the worker any long service leave and to pay wages or other remuneration therefor, or to pay wages or other remuneration for long service leave deemed to have been given to the worker, and if the obligations of that employer in that behalf have been fully satisfied and discharged.

5
3. The Long Service Leave (Metalliferous Mining Industry) Act, 1963, as amended by the Decimal Currency Act, 1965, is amended—

Amendment
of Act No.
48, 1963.

Sec. 4.

(Long service leave.)

10 (a) (i) by inserting in paragraph (a) of subsection two of section four after the word "subsection" the words "and subsection thirteen of this section";

15 (ii) by inserting in subparagraph (ii) of the same paragraph after the words "for any reason" the words "other than the worker's serious **and wilful** misconduct,";

(b) (i) by inserting at the end of subsection three of the same section the following words :—

20 Provided that where any leave has been given to and taken by the worker pursuant to subsection (3A) of this section, this subsection shall apply to and in respect of so much only of the leave to which the worker has become entitled as has not been so given and taken.

25 (ii) by inserting next after the same subsection the following new subsection :—

30 (3A) If the employer and the worker so agree, a period of long service leave of not less than one month may be given by the employer, and taken by the worker, wholly or partly in advance before the worker has become entitled to any long service leave or to the amount so agreed to be given and taken. No such agreement shall, for the purposes of paragraph (b) of subparagraph (i) of paragraph

35

(a)

Long Service Leave (Amendment).

(a) of subsection two of this section, be deemed to confer on the worker an entitlement to long service leave.

5 (c) (i) by inserting in subparagraph (ii) of paragraph (a) of subsection five of the same section after the word "termination" the words "and has not been taken";

(ii) by inserting in the same paragraph after the words "the worker shall" the words ", subject to subsection thirteen of this section,";

10

(iii) by inserting in paragraph (b) of the same subsection after the word "death" the words "and has not been taken";

(iv) by inserting at the end of the same subsection the following new paragraph :—

15

(c) On the termination of the services of a worker who had taken any leave pursuant to subsection (3A) of this section his employer may, subject to this paragraph and subsection thirteen of this section, deduct from any remuneration payable on such termination in respect of the worker's services—

20

(i) if the worker had not become entitled to any long service leave in the course of or upon the termination of his services—ordinary pay for the leave so taken; or

25

(ii) if the worker had become so entitled—ordinary pay for the excess, if any, over his total entitlement of the period or total of the periods of long service leave on ordinary pay given pursuant to this Act by that employer to and taken by the worker.

30

The

Long Service Leave (Amendment).

The amount so deducted shall not exceed the lesser of—

- 5 (i) the ordinary pay which would have been payable for the period of leave or excess leave, as the case may be, had it been taken on such termination; and
- 10 (ii) (a) where the period in respect of which the deduction is to be made is of the same duration as the leave taken, the ordinary pay for the period during which the leave was taken; or
- 15 (b) where the period in respect of which the deduction is to be made is not of the same duration as the leave taken, the ordinary pay for the lowest paid period during the leave taken which is
- 20 of the same duration as the period in respect of which the deduction is to be made.
- 25 (d) by inserting in paragraph (d) of subsection eleven of the same section after the word "shall" the words ", subject to subsection twelve of this section,";
- (e) by inserting next after the same subsection the following new subsections :—
 - 30 (12) (a) Paragraph (d) of subsection eleven of this section shall not, where the period during which a person served as a member of the naval, military or air forces of the Commonwealth commenced by enlistment or appointment in any such
 - 35 force after the second day of September, one thousand nine hundred and forty-five, apply to and in respect of that period unless, pursuant to an Act of the Parliament of the Commonwealth of Australia enacted before or after the commencement of the Long Service Leave (Amendment) Act, 1967,

Long Service Leave (Amendment).

5 1967, that person was entitled to apply to be reinstated in his former civil employment on the termination of his period of service as such a member and he did not, at the expiration of the period during which that right subsisted, continue as a member of such a force.

10 (b) For the purposes of this subsection, the former employer to whom application for reinstatement is required to be made pursuant to an Act of the Parliament of the Commonwealth of Australia referred to in paragraph (a) of this subsection shall, notwithstanding anything contained in any such Act, be deemed to be and always to have been the employer by whom the member of the naval, military or air forces of the Commonwealth was last employed before the commencement of the service, as such a member, entitling him to apply to be reinstated in civil employment.

15 (13) (a) In this subsection—

20 “Award” means award or industrial agreement made under the Commonwealth Conciliation and Arbitration Act 1904 of the Parliament of the Commonwealth of Australia, or an award made or
25 an industrial agreement filed under the Industrial Arbitration Act, 1940, or any Act amending or replacing either of those Acts.

30 “Corporation” means any body corporate formed or incorporated in or outside New South Wales.

35 “Holding company” and “subsidiary” have and shall be deemed always to have had the meanings respectively ascribed thereto by the Companies Act, 1961, or any Act amending or replacing that Act.

“Termination” means termination by any person or by any cause.

(b)

Long Service Leave (Amendment).

(b) For the purposes of this subsection—

(i) where a corporation is—

(a) the holding company, or

(b) a subsidiary, or

5 (c) a subsidiary of the holding company,

of another corporation, the first mentioned corporation and that other corporation shall, and no two corporations shall in any other case, be deemed to be

10

(ii) a worker shall be deemed to have transferred from the service of an employer to the service of another employer, only if before, concurrently with or within a period of two months after the termination of his services with the first mentioned employer he entered into a contract of employment with that other employer, and the transfer shall be deemed to have occurred at the time of that termination.

15

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(c) Where before or after the commencement of the Long Service Leave (Amendment) Act, 1967, a worker has transferred from the service of an employer (in this paragraph called the first employer) being a corporation to the service of another employer being a corporation related to the first employer at the time of that transfer, then for the purposes of this section—

25

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

30

(ii)

Long Service Leave (Amendment).

5 (ii) the period of service which the worker had
had with the first employer before the com-
mencement of his services with that other
employer (including any service which by
reason of a prior transfer or prior transfers
or for any other reason he is deemed by
this section or, for the purposes of long
service leave for such service, he is deemed
10 by any Act or award to have had with the
first employer) shall be deemed to be service
of the worker with that other employer.

(d) Where before or after the commence-
ment of the Long Service Leave (Amendment)
Act, 1967, a worker has entered into a contract of
15 employment with an employer, being a corporation,
within a period of twelve months after the com-
pletion of an apprenticeship with another employer,
being a corporation which at the time of such entry
into employment was related to the first mentioned
20 employer, the period of his apprenticeship shall be
taken into account for the purpose of ascertaining
the period of his service with the first mentioned
employer under that contract of employment.

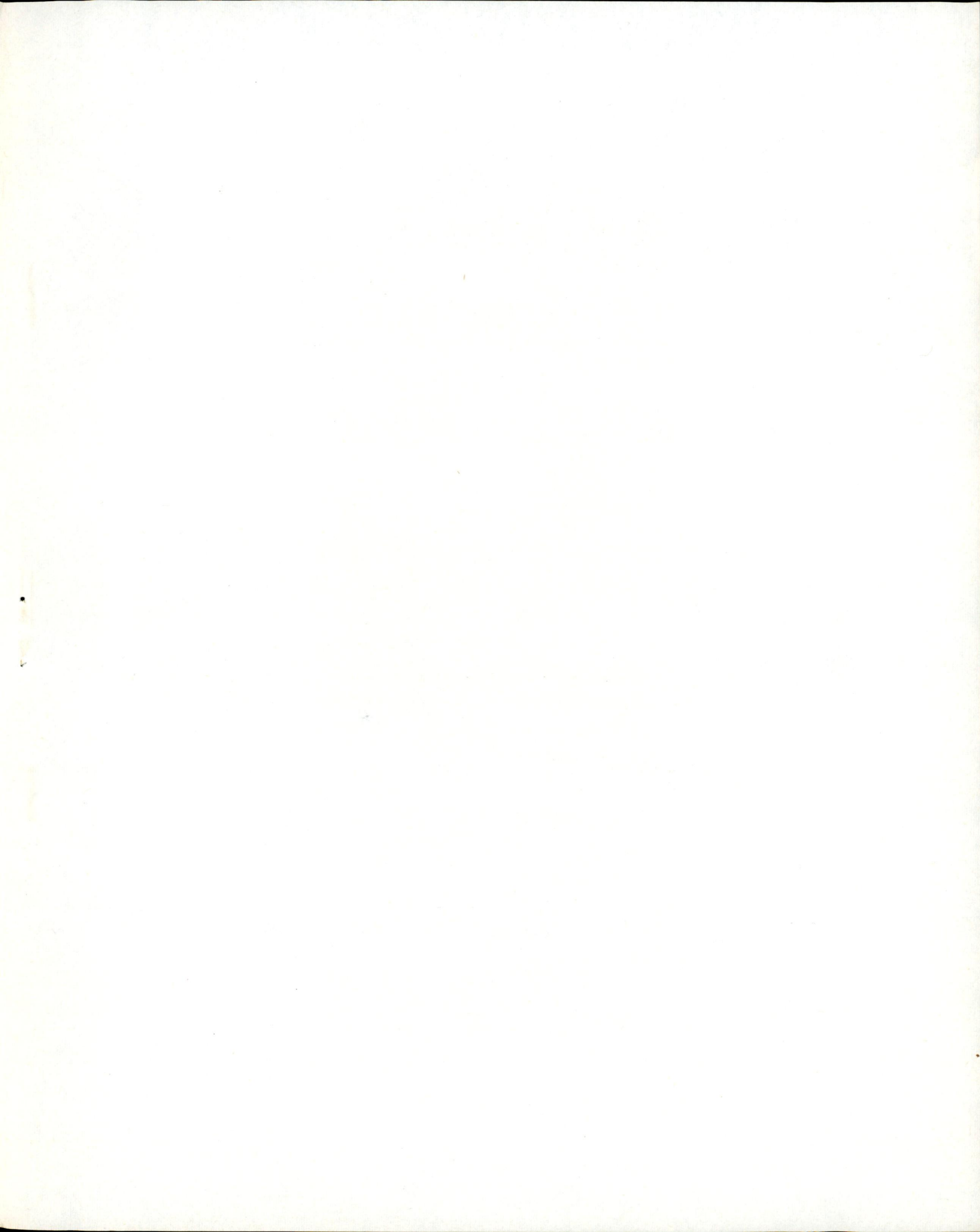
(e) Where the services of a worker with
25 an employer are terminated and that employer
is a corporation to which any other corporation is
related at the time of that termination, the services
of the worker shall not, for the purposes of sub-
sections two and five of this section, be deemed
30 to have been so terminated if he transfers to the
employment of any such related corporation.

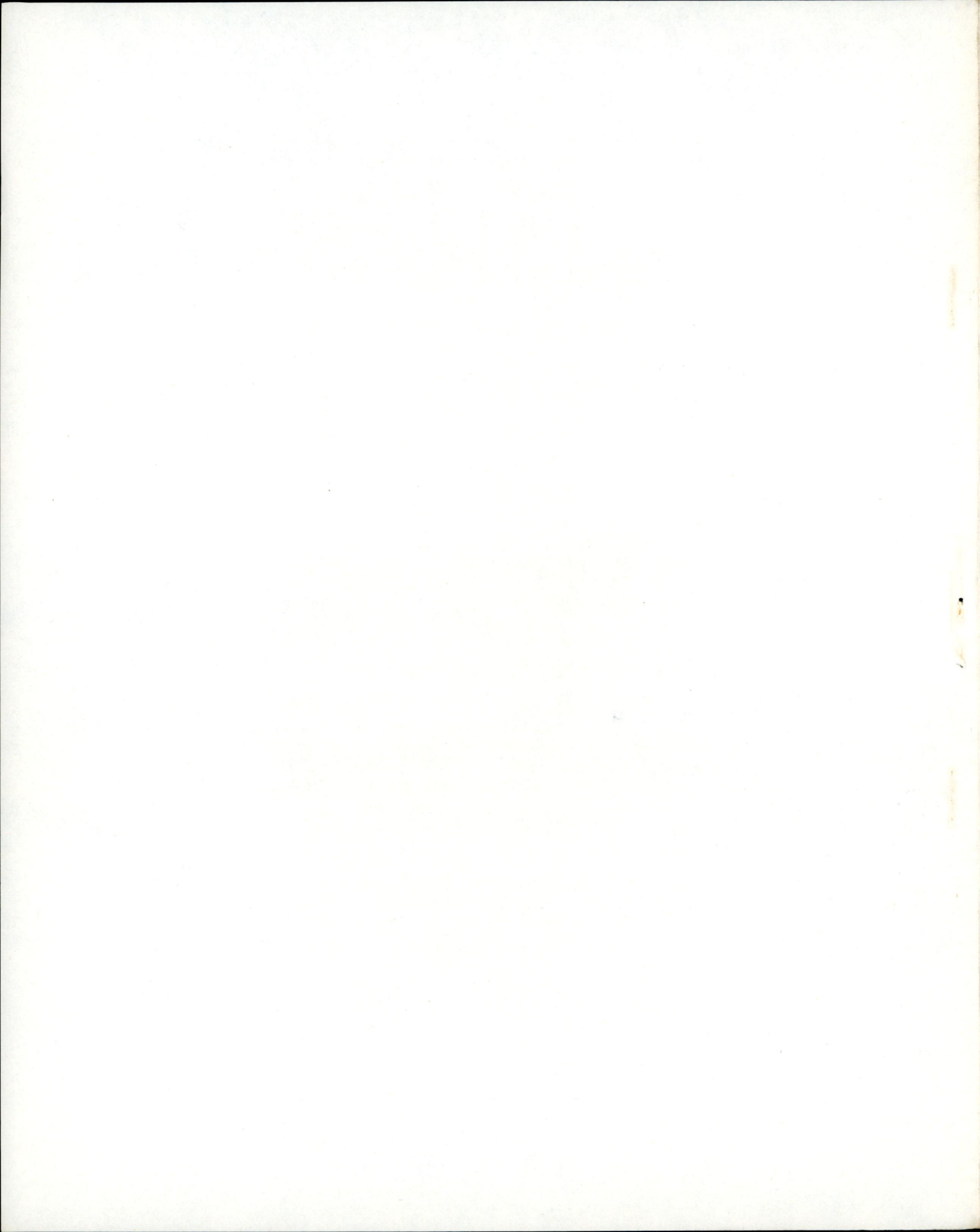
(f) A worker or his personal representa-
35 tive shall not be entitled by virtue of this subsection
to long service leave or payment therefor in respect
of any period of service if in respect of that period
of service an employer was required by any other
provisions of this Act, or by any other Act or any
award, to give to the worker any long service
leave

Long Service Leave (Amendment).

5 leave and to pay wages or other remuneration therefor, or to pay wages or other remuneration for long service leave deemed to have been given to the worker, and if the obligations of that employer in that behalf have been fully satisfied and discharged.

BY AUTHORITY:
V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1967
[15c]





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.

I. P. K. VIDLER,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 16 November, 1967.*

*The LEGISLATIVE COUNCIL has this day agreed to this Bill with
Amendments.*

*Clerk of the Parliaments.
Legislative Council Chamber,
Sydney, November, 1967.*

New South Wales



ANNO SEXTO DECIMO

ELIZABETHÆ II REGINÆ

Act No. , 1967.

An Act to make further provisions with respect to long service leave; for this purpose to amend the Long Service Leave Act, 1955-1965, and the Long Service Leave (Metalliferous Mining Industry) Act, 1963; 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, 1967".

Short title
and citation.

(2)

Long Service Leave (Amendment).

(2) The Long Service Leave Act, 1955, as amended by subsequent Acts and by this Act, may be cited as the Long Service Leave Act, 1955-1967.

(3) The Long Service Leave (Metalliferous Mining Industry) Act, 1963, as amended by the Decimal Currency Act, 1965, and by this Act, may be cited as the Long Service Leave (Metalliferous Mining Industry) Act, 1963-1967.

2. The Long Service Leave Act, 1955-1965, is amended—

Amendment of Act No. 38, 1955.

10 (a) (i) by inserting in paragraph (a) of subsection two of section four after the word "subsection" the words "and subsection thirteen of this section";

Sec. 4. (Long service leave.)

15 (ii) by inserting in subparagraph (iii) of the same paragraph after the words "for any reason" the words "other than the worker's serious and wilful misconduct,";

20 (b) (i) by inserting at the end of subsection three of the same section the following words :—

Provided that where any leave has been given to and taken by the worker pursuant to subsection (3A) of this section, this subsection shall apply to and in respect of so much only of the leave to which the worker has become entitled as has not been so given and taken.

25 (ii) by inserting next after the same subsection the following new subsection :—

(3A) If the employer and the worker so agree, a period of long service leave of not less than one month may be given by the employer, and taken by the worker, wholly or partly in advance before the worker has become entitled to any long service leave or to the amount so agreed to be given and taken. No such agreement shall, for the purposes of paragraph (b) or (c) of subparagraph (i) of paragraph (a) of

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Long Service Leave (Amendment).

of subsection two of this section, be deemed to confer on the worker an entitlement to long service leave.

- 5 (c) (i) by inserting in subparagraph (ii) of paragraph (a) of subsection five of the same section after the word "termination" the words "and has not been taken";
- 10 (ii) by inserting in the same paragraph after the words "the worker shall" the words ", subject to subsection thirteen of this section,";
- (iii) by inserting in paragraph (b) of the same subsection after the word "death" the words "and has not been taken";
- 15 (iv) by inserting at the end of the same subsection the following new paragraph :—

(c) On the termination of the services of a worker who had taken any leave pursuant to subsection (3A) of this section his employer may, subject to this paragraph and subsection thirteen of this section, deduct from any remuneration payable on such termination in respect of the worker's services—

- 25 (i) if the worker had not become entitled to any long service leave in the course of or upon the termination of his services—ordinary pay for the leave so taken; or
- 30 (ii) if the worker had become so entitled—ordinary pay for the excess, if any, over his total entitlement of the period or total of the periods of long service leave on ordinary pay given pursuant to this Act by that employer to and taken by the worker.

The

Long Service Leave (Amendment).

The amount so deducted shall not exceed the lesser of—

- 5 (i) the ordinary pay which would have been payable for the period of leave or excess leave, as the case may be, had it been taken on such termination; and
- 10 (ii) (a) where the period in respect of which the deduction is to be made is of the same duration as the leave taken, the ordinary pay for the period during which the leave was taken; or
- 15 (b) where the period in respect of which the deduction is to be made is not of the same duration as the leave taken, the ordinary pay for the lowest paid period during the leave taken which is of the same duration as the
- 20 period in respect of which the deduction is to be made.
- 25 (d) by inserting in paragraph (d) of subsection eleven of the same section after the word "shall" the words "subject to subsection twelve of this section,";
- (e) by inserting next after the same subsection the following new subsections :—
- 30 (12) (a) Paragraph (d) of subsection eleven of this section shall not, where the period during which a person served as a member of the naval, military or air forces of the Commonwealth commenced by enlistment or appointment in any such force after the second day of September, one thousand nine hundred and forty-five, apply to
- 35 and in respect of that period unless, pursuant to an

Act

Long Service Leave (Amendment).

Act of the Parliament of the Commonwealth of Australia enacted before or after the commencement of the Long Service Leave (Amendment) Act, 1967, that person was entitled to apply to be reinstated in his former civil employment on the termination of his period of service as such a member and he did not, at the expiration of the period during which that right subsisted, continue as a member of such a force.

(b) For the purposes of this subsection, the former employer to whom application for reinstatement is required to be made pursuant to an Act of the Parliament of the Commonwealth of Australia referred to in paragraph (a) of this subsection shall, notwithstanding anything contained in any such Act, be deemed to be and always to have been the employer by whom the member of the naval, military or air forces of the Commonwealth was last employed before the commencement of the service, as such a member, entitling him to apply to be reinstated in civil employment.

(13) (a) In this subsection—

“Award” means award or industrial agreement made under the Commonwealth Conciliation and Arbitration Act 1904 of the Parliament of the Commonwealth of Australia, or an award made or an industrial agreement filed under the Industrial Arbitration Act, 1940, or any Act amending or replacing either of those Acts.

“Corporation” means any body corporate formed or incorporated in or outside New South Wales.

“Holding company” and “subsidiary” have and shall be deemed always to have had the meanings respectively ascribed thereto by the Companies Act, 1961, or any Act amending or replacing that Act.

“Termination”

Long Service Leave (Amendment).

"Termination" means termination by any person or by any cause.

(b) For the purposes of this subsection—

(i) where a corporation is—

5

(a) the holding company, or

(b) a subsidiary, or

(c) a subsidiary of the holding company,

10

of another corporation, the first mentioned corporation and that other corporation shall, and no two corporations shall in any other case, be deemed to be related to each other;

15

(ii) a worker shall be deemed to have transferred from the service of an employer to the service of another employer, only if before, concurrently with or within a period of two months after the termination of his services with the first mentioned employer he entered into a contract of employment with that other employer, and the transfer shall be deemed to have occurred at the time of that termination.

20

(c) Where before or after the commencement of the Long Service Leave (Amendment) Act, 1967, a worker has transferred from the service of an employer (in this paragraph called the first employer) being a corporation to the service of another employer being a corporation related to the first employer at the time of that transfer, then for the purposes of this section—

25

30

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

(ii)

Long Service Leave (Amendment).

5 (ii) the period of service which the worker had had with the first employer before the commencement of his service with that other employer (including any service which by reason of a prior transfer or prior transfers or for any other reason he is deemed by this section or, for the purposes of long service leave for such service, he is deemed by any Act or award to have had with the first employer) shall be deemed to be service of the worker with that other employer.

15 (d) Where before or after the commencement of the Long Service Leave (Amendment) Act, 1967, a worker has entered into a contract of employment with an employer, being a corporation, within a period of twelve months after the completion of an apprenticeship with another employer, being a corporation which at the time of such entry into employment was related to the first mentioned employer, the period of his apprenticeship shall be taken into account for the purpose of ascertaining the period of his service with the first mentioned employer under that contract of employment.

25 (e) Where the services of a worker with an employer are terminated and that employer is a corporation to which any other corporation is related at the time of that termination, the services of the worker shall not, for the purposes of subsections two and five of this section, be deemed to have been so terminated if he transfers to the employment of any such related corporation.

30 (f) A worker or his personal representative shall not be entitled by virtue of this subsection to long service leave or payment therefor in respect of any period of service if in respect of that period of service an employer was required by any other provisions of this Act, or by any other Act or any award,

Long Service Leave (Amendment).

award, to give to the worker any long service leave and to pay wages or other remuneration therefor, or to pay wages or other remuneration for long service leave deemed to have been given to the worker, and if the obligations of that employer in that behalf have been fully satisfied and discharged.

3. The Long Service Leave (Metalliferous Mining Industry) Act, 1963, as amended by the Decimal Currency Act, 1965, is amended—

Sec. 4.

(a) (i) by inserting in paragraph (a) of subsection two of section four after the word "subsection" the words "and subsection thirteen of this section";

(ii) by inserting in subparagraph (ii) of the same paragraph after the words "for any reason" the words "other than the worker's serious and wilful misconduct,";

(b) (i) by inserting at the end of subsection three of the same section the following words :—

Provided that where any leave has been given to and taken by the worker pursuant to subsection (3A) of this section, this subsection shall apply to and in respect of so much only of the leave to which the worker has become entitled as has not been so given and taken.

(ii) by inserting next after the same subsection the following new subsection :—

(3A) If the employer and the worker so agree, a period of long service leave of not less than one month may be given by the employer, and taken by the worker, wholly or partly in advance before the worker has become entitled to any long service leave or to the amount so agreed to be given and taken. No such agreement shall, for the purposes of paragraph (b) of subparagraph (i) of paragraph

(a)

Long Service Leave (Amendment).

- (a) of subsection two of this section, be deemed to confer on the worker an entitlement to long service leave.
- 5 (c) (i) by inserting in subparagraph (ii) of paragraph (a) of subsection five of the same section after the word "termination" the words "and has not been taken";
- (ii) by inserting in the same paragraph after the words "the worker shall" the words ", subject to subsection thirteen of this section,";
- 10 (iii) by inserting in paragraph (b) of the same subsection after the word "death" the words "and has not been taken";
- (iv) by inserting at the end of the same subsection the following new paragraph :—
- 15 (c) On the termination of the services of a worker who had taken any leave pursuant to subsection (3A) of this section his employer may, subject to this paragraph and subsection thirteen of this section, deduct from any remuneration payable on such termination in respect of the worker's services—
- 20 (i) if the worker had not become entitled to any long service leave in the course of or upon the termination of his services—ordinary pay for the leave so taken; or
- 25 (ii) if the worker had become so entitled—ordinary pay for the excess, if any, over his total entitlement of the period or total of the periods of long service leave on ordinary pay given pursuant to this Act by that employer to and taken by the worker.
- 30

The

Long Service Leave (Amendment).

The amount so deducted shall not exceed the lesser of—

- 5 (i) the ordinary pay which would have been payable for the period of leave or excess leave, as the case may be, had it been taken on such termination; and
- 10 (ii) (a) where the period in respect of which the deduction is to be made is of the same duration as the leave taken, the ordinary pay for the period during which the leave was taken; or
- 15 (b) where the period in respect of which the deduction is to be made is not of the same duration as the leave taken, the ordinary pay for the lowest paid period during the leave taken which is
- 20 of the same duration as the period in respect of which the deduction is to be made.
- 25 (d) by inserting in paragraph (d) of subsection eleven of the same section after the word "shall" the words ", subject to subsection twelve of this section,";
- (e) by inserting next after the same subsection the following new subsections :—
- 30 (12) (a) Paragraph (d) of subsection eleven of this section shall not, where the period during which a person served as a member of the naval, military or air forces of the Commonwealth commenced by enlistment or appointment in any such
- 35 force after the second day of September, one thousand nine hundred and forty-five, apply to and in respect of that period unless, pursuant to an Act of the Parliament of the Commonwealth of Australia enacted before or after the commencement of the Long Service Leave (Amendment) Act, 1967,
- (d)

Long Service Leave (Amendment).

1967, that person was entitled to apply to be reinstated in his former civil employment on the termination of his period of service as such a member and he did not, at the expiration of the period during which that right subsisted, continue as a member of such a force.

(b) For the purposes of this subsection, the former employer to whom application for reinstatement is required to be made pursuant to an Act of the Parliament of the Commonwealth of Australia referred to in paragraph (a) of this subsection shall, notwithstanding anything contained in any such Act, be deemed to be and always to have been the employer by whom the member of the naval, military or air forces of the Commonwealth was last employed before the commencement of the service, as such a member, entitling him to apply to be reinstated in civil employment.

(13) (a) In this subsection—

“Award” means award or industrial agreement made under the Commonwealth Conciliation and Arbitration Act 1904 of the Parliament of the Commonwealth of Australia, or an award made or an industrial agreement filed under the Industrial Arbitration Act, 1940, or any Act amending or replacing either of those Acts.

“Corporation” means any body corporate formed or incorporated in or outside New South Wales.

“Holding company” and “subsidiary” have and shall be deemed always to have had the meanings respectively ascribed thereto by the Companies Act, 1961, or any Act amending or replacing that Act.

“Termination” means termination by any person or by any cause.

(b)

Long Service Leave (Amendment).

(b) For the purposes of this subsection—

(i) where a corporation is—

(a) the holding company, or

(b) a subsidiary, or

5 (c) a subsidiary of the holding company,

of another corporation, the first mentioned corporation and that other corporation shall, and no two corporations shall in any other case, be deemed to be

10

related to each other;

(ii) a worker shall be deemed to have transferred from the service of an employer to the service of another employer, only if before, concurrently with or within a period

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of two months after the termination of his services with the first mentioned employer he entered into a contract of employment with that other employer, and the transfer shall be deemed to have occurred at the

20

time of that termination.

(c) Where before or after the commencement of the Long Service Leave (Amendment) Act, 1967, a worker has transferred from the service of an employer (in this paragraph called the first employer) being a corporation to the service of another employer being a corporation related to the first employer at the time of that transfer, then for the purposes of this section—

25

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

30

(ii)

Long Service Leave (Amendment).

5 (ii) the period of service which the worker had had with the first employer before the commencement of his services with that other employer (including any service which by reason of a prior transfer or prior transfers or for any other reason he is deemed by this section or, for the purposes of long service leave for such service, he is deemed by any Act or award to have had with the first employer) shall be deemed to be service of the worker with that other employer.

15 (d) Where before or after the commencement of the Long Service Leave (Amendment) Act, 1967, a worker has entered into a contract of employment with an employer, being a corporation, within a period of twelve months after the completion of an apprenticeship with another employer, being a corporation which at the time of such entry into employment was related to the first mentioned employer, the period of his apprenticeship shall be taken into account for the purpose of ascertaining the period of his service with the first mentioned employer under that contract of employment.

25 (e) Where the services of a worker with an employer are terminated and that employer is a corporation to which any other corporation is related at the time of that termination, the services of the worker shall not, for the purposes of subsections two and five of this section, be deemed to have been so terminated if he transfers to the employment of any such related corporation.

35 (f) A worker or his personal representative shall not be entitled by virtue of this subsection to long service leave or payment therefor in respect of any period of service if in respect of that period of service an employer was required by any other provisions of this Act, or by any other Act or any award, to give to the worker any long service leave

Long Service Leave (Amendment).

5

leave and to pay wages or other remuneration therefor, or to pay wages or other remuneration for long service leave deemed to have been given to the worker, and if the obligations of that employer in that behalf have been fully satisfied and discharged.

BY AUTHORITY:
V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1967

Annual Report (Continued)

leave and to pay wages in their termination
 benefits, or to pay wages in other termination
 for long service leave deemed to have been given
 to the worker, and if the obligation of the
 employer in any event have been fully satisfied and
 discharged.

2

The Board of Directors of the Legislative Assembly, and
having this day passed the following resolution to the Legislative
Council for its consideration.

RESOLVED, THAT
The Board of Directors of the Legislative Assembly

Legislative Assembly of the
Province of Ontario

The Legislative Council of the Province of Ontario
do hereby assent to the Bill with
amendments.

at the Parliament

THIRTEEN

of the Legislative Council of the Province of Ontario
do hereby assent to the Bill with
amendments.

THE Board of Directors of the Legislative Assembly
do hereby assent to the Bill with
amendments.

1. (1) The Board of Directors of the Legislative Assembly
do hereby assent to the Bill with
amendments.

(1)

1913

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.

I. P. K. VIDLER,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 16 November, 1967.*

New South Wales



ANNO SEXTO DECIMO

ELIZABETHÆ II REGINÆ

Act No. , 1967.

An Act to make further provisions with respect to long service leave; for this purpose to amend the Long Service Leave Act, 1955–1965, and the Long Service Leave (Metalliferous Mining Industry) Act, 1963; 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, 1967".

Short title
and citation.

(2)

Long Service Leave (Amendment).

(2) The Long Service Leave Act, 1955, as amended by subsequent Acts and by this Act, may be cited as the Long Service Leave Act, 1955-1967.

(3) The Long Service Leave (Metalliferous Mining Industry) Act, 1963, as amended by the Decimal Currency Act, 1965, and by this Act, may be cited as the Long Service Leave (Metalliferous Mining Industry) Act, 1963-1967.

2. The Long Service Leave Act, 1955-1965, is amended— Amendment of Act No. 38, 1955.

10 (a) (i) by inserting in paragraph (a) of subsection two of section four after the word "subsection" the words "and subsection thirteen of this section"; Sec. 4. (Long service leave.)

15 (ii) by inserting in subparagraph (iii) of the same paragraph after the words "for any reason" the words "other than the worker's serious misconduct,";

(b) (i) by inserting at the end of subsection three of the same section the following words :—

20 Provided that where any leave has been given to and taken by the worker pursuant to subsection (3A) of this section, this subsection shall apply to and in respect of so much only of the leave to which the worker has become entitled as has not been so given and taken.

25 (ii) by inserting next after the same subsection the following new subsection :—

30 (3A) If the employer and the worker so agree, a period of long service leave of not less than one month may be given by the employer, and taken by the worker, wholly or partly in advance before the worker has become entitled to any long service leave or to the amount so agreed to be given and taken. No such agreement shall, for the purposes of paragraph (b) or (c) of subparagraph (i) of paragraph (a) of

35

Long Service Leave (Amendment).

of subsection two of this section, be deemed to confer on the worker an entitlement to long service leave.

5 (c) (i) by inserting in subparagraph (ii) of paragraph (a) of subsection five of the same section after the word "termination" the words "and has not been taken";

10 (ii) by inserting in the same paragraph after the words "the worker shall" the words ", subject to subsection thirteen of this section,";

(iii) by inserting in paragraph (b) of the same subsection after the word "death" the words "and has not been taken";

15 (iv) by inserting at the end of the same subsection the following new paragraph : —

20 (c) On the termination of the services of a worker who had taken any leave pursuant to subsection (3A) of this section his employer may, subject to this paragraph and subsection thirteen of this section, deduct from any remuneration payable on such termination in respect of the worker's services—

25 (i) if the worker had not become entitled to any long service leave in the course of or upon the termination of his services—ordinary pay for the leave so taken; or

30 (ii) if the worker had become so entitled—ordinary pay for the excess, if any, over his total entitlement of the period or total of the periods of long service leave on ordinary pay given pursuant to this Act by that employer to and taken by the worker.

The

Long Service Leave (Amendment).

The amount so deducted shall not exceed the lesser of—

- 5 (i) the ordinary pay which would have been payable for the period of leave or excess leave, as the case may be, had it been taken on such termination; and
- 10 (ii) (a) where the period in respect of which the deduction is to be made is of the same duration as the leave taken, the ordinary pay for the period during which the leave was taken; or
- 15 (b) where the period in respect of which the deduction is to be made is not of the same duration as the leave taken, the ordinary pay for the lowest paid period during the leave taken which is of the same duration as the
- 20 period in respect of which the deduction is to be made.
- 25 (d) by inserting in paragraph (d) of subsection eleven of the same section after the word “shall” the words “, subject to subsection twelve of this section,”;
- (e) by inserting next after the same subsection the following new subsections :—
 - 30 (12) (a) Paragraph (d) of subsection eleven of this section shall not, where the period during which a person served as a member of the naval, military or air forces of the Commonwealth commenced by enlistment or appointment in any such force after the second day of September, one
 - 35 thousand nine hundred and forty-five, apply to and in respect of that period unless, pursuant to an

Act

Long Service Leave (Amendment).

5 Act of the Parliament of the Commonwealth of Australia enacted before or after the commencement of the Long Service Leave (Amendment) Act, 1967, that person was entitled to apply to be reinstated in his former civil employment on the termination of his period of service as such a member and he did not, at the expiration of the period during which that right subsisted, continue as a member of such a force.

10 (b) For the purposes of this subsection, the former employer to whom application for reinstatement is required to be made pursuant to an Act of the Parliament of the Commonwealth of Australia referred to in paragraph (a) of this subsection shall, notwithstanding anything contained in
15 any such Act, be deemed to be and always to have been the employer by whom the member of the naval, military or air forces of the Commonwealth was last employed before the commencement of the
20 service, as such a member, entitling him to apply to be reinstated in civil employment.

(13) (a) In this subsection—

25 “Award” means award or industrial agreement made under the Commonwealth Conciliation and Arbitration Act 1904 of the Parliament of the Commonwealth of Australia, or an award made or an industrial agreement filed under the Industrial Arbitration Act, 1940, or any Act
30 amending or replacing either of those Acts.

“Corporation” means any body corporate formed or incorporated in or outside New South Wales.

35 “Holding company” and “subsidiary” have and shall be deemed always to have had the meanings respectively ascribed thereto by the Companies Act, 1961, or any Act amending or replacing that Act.

“Termination”

Long Service Leave (Amendment).

“Termination” means termination by any person or by any cause.

(b) For the purposes of this subsection—

(i) where a corporation is—

5

(a) the holding company, or

(b) a subsidiary, or

10

(c) a subsidiary of the holding company, of another corporation, the first mentioned corporation and that other corporation shall, and no two corporations shall in any other case, be deemed to be related to each other;

15

(ii) a worker shall be deemed to have transferred from the service of an employer to the service of another employer, only if before, concurrently with or within a period of two months after the termination of his services with the first mentioned employer he entered into a contract of employment with that other employer, and the transfer shall be deemed to have occurred at the time of that termination.

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25

(c) Where before or after the commencement of the Long Service Leave (Amendment) Act, 1967, a worker has transferred from the service of an employer (in this paragraph called the first employer) being a corporation to the service of another employer being a corporation related to the first employer at the time of that transfer, then for the purposes of this section—

30

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

(ii)

Long Service Leave (Amendment).

5 (ii) the period of service which the worker had
had with the first employer before the com-
mencement of his service with that other
employer (including any service which by
reason of a prior transfer or prior transfers
or for any other reason he is deemed by
this section or, for the purposes of long
service leave for such service, he is deemed
10 by any Act or award to have had with the
first employer) shall be deemed to be
service of the worker with that other
employer.

15 (d) Where before or after the commence-
ment of the Long Service Leave (Amendment)
Act, 1967, a worker has entered into a contract
of employment with an employer, being a corpora-
tion, within a period of twelve months after the
completion of an apprenticeship with another
20 employer, being a corporation which at the time
of such entry into employment was related to the
first mentioned employer, the period of his appren-
ticeship shall be taken into account for the
purpose of ascertaining the period of his service
with the first mentioned employer under that
25 contract of employment.

(e) Where the services of a worker with
an employer are terminated and that employer
is a corporation to which any other corporation
is related at the time of that termination, the
30 services of the worker shall not, for the purposes
of subsections two and five of this section, be
deemed to have been so terminated if he transfers
to the employment of any such related corporation.

35 (f) A worker or his personal representa-
tive shall not be entitled by virtue of this subsection
to long service leave or payment therefor in respect
of any period of service if in respect of that period
of service an employer was required by any other
provisions of this Act, or by any other Act or any
award,

Long Service Leave (Amendment).

award, to give to the worker any long service leave and to pay wages or other remuneration therefor, or to pay wages or other remuneration for long service leave deemed to have been given to the worker, and if the obligations of that employer in that behalf have been fully satisfied and discharged.

3. The Long Service Leave (Metalliferous Mining Industry) Act, 1963, as amended by the Decimal Currency Act, 1965, is amended—

Amendment of Act No. 48, 1963.
Sec. 4.

- (a) (i) by inserting in paragraph (a) of subsection two of section four after the word "subsection" the words "and subsection thirteen of this section";
- (ii) by inserting in subparagraph (ii) of the same paragraph after the words "for any reason" the words "other than the worker's serious misconduct,";
- (b) (i) by inserting at the end of subsection three of the same section the following words :—
- Provided that where any leave has been given to and taken by the worker pursuant to subsection (3A) of this section, this subsection shall apply to and in respect of so much only of the leave to which the worker has become entitled as has not been so given and taken.
- (ii) by inserting next after the same subsection the following new subsection :—
- (3A) If the employer and the worker so agree, a period of long service leave of not less than one month may be given by the employer, and taken by the worker, wholly or partly in advance before the worker has become entitled to any long service leave or to the amount so agreed to be given and taken. No such agreement shall, for the purposes of paragraph (b) of subparagraph (i) of paragraph
- (a)

Long Service Leave (Amendment).

(a) of subsection two of this section, be deemed to confer on the worker an entitlement to long service leave.

5 (c) (i) by inserting in subparagraph (ii) of paragraph (a) of subsection five of the same section after the word "termination" the words "and has not been taken";

10 (ii) by inserting in the same paragraph after the words "the worker shall" the words ", subject to subsection thirteen of this section,";

(iii) by inserting in paragraph (b) of the same subsection after the word "death" the words "and has not been taken";

15 (iv) by inserting at the end of the same subsection the following new paragraph :—

20 (c) On the termination of the services of a worker who had taken any leave pursuant to subsection (3A) of this section his employer may, subject to this paragraph and subsection thirteen of this section, deduct from any remuneration payable on such termination in respect of the worker's services—

25 (i) if the worker had not become entitled to any long service leave in the course of or upon the termination of his services—ordinary pay for the leave so taken; or

30 (ii) if the worker had become so entitled—ordinary pay for the excess, if any, over his total entitlement of the period or total of the periods of long service leave on ordinary pay given pursuant to this Act by that employer to and taken by the worker.

The

Long Service Leave (Amendment).

The amount so deducted shall not exceed the lesser of—

- 5 (i) the ordinary pay which would have been payable for the period of leave or excess leave, as the case may be, had it been taken on such termination; and
- 10 (ii) (a) where the period in respect of which the deduction is to be made is of the same duration as the leave taken, the ordinary pay for the period during which the leave was taken; or
- 15 (b) where the period in respect of which the deduction is to be made is not of the same duration as the leave taken, the ordinary pay for the lowest paid period during the leave taken which is
- 20 of the same duration as the period in respect of which the deduction is to be made.
- 25 (d) by inserting in paragraph (d) of subsection eleven of the same section after the word "shall" the words ", subject to subsection twelve of this section,";
- (e) by inserting next after the same subsection the following new subsections :—
- 30 (12) (a) Paragraph (d) of subsection eleven of this section shall not, where the period during which a person served as a member of the naval, military or air forces of the Commonwealth commenced by enlistment or appointment in any such
- 35 force after the second day of September, one thousand nine hundred and forty-five, apply to and in respect of that period unless, pursuant to an Act of the Parliament of the Commonwealth of Australia enacted before or after the commencement of the Long Service Leave (Amendment) Act, 1967,

Long Service Leave (Amendment).

5 1967, that person was entitled to apply to be reinstated in his former civil employment on the termination of his period of service as such a member and he did not, at the expiration of the period during which that right subsisted, continue as a member of such a force.

10 (b) For the purposes of this subsection, the former employer to whom application for reinstatement is required to be made pursuant to an Act of the Parliament of the Commonwealth of Australia referred to in paragraph (a) of this subsection shall, notwithstanding anything contained in any such Act, be deemed to be and always to have been the employer by whom the member
15 of the naval, military or air forces of the Commonwealth was last employed before the commencement of the service, as such a member, entitling him to apply to be reinstated in civil employment.

(13) (a) In this subsection—

20 “Award” means award or industrial agreement made under the Commonwealth Conciliation and Arbitration Act 1904 of the Parliament of the Commonwealth of Australia, or an award made or
25 an industrial agreement filed under the Industrial Arbitration Act, 1940, or any Act amending or replacing either of those Acts.

30 “Corporation” means any body corporate formed or incorporated in or outside New South Wales.

35 “Holding company” and “subsidiary” have and shall be deemed always to have had the meanings respectively ascribed thereto by the Companies Act, 1961, or any Act amending or replacing that Act.

“Termination” means termination by any person or by any cause.

(b)

Long Service Leave (Amendment).

(b) For the purposes of this subsection—

(i) where a corporation is—

(a) the holding company, or

(b) a subsidiary, or

(c) a subsidiary of the holding company,

of another corporation, the first mentioned corporation and that other corporation shall, and no two corporations shall in any other case, be deemed to be related to each other;

(ii) a worker shall be deemed to have transferred from the service of an employer to the service of another employer, only if before, concurrently with or within a period of two months after the termination of his services with the first mentioned employer he entered into a contract of employment with that other employer, and the transfer shall be deemed to have occurred at the time of that termination.

(c) Where before or after the commencement of the Long Service Leave (Amendment) Act, 1967, a worker has transferred from the service of an employer (in this paragraph called the first employer) being a corporation to the service of another employer being a corporation related to the first employer at the time of that transfer, then for the purposes of this section—

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

(ii)

Long Service Leave (Amendment).

5 (ii) the period of service which the worker had
had with the first employer before the com-
mencement of his services with that other
employer (including any service which by
reason of a prior transfer or prior transfers
or for any other reason he is deemed by
this section or, for the purposes of long
service leave for such service, he is deemed
10 by any Act or award to have had with the
first employer) shall be deemed to be service
of the worker with that other employer.

15 (d) Where before or after the commence-
ment of the Long Service Leave (Amendment)
Act, 1967, a worker has entered into a contract of
employment with an employer, being a corporation,
within a period of twelve months after the com-
pletion of an apprenticeship with another employer,
being a corporation which at the time of such entry
20 into employment was related to the first mentioned
employer, the period of his apprenticeship shall be
taken into account for the purpose of ascertaining
the period of his service with the first mentioned
employer under that contract of employment.

25 (e) Where the services of a worker with
an employer are terminated and that employer
is a corporation to which any other corporation is
related at the time of that termination, the services
of the worker shall not, for the purposes of sub-
sections two and five of this section, be deemed
30 to have been so terminated if he transfers to the
employment of any such related corporation.

35 (f) A worker or his personal representa-
tive shall not be entitled by virtue of this subsection
to long service leave or payment therefor in respect
of any period of service if in respect of that period
of service an employer was required by any other
provisions of this Act, or by any other Act or any
award, to give to the worker any long service

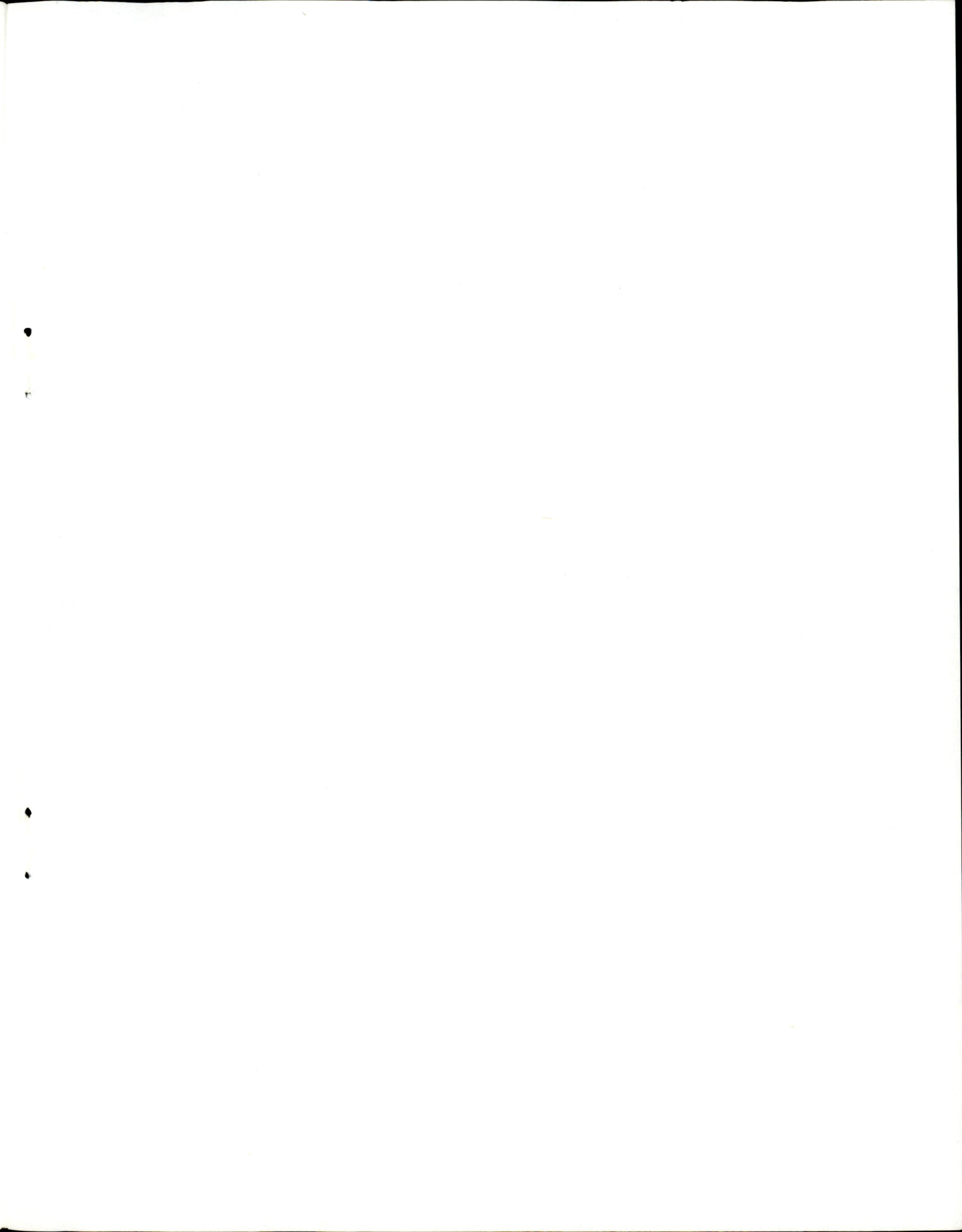
leave

Long Service Leave (Amendment).

5 leave and to pay wages or other remuneration therefor, or to pay wages or other remuneration for long service leave deemed to have been given to the worker, and if the obligations of that employer in that behalf have been fully satisfied and discharged.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1967
[15c]



No. , 1967.

A BILL

To make further provisions with respect to long service leave; for this purpose to amend the Long Service Leave Act, 1955-1965, and the Long Service Leave (Metalliferous Mining Industry) Act, 1963; and for purposes connected therewith.

[Mr WILLIS—15 August, 1967.]

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 Short title and citation. (Amendment) Act, 1967".

(2)

Long Service Leave (Amendment).

(2) The Long Service Leave Act, 1955, as amended by subsequent Acts and by this Act, may be cited as the Long Service Leave Act, 1955-1967.

(3) The Long Service Leave (Metalliferous Mining Industry) Act, 1963, as amended by the Decimal Currency Act, 1965, and by this Act, may be cited as the Long Service Leave (Metalliferous Mining Industry) Act, 1963-1967.

2. The Long Service Leave Act, 1955-1965, is amended—

Amendment
of Act No.
38, 1955.

10 (a) (i) by inserting in paragraph (a) of subsection two of section four after the word "subsection" the words "and subsection thirteen of this section";

Sec. 4.
(Long
service
leave.)

15 (ii) by inserting in subparagraph (iii) of the same paragraph after the words "for any reason" the words "other than the worker's serious misconduct,";

(b) (i) by inserting at the end of subsection three of the same section the following words :—

20 Provided that where any leave has been given to and taken by the worker pursuant to subsection (3A) of this section, this subsection shall apply to and in respect of so much only of the leave to which the worker has become entitled as has not been so given and taken.

25 (ii) by inserting next after the same subsection the following new subsection :—

30 (3A) If the employer and the worker so agree, a period of long service leave of not less than one month may be given by the employer, and taken by the worker, wholly or partly in advance before the worker has become entitled to any long service leave or to the amount so agreed to be given and taken. No such agreement shall, for the purposes of paragraph (b) or (c) of subparagraph (i) of paragraph (a)
35 of

Long Service Leave (Amendment).

of subsection two of this section, be deemed to confer on the worker an entitlement to long service leave.

5 (c) (i) by inserting in subparagraph (ii) of paragraph (a) of subsection five of the same section after the word "termination" the words "and has not been taken";

10 (ii) by inserting in the same paragraph after the words "the worker shall" the words ", subject to subsection thirteen of this section,";

(iii) by inserting in paragraph (b) of the same subsection after the word "death" the words "and has not been taken";

15 (iv) by inserting at the end of the same subsection the following new paragraph :—

20 (c) On the termination of the services of a worker who had taken any leave pursuant to subsection (3A) of this section his employer may, subject to this paragraph and subsection thirteen of this section, deduct from any remuneration payable on such termination in respect of the worker's services—

25 (i) if the worker had not become entitled to any long service leave in the course of or upon the termination of his services—ordinary pay for the leave so taken; or

30 (ii) if the worker had become so entitled—ordinary pay for the excess, if any, over his total entitlement of the period or total of the periods of long service leave on ordinary pay given pursuant to this Act by that employer to and taken by the worker.

The

Long Service Leave (Amendment).

The amount so deducted shall not exceed the lesser of—

- 5 (i) the ordinary pay which would have been payable for the period of leave or excess leave, as the case may be, had it been taken on such termination; and
- 10 (ii) (a) where the period in respect of which the deduction is to be made is of the same duration as the leave taken, the ordinary pay for the period during which the leave was taken; or
- 15 (b) where the period in respect of which the deduction is to be made is not of the same duration as the leave taken, the ordinary pay for the lowest paid period during the leave taken which is
- 20 of the same duration as the period in respect of which the deduction is to be made.
- 25 (d) by inserting in paragraph (d) of subsection eleven of the same section after the word "shall" the words ", subject to subsection twelve of this section,";
- (e) by inserting next after the same subsection the following new subsections:—
- 30 (12) (a) Paragraph (d) of subsection eleven of this section shall not, where the period during which a person served as a member of the naval, military or air forces of the Commonwealth commenced by enlistment or appointment in any such force after the second day of September, one thousand nine hundred and forty-five, apply to
- 35 and in respect of that period unless, pursuant to an

Act

Long Service Leave (Amendment).

5 Act of the Parliament of the Commonwealth of Australia enacted before or after the commencement of the Long Service Leave (Amendment) Act, 1967, that person was entitled to apply to be reinstated in his former civil employment on the termination of his period of service as such a member and he did not, at the expiration of the period during which that right subsisted, continue as a member of such a force.

10 (b) For the purposes of this subsection, the former employer to whom application for reinstatement is required to be made pursuant to an Act of the Parliament of the Commonwealth of Australia referred to in paragraph (a) of this subsection shall, notwithstanding anything contained in
15 any such Act, be deemed to be and always to have been the employer by whom the member of the naval, military or air forces of the Commonwealth was last employed before the commencement of the
20 service, as such a member, entitling him to apply to be reinstated in civil employment.

(13) (a) In this subsection—

25 “Award” means award or industrial agreement made under the Commonwealth Conciliation and Arbitration Act 1904 of the Parliament of the Commonwealth of Australia, or an award made or an industrial agreement filed under the Industrial Arbitration Act, 1940, or any Act
30 amending or replacing either of those Acts.

“Corporation” means any body corporate formed or incorporated in or outside New South Wales.

35 “Holding company” and “subsidiary” have and shall be deemed always to have had the meanings respectively ascribed thereto by the Companies Act, 1961, or any Act amending or replacing that Act.

“Termination”

Long Service Leave (Amendment).

“Termination” means termination by any person or by any cause.

(b) For the purposes of this subsection—

(i) where a corporation is—

5

(a) the holding company, or

(b) a subsidiary, or

(c) a subsidiary of the holding company,

10

of another corporation, the first mentioned corporation and that other corporation shall, and no two corporations shall in any other case, be deemed to be related to each other;

(ii) a worker shall be deemed to have transferred from the service of an employer to the service of another employer, only if before, concurrently with or within a period of two months after the termination of his services with the first mentioned employer he entered into a contract of employment with that other employer, and the transfer shall be deemed to have occurred at the time of that termination.

15

20

(c) Where before or after the commencement of the Long Service Leave (Amendment) Act, 1967, a worker has transferred from the service of an employer (in this paragraph called the first employer) being a corporation to the service of another employer being a corporation related to the first employer at the time of that transfer, then for the purposes of this section—

25

30

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

(ii)

Long Service Leave (Amendment).

5 (ii) the period of service which the worker had
had with the first employer before the com-
mencement of his service with that other
employer (including any service which by
reason of a prior transfer or prior transfers
or for any other reason he is deemed by
this section or, for the purposes of long
service leave for such service, he is deemed
by any Act or award to have had with the
10 first employer) shall be deemed to be
service of the worker with that other
employer.

15 (d) Where before or after the commence-
ment of the Long Service Leave (Amendment)
Act, 1967, a worker has entered into a contract
of employment with an employer, being a corpora-
tion, within a period of twelve months after the
completion of an apprenticeship with another
20 employer, being a corporation which at the time
of such entry into employment was related to the
first mentioned employer, the period of his appren-
ticeship shall be taken into account for the
purpose of ascertaining the period of his service
with the first mentioned employer under that
25 contract of employment.

(e) Where the services of a worker with
an employer are terminated and that employer
is a corporation to which any other corporation
is related at the time of that termination, the
30 services of the worker shall not, for the purposes
of subsections two and five of this section, be
deemed to have been so terminated if he transfers
to the employment of any such related corporation.

35 (f) A worker or his personal representa-
tive shall not be entitled by virtue of this subsection
to long service leave or payment therefor in respect
of any period of service if in respect of that period
of service an employer was required by any other
provisions of this Act, or by any other Act or any
award,

Long Service Leave (Amendment).

award, to give to the worker any long service leave and to pay wages or other remuneration therefor, or to pay wages or other remuneration for long service leave deemed to have been given to the worker, and if the obligations of that employer in that behalf have been fully satisfied and discharged.

3. The Long Service Leave (Metalliferous Mining Industry) Act, 1963, as amended by the Decimal Currency Act, 1965, is amended—

Amendment of Act No. 48, 1963. Sec. 4.

(a) (i) by inserting in paragraph (a) of subsection two of section four after the word "subsection" the words "and subsection thirteen of this section";

(ii) by inserting in subparagraph (ii) of the same paragraph after the words "for any reason" the words "other than the worker's serious misconduct,";

(b) (i) by inserting at the end of subsection three of the same section the following words :—

Provided that where any leave has been given to and taken by the worker pursuant to subsection (3A) of this section, this subsection shall apply to and in respect of so much only of the leave to which the worker has become entitled as has not been so given and taken.

(ii) by inserting next after the same subsection the following new subsection :—

(3A) If the employer and the worker so agree, a period of long service leave of not less than one month may be given by the employer, and taken by the worker, wholly or partly in advance before the worker has become entitled to any long service leave or to the amount so agreed to be given and taken. No such agreement shall, for the purposes of paragraph (b) of subparagraph (i) of paragraph

(a)

Long Service Leave (Amendment).

(a) of subsection two of this section, be deemed to confer on the worker an entitlement to long service leave.

5 (c) (i) by inserting in subparagraph (ii) of paragraph (a) of subsection five of the same section after the word "termination" the words "and has not been taken";

10 (ii) by inserting in the same paragraph after the words "the worker shall" the words ", subject to subsection thirteen of this section,";

(iii) by inserting in paragraph (b) of the same subsection after the word "death" the words "and has not been taken";

15 (iv) by inserting at the end of the same subsection the following new paragraph : —

20 (c) On the termination of the services of a worker who had taken any leave pursuant to subsection (3A) of this section his employer may, subject to this paragraph and subsection thirteen of this section, deduct from any remuneration payable on such termination in respect of the worker's services—

25 (i) if the worker had not become entitled to any long service leave in the course of or upon the termination of his services—ordinary pay for the leave so taken; or

30 (ii) if the worker had become so entitled—ordinary pay for the excess, if any, over his total entitlement of the period or total of the periods of long service leave on ordinary pay given pursuant to this Act by that employer to and taken by the worker.

The

Long Service Leave (Amendment).

The amount so deducted shall not exceed the lesser of—

- 5 (i) the ordinary pay which would have been payable for the period of leave or excess leave, as the case may be, had it been taken on such termination; and
- 10 (ii) (a) where the period in respect of which the deduction is to be made is of the same duration as the leave taken, the ordinary pay for the period during which the leave was taken; or
- 15 (b) where the period in respect of which the deduction is to be made is not of the same duration as the leave taken, the ordinary pay for the lowest paid period during the leave taken which is
- 20 of the same duration as the period in respect of which the deduction is to be made.
- 25 (d) by inserting in paragraph (d) of subsection eleven of the same section after the word “shall” the words “, subject to subsection twelve of this section,”;
- (e) by inserting next after the same subsection the following new subsections :—
- 30 (12) (a) Paragraph (d) of subsection eleven of this section shall not, where the period during which a person served as a member of the naval, military or air forces of the Commonwealth commenced by enlistment or appointment in any such
- 35 force after the second day of September, one thousand nine hundred and forty-five, apply to and in respect of that period unless, pursuant to an Act of the Parliament of the Commonwealth of Australia enacted before or after the commencement of the Long Service Leave (Amendment) Act, 1967,

Long Service Leave (Amendment).

5 1967, that person was entitled to apply to be reinstated in his former civil employment on the termination of his period of service as such a member and he did not, at the expiration of the period during which that right subsisted, continue as a member of such a force.

10 (b) For the purposes of this subsection, the former employer to whom application for reinstatement is required to be made pursuant to an Act of the Parliament of the Commonwealth of Australia referred to in paragraph (a) of this subsection shall, notwithstanding anything contained in any such Act, be deemed to be and always to have been the employer by whom the member of the naval, military or air forces of the Commonwealth was last employed before the commencement of the service, as such a member, entitling him to apply to be reinstated in civil employment.

15 (13) (a) In this subsection—
20 “Award” means award or industrial agreement made under the Commonwealth Conciliation and Arbitration Act 1904 of the Parliament of the Commonwealth of Australia, or an award made or
25 an industrial agreement filed under the Industrial Arbitration Act, 1940, or any Act amending or replacing either of those Acts.

30 “Corporation” means any body corporate formed or incorporated in or outside New South Wales.

35 “Holding company” and “subsidiary” have and shall be deemed always to have had the meanings respectively ascribed thereto by the Companies Act, 1961, or any Act amending or replacing that Act.

“Termination” means termination by any person or by any cause.

(b)

Long Service Leave (Amendment).

(b) For the purposes of this subsection—

(i) where a corporation is—

(a) the holding company, or

(b) a subsidiary, or

5 (c) a subsidiary of the holding company,

of another corporation, the first mentioned corporation and that other corporation shall, and no two corporations shall in any other case, be deemed to be
10 related to each other;

(ii) a worker shall be deemed to have transferred from the service of an employer to the service of another employer, only if before, concurrently with or within a period
15 of two months after the termination of his services with the first mentioned employer he entered into a contract of employment with that other employer, and the transfer shall be deemed to have occurred at the
20 time of that termination.

(c) Where before or after the commencement of the Long Service Leave (Amendment) Act, 1967, a worker has transferred from the service of an employer (in this paragraph called the
25 first employer) being a corporation to the service of another employer being a corporation related to the first employer at the time of that transfer, then for the purposes of this section—

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

(ii)

Long Service Leave (Amendment).

5 (ii) the period of service which the worker had
had with the first employer before the com-
mencement of his services with that other
employer (including any service which by
reason of a prior transfer or prior transfers
or for any other reason he is deemed by
this section or, for the purposes of long
service leave for such service, he is deemed
by any Act or award to have had with the
10 first employer) shall be deemed to be service
of the worker with that other employer.

(d) Where before or after the commence-
ment of the Long Service Leave (Amendment)
Act, 1967, a worker has entered into a contract of
15 employment with an employer, being a corporation,
within a period of twelve months after the com-
pletion of an apprenticeship with another employer,
being a corporation which at the time of such entry
into employment was related to the first mentioned
20 employer, the period of his apprenticeship shall be
taken into account for the purpose of ascertaining
the period of his service with the first mentioned
employer under that contract of employment.

(e) Where the services of a worker with
25 an employer are terminated and that employer
is a corporation to which any other corporation is
related at the time of that termination, the services
of the worker shall not, for the purposes of sub-
sections two and five of this section, be deemed
30 to have been so terminated if he transfers to the
employment of any such related corporation.

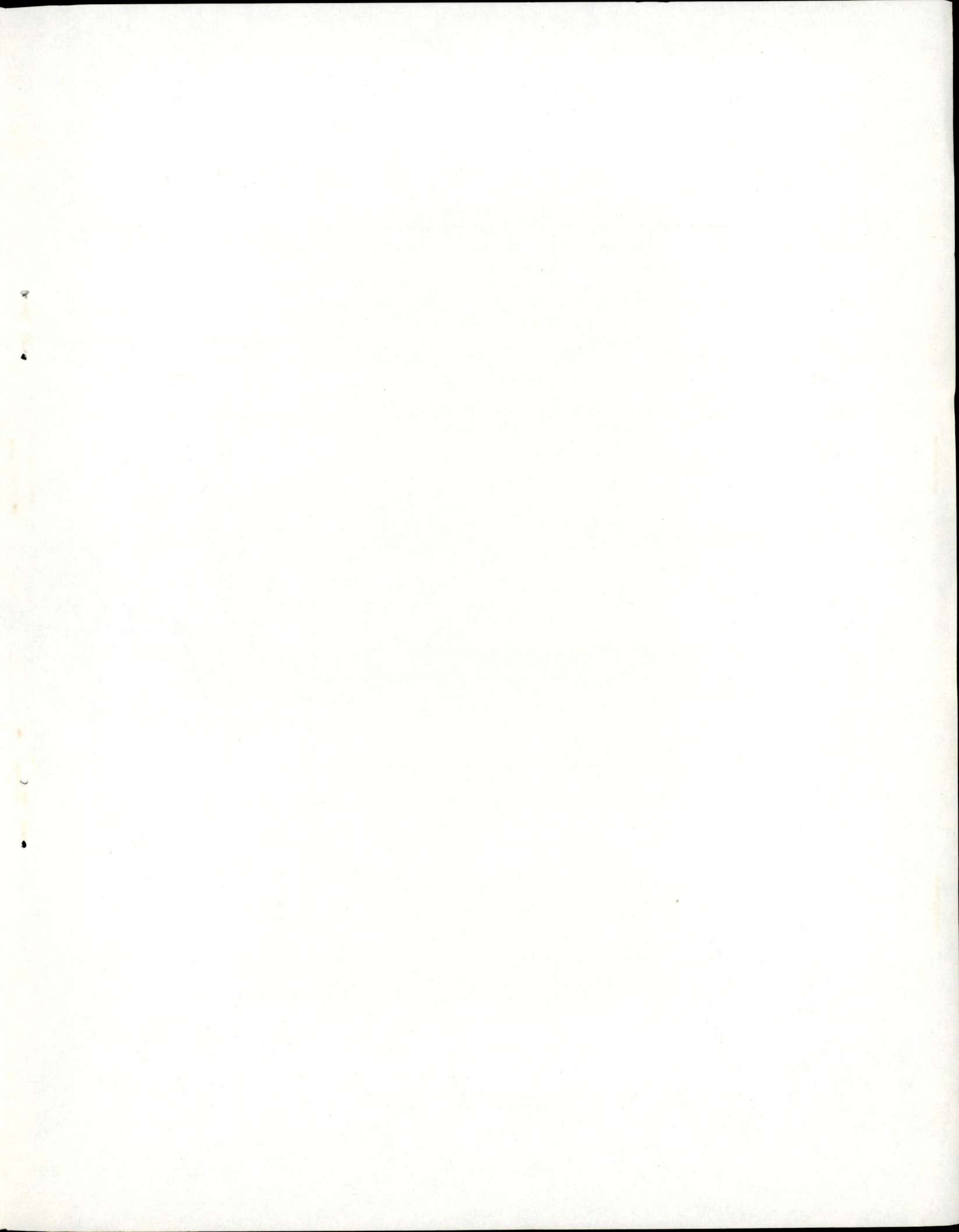
(f) A worker or his personal representa-
35 tive shall not be entitled by virtue of this subsection
to long service leave or payment therefor in respect
of any period of service if in respect of that period
of service an employer was required by any other
provisions of this Act, or by any other Act or any
award, to give to the worker any long service
leave

Long Service Leave (Amendment).

5 leave and to pay wages or other remuneration therefor, or to pay wages or other remuneration for long service leave deemed to have been given to the worker, and if the obligations of that employer in that behalf have been fully satisfied and discharged.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1967
[15c]



LONG SERVICE LEAVE (AMENDMENT) BILL, 1967

EXPLANATORY NOTE

THE objects of this Bill are to amend the Long Service Leave Act, 1955-1965, and the Long Service Leave (Metalliferous Mining Industry) Act, 1963, to provide that—

- (a) a worker who is dismissed from his employment for serious misconduct before he has completed ten years' service shall not be entitled to long service leave;
- (b) the continuity of the services of a worker who has transferred from employment with a corporation to employment with another corporation shall be deemed not to have been interrupted by the transfer if both corporations were members of a group consisting of a holding corporation and its subsidiaries;
- (c) long service leave may, by agreement between a worker and his employer, be taken in advance; and
- (d) a period of service in the armed forces which commenced after the 2nd September, 1945, shall not be regarded as service with the worker's employer unless the worker was entitled to apply for reinstatement in civil employment pursuant to any Commonwealth Act.

LONG SERVICE LEAVE (AMENDMENT) BILL, 1987

EXPLANATORY NOTE

The Bill is intended to amend the Long Service Leave Act, 1973, and to provide for the payment of long service leave to employees who have completed a prescribed period of service with an employer. The Bill also provides for the payment of long service leave to employees who have completed a prescribed period of service with an employer and who are entitled to long service leave under the Long Service Leave Act, 1973.

The Bill is intended to amend the Long Service Leave Act, 1973, and to provide for the payment of long service leave to employees who have completed a prescribed period of service with an employer. The Bill also provides for the payment of long service leave to employees who have completed a prescribed period of service with an employer and who are entitled to long service leave under the Long Service Leave Act, 1973.

The Bill is intended to amend the Long Service Leave Act, 1973, and to provide for the payment of long service leave to employees who have completed a prescribed period of service with an employer. The Bill also provides for the payment of long service leave to employees who have completed a prescribed period of service with an employer and who are entitled to long service leave under the Long Service Leave Act, 1973.

No. , 1967.

A BILL

To make further provisions with respect to long service leave; for this purpose to amend the Long Service Leave Act, 1955-1965, and the Long Service Leave (Metalliferous Mining Industry) Act, 1963; and for purposes connected therewith.

[MR WILLIS—15 August, 1967.]

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, 1967".

Short title and citation.

(2)

Long Service Leave (Amendment).

(2) The Long Service Leave Act, 1955, as amended by subsequent Acts and by this Act, may be cited as the Long Service Leave Act, 1955-1967.

(3) The Long Service Leave (Metalliferous Mining Industry) Act, 1963, as amended by the Decimal Currency Act, 1965, and by this Act, may be cited as the Long Service Leave (Metalliferous Mining Industry) Act, 1963-1967.

2. The Long Service Leave Act, 1955-1965, is amended—

Amendment
of Act No.
38, 1955.
Sec. 4.
(Long
service
leave.)

10 (a) (i) by inserting in paragraph (a) of subsection two of section four after the word "subsection" the words "and subsection thirteen of this section";

15 (ii) by inserting in subparagraph (iii) of the same paragraph after the words "for any reason" the words "other than the worker's serious misconduct,";

(b) (i) by inserting at the end of subsection three of the same section the following words :—

20 Provided that where any leave has been given to and taken by the worker pursuant to subsection (3A) of this section, this subsection shall apply to and in respect of so much only of the leave to which the worker has become entitled as has not been so given and taken.

25 (ii) by inserting next after the same subsection the following new subsection :—

30 (3A) If the employer and the worker so agree, a period of long service leave of not less than one month may be given by the employer, and taken by the worker, wholly or partly in advance before the worker has become entitled to any long service leave or to the amount so agreed to be given and taken. No such agreement shall, for the purposes of paragraph (b) or (c) of subparagraph (i) of paragraph (a)
35 of

Long Service Leave (Amendment).

of subsection two of this section, be deemed to confer on the worker an entitlement to long service leave.

5 (c) (i) by inserting in subparagraph (ii) of paragraph (a) of subsection five of the same section after the word "termination" the words "and has not been taken";

10 (ii) by inserting in the same paragraph after the words "the worker shall" the words ", subject to subsection thirteen of this section,";

(iii) by inserting in paragraph (b) of the same subsection after the word "death" the words "and has not been taken";

15 (iv) by inserting at the end of the same subsection the following new paragraph : —

20 (c) On the termination of the services of a worker who had taken any leave pursuant to subsection (3A) of this section his employer may, subject to this paragraph and subsection thirteen of this section, deduct from any remuneration payable on such termination in respect of the worker's services—

25 (i) if the worker had not become entitled to any long service leave in the course of or upon the termination of his services—ordinary pay for the leave so taken; or

30 (ii) if the worker had become so entitled—ordinary pay for the excess, if any, over his total entitlement of the period or total of the periods of long service leave on ordinary pay given pursuant to this Act by that employer to and taken by the worker.

The

Long Service Leave (Amendment).

The amount so deducted shall not exceed the lesser of—

- 5 (i) the ordinary pay which would have been payable for the period of leave or excess leave, as the case may be, had it been taken on such termination; and
- 10 (ii) (a) where the period in respect of which the deduction is to be made is of the same duration as the leave taken, the ordinary pay for the period during which the leave was taken; or
- 15 (b) where the period in respect of which the deduction is to be made is not of the same duration as the leave taken, the ordinary pay for the lowest paid period during the leave taken which is of the same duration as the
- 20 period in respect of which the deduction is to be made.
- 25 (d) by inserting in paragraph (d) of subsection eleven of the same section after the word "shall" the words "subject to subsection twelve of this section,";
- 30 (e) by inserting next after the same subsection the following new subsections :—
 - 35 (12) (a) Paragraph (d) of subsection eleven of this section shall not, where the period during which a person served as a member of the naval, military or air forces of the Commonwealth commenced by enlistment or appointment in any such force after the second day of September, one thousand nine hundred and forty-five, apply to and in respect of that period unless, pursuant to an

Act

Long Service Leave (Amendment).

5 Act of the Parliament of the Commonwealth of Australia enacted before or after the commencement of the Long Service Leave (Amendment) Act, 1967, that person was entitled to apply to be reinstated in his former civil employment on the termination of his period of service as such a member and he did not, at the expiration of the period during which that right subsisted, continue as a member of such a force.

10 (b) For the purposes of this subsection, the former employer to whom application for reinstatement is required to be made pursuant to an Act of the Parliament of the Commonwealth of Australia referred to in paragraph (a) of this subsection shall, notwithstanding anything contained in
15 any such Act, be deemed to be and always to have been the employer by whom the member of the naval, military or air forces of the Commonwealth was last employed before the commencement of the
20 service, as such a member, entitling him to apply to be reinstated in civil employment.

(13) (a) In this subsection—
25 “Award” means award or industrial agreement made under the Commonwealth Conciliation and Arbitration Act 1904 of the Parliament of the Commonwealth of Australia, or an award made or an industrial agreement filed under the Industrial
30 Arbitration Act, 1940, or any Act amending or replacing either of those Acts.

“Corporation” means any body corporate formed or incorporated in or outside New South Wales.

35 “Holding company” and “subsidiary” have and shall be deemed always to have had the meanings respectively ascribed thereto by the Companies Act, 1961, or any Act amending or replacing that Act.

“Termination”

Long Service Leave (Amendment).

“Termination” means termination by any person or by any cause.

(b) For the purposes of this subsection—

(i) where a corporation is—

5

(a) the holding company, or

(b) a subsidiary, or

10

(c) a subsidiary of the holding company, of another corporation, the first mentioned corporation and that other corporation shall, and no two corporations shall in any other case, be deemed to be related to each other;

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(ii) a worker shall be deemed to have transferred from the service of an employer to the service of another employer, only if before, concurrently with or within a period of two months after the termination of his services with the first mentioned employer he entered into a contract of employment with that other employer, and the transfer shall be deemed to have occurred at the time of that termination.

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(c) Where before or after the commencement of the Long Service Leave (Amendment) Act, 1967, a worker has transferred from the service of an employer (in this paragraph called the first employer) being a corporation to the service of another employer being a corporation related to the first employer at the time of that transfer, then for the purposes of this section—

30

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

(ii)

Long Service Leave (Amendment).

5 (ii) the period of service which the worker had
had with the first employer before the com-
mencement of his service with that other
employer (including any service which by
reason of a prior transfer or prior transfers
or for any other reason he is deemed by
this section or, for the purposes of long
service leave for such service, he is deemed
by any Act or award to have had with the
10 first employer) shall be deemed to be
service of the worker with that other
employer.

15 (d) Where before or after the commence-
ment of the Long Service Leave (Amendment)
Act, 1967, a worker has entered into a contract
of employment with an employer, being a corpora-
tion, within a period of twelve months after the
completion of an apprenticeship with another
20 employer, being a corporation which at the time
of such entry into employment was related to the
first mentioned employer, the period of his appren-
ticeship shall be taken into account for the
purpose of ascertaining the period of his service
with the first mentioned employer under that
25 contract of employment.

30 (e) Where the services of a worker with
an employer are terminated and that employer
is a corporation to which any other corporation
is related at the time of that termination, the
services of the worker shall not, for the purposes
of subsections two and five of this section, be
deemed to have been so terminated if he transfers
to the employment of any such related corporation.

35 (f) A worker or his personal representa-
tive shall not be entitled by virtue of this subsection
to long service leave or payment therefor in respect
of any period of service if in respect of that period
of service an employer was required by any other
provisions of this Act, or by any other Act or any
award.

Long Service Leave (Amendment).

award, to give to the worker any long service leave and to pay wages or other remuneration therefor, or to pay wages or other remuneration for long service leave deemed to have been given to the worker, and if the obligations of that employer in that behalf have been fully satisfied and discharged.

3. The Long Service Leave (Metalliferous Mining Industry) Act, 1963, as amended by the Decimal Currency Act, 1965, is amended—

Amendment
of Act No.
48, 1963.

Sec. 4.

(a) (i) by inserting in paragraph (a) of subsection two of section four after the word "subsection" the words "and subsection thirteen of this section";

(Long service leave.)

(ii) by inserting in subparagraph (ii) of the same paragraph after the words "for any reason" the words "other than the worker's serious misconduct,";

(b) (i) by inserting at the end of subsection three of the same section the following words :—

Provided that where any leave has been given to and taken by the worker pursuant to subsection (3A) of this section, this subsection shall apply to and in respect of so much only of the leave to which the worker has become entitled as has not been so given and taken.

(ii) by inserting next after the same subsection the following new subsection :—

(3A) If the employer and the worker so agree, a period of long service leave of not less than one month may be given by the employer, and taken by the worker, wholly or partly in advance before the worker has become entitled to any long service leave or to the amount so agreed to be given and taken. No such agreement shall, for the purposes of paragraph (b) of subparagraph (i) of paragraph

(a)

Long Service Leave (Amendment).

(a) of subsection two of this section, be deemed to confer on the worker an entitlement to long service leave.

5 (c) (i) by inserting in subparagraph (ii) of paragraph (a) of subsection five of the same section after the word "termination" the words "and has not been taken";

10 (ii) by inserting in the same paragraph after the words "the worker shall" the words ", subject to subsection thirteen of this section,";

(iii) by inserting in paragraph (b) of the same subsection after the word "death" the words "and has not been taken";

15 (iv) by inserting at the end of the same subsection the following new paragraph :—

20 (c) On the termination of the services of a worker who had taken any leave pursuant to subsection (3A) of this section his employer may, subject to this paragraph and subsection thirteen of this section, deduct from any remuneration payable on such termination in respect of the worker's services—

25 (i) if the worker had not become entitled to any long service leave in the course of or upon the termination of his services—ordinary pay for the leave so taken; or

30 (ii) if the worker had become so entitled—ordinary pay for the excess, if any, over his total entitlement of the period or total of the periods of long service leave on ordinary pay given pursuant to this Act by that employer to and taken by the worker.

The

Long Service Leave (Amendment).

The amount so deducted shall not exceed the lesser of—

- 5 (i) the ordinary pay which would have been payable for the period of leave or excess leave, as the case may be, had it been taken on such termination; and
- 10 (ii) (a) where the period in respect of which the deduction is to be made is of the same duration as the leave taken, the ordinary pay for the period during which the leave was taken; or
- 15 (b) where the period in respect of which the deduction is to be made is not of the same duration as the leave taken, the ordinary pay for the lowest paid period during the leave taken which is
- 20 of the same duration as the period in respect of which the deduction is to be made.
- 25 (d) by inserting in paragraph (d) of subsection eleven of the same section after the word "shall" the words ", subject to subsection twelve of this section,";
- (e) by inserting next after the same subsection the following new subsections :—
- 30 (12) (a) Paragraph (d) of subsection eleven of this section shall not, where the period during which a person served as a member of the naval,
- 35 military or air forces of the Commonwealth commenced by enlistment or appointment in any such force after the second day of September, one thousand nine hundred and forty-five, apply to and in respect of that period unless, pursuant to an Act of the Parliament of the Commonwealth of Australia enacted before or after the commencement of the Long Service Leave (Amendment) Act, 1967,

Long Service Leave (Amendment).

5 1967, that person was entitled to apply to be reinstated in his former civil employment on the termination of his period of service as such a member and he did not, at the expiration of the period during which that right subsisted, continue as a member of such a force.

10 (b) For the purposes of this subsection, the former employer to whom application for reinstatement is required to be made pursuant to an Act of the Parliament of the Commonwealth of Australia referred to in paragraph (a) of this subsection shall, notwithstanding anything contained in any such Act, be deemed to be and always
15 of the naval, military or air forces of the Commonwealth was last employed before the commencement of the service, as such a member, entitling him to apply to be reinstated in civil employment.

(13) (a) In this subsection—

20 “Award” means award or industrial agreement made under the Commonwealth Conciliation and Arbitration Act 1904 of the Parliament of the Commonwealth of Australia, or an award made or
25 an industrial agreement filed under the Industrial Arbitration Act, 1940, or any Act amending or replacing either of those Acts.

30 “Corporation” means any body corporate formed or incorporated in or outside New South Wales.

35 “Holding company” and “subsidiary” have and shall be deemed always to have had the meanings respectively ascribed thereto by the Companies Act, 1961, or any Act amending or replacing that Act.

“Termination” means termination by any person or by any cause.

(b)

Long Service Leave (Amendment).

- (b) For the purposes of this subsection—
- (i) where a corporation is—
- (a) the holding company, or
 - (b) a subsidiary, or
 - 5 (c) a subsidiary of the holding company,
of another corporation, the first men-
tioned corporation and that other cor-
poration shall, and no two corporations
10 shall in any other case, be deemed to be
related to each other;
- (ii) a worker shall be deemed to have trans-
ferred from the service of an employer to
the service of another employer, only if
15 before, concurrently with or within a period
of two months after the termination of his
services with the first mentioned employer
he entered into a contract of employment
20 with that other employer, and the transfer
shall be deemed to have occurred at the
time of that termination.
- (c) Where before or after the commence-
ment of the Long Service Leave (Amendment)
Act, 1967, a worker has transferred from the ser-
vice of an employer (in this paragraph called the
25 first employer) being a corporation to the service
of another employer being a corporation related to
the first employer at the time of that transfer, then
for the purposes of this section—
- (i) the continuity of the contract of employ-
30 ment of the worker shall be deemed not
to have been broken by reason of the trans-
fer; and
 - (ii)

Long Service Leave (Amendment).

5 (ii) the period of service which the worker had had with the first employer before the commencement of his services with that other employer (including any service which by reason of a prior transfer or prior transfers or for any other reason he is deemed by this section or, for the purposes of long service leave for such service, he is deemed by any Act or award to have had with the first employer) shall be deemed to be service of the worker with that other employer.

15 (d) Where before or after the commencement of the Long Service Leave (Amendment) Act, 1967, a worker has entered into a contract of employment with an employer, being a corporation, within a period of twelve months after the completion of an apprenticeship with another employer, being a corporation which at the time of such entry into employment was related to the first mentioned employer, the period of his apprenticeship shall be taken into account for the purpose of ascertaining the period of his service with the first mentioned employer under that contract of employment.

25 (e) Where the services of a worker with an employer are terminated and that employer is a corporation to which any other corporation is related at the time of that termination, the services of the worker shall not, for the purposes of subsections two and five of this section, be deemed to have been so terminated if he transfers to the employment of any such related corporation.

30 (f) A worker or his personal representative shall not be entitled by virtue of this subsection to long service leave or payment therefor in respect of any period of service if in respect of that period of service an employer was required by any other provisions of this Act, or by any other Act or any award, to give to the worker any long service

leave

Long Service Leave (Amendment).

5

leave and to pay wages or other remuneration therefor, or to pay wages or other remuneration for long service leave deemed to have been given to the worker, and if the obligations of that employer in that behalf have been fully satisfied and discharged.

BY AUTHORITY:

V. C. N. Blight, Government Printer, New South Wales—1967

The first part of the paper is devoted to a
 general discussion of the problem. It is
 shown that the problem is equivalent to
 finding a solution of the following
 system of equations:

$$\begin{aligned}
 & \frac{dx}{dt} = Ax + Bx^2 + Cx^3 + \dots \\
 & \frac{dy}{dt} = Ay + By^2 + Cy^3 + \dots \\
 & \frac{dz}{dt} = Az + Bz^2 + Cz^3 + \dots
 \end{aligned}$$

where A, B, C, \dots are constants. The
 solution of this system is given by
 the following formulas:

$$\begin{aligned}
 x &= x_0 e^{At} + \frac{B}{A} x_0^2 e^{2At} + \frac{C}{A} x_0^3 e^{3At} + \dots \\
 y &= y_0 e^{At} + \frac{B}{A} y_0^2 e^{2At} + \frac{C}{A} y_0^3 e^{3At} + \dots \\
 z &= z_0 e^{At} + \frac{B}{A} z_0^2 e^{2At} + \frac{C}{A} z_0^3 e^{3At} + \dots
 \end{aligned}$$

where x_0, y_0, z_0 are the initial
 values of x, y, z respectively. It
 is seen that the solution is a
 power series in t . The coefficients
 of the series are determined by the
 initial values and the constants
 A, B, C, \dots .

The second part of the paper is
 devoted to a detailed study of the
 stability of the equilibrium point. It
 is shown that the equilibrium point
 is stable if and only if the real
 parts of all the eigenvalues of the
 matrix A are negative. This result
 is proved by using the method of
 Lyapunov.

New South Wales



ANNO SEXTO DECIMO

ELIZABETHÆ II REGINÆ

Act No. 87, 1967.

An Act to make further provisions with respect to long service leave; for this purpose to amend the Long Service Leave Act, 1955–1965, and the Long Service Leave (Metalliferous Mining Industry) Act, 1963; and for purposes connected therewith. [Assented to, 18th December, 1967.]

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, 1967".

Short title
and citation.

(2)

Long Service Leave (Amendment).

(2) The Long Service Leave Act, 1955, as amended by subsequent Acts and by this Act, may be cited as the Long Service Leave Act, 1955-1967.

(3) The Long Service Leave (Metalliferous Mining Industry) Act, 1963, as amended by the Decimal Currency Act, 1965, and by this Act, may be cited as the Long Service Leave (Metalliferous Mining Industry) Act, 1963-1967.

Amendment
of Act No.
38, 1955.

Sec. 4.
(Long
service
leave.)

2. The Long Service Leave Act, 1955-1965, is amended—

- (a) (i) by inserting in paragraph (a) of subsection two of section four after the word “subsection” the words “and subsection thirteen of this section”;
- (ii) by inserting in subparagraph (iii) of the same paragraph after the words “for any reason” the words “other than the worker’s serious and wilful misconduct.”;
- (b) (i) by inserting at the end of subsection three of the same section the following words:—

Provided that where any leave has been given to and taken by the worker pursuant to subsection (3A) of this section, this subsection shall apply to and in respect of so much only of the leave to which the worker has become entitled as has not been so given and taken.

- (ii) by inserting next after the same subsection the following new subsection:—

(3A) If the employer and the worker so agree, a period of long service leave of not less than one month may be given by the employer, and taken by the worker, wholly or partly in advance before the worker has become entitled to any long service leave or to the amount so agreed to be given and taken. No such agreement shall, for the purposes of paragraph (b) or (c) of subparagraph (i) of paragraph (a) of

Long Service Leave (Amendment).

of subsection two of this section, be deemed to confer on the worker an entitlement to long service leave.

- (c) (i) by inserting in subparagraph (ii) of paragraph (a) of subsection five of the same section after the word "termination" the words "and has not been taken";
- (ii) by inserting in the same paragraph after the words "the worker shall" the words ", subject to subsection thirteen of this section,";
- (iii) by inserting in paragraph (b) of the same subsection after the word "death" the words "and has not been taken";
- (iv) by inserting at the end of the same subsection the following new paragraph :—

(c) On the termination of the services of a worker who had taken any leave pursuant to subsection (3A) of this section his employer may, subject to this paragraph and subsection thirteen of this section, deduct from any remuneration payable on such termination in respect of the worker's services—

- (i) if the worker had not become entitled to any long service leave in the course of or upon the termination of his services—ordinary pay for the leave so taken; or
- (ii) if the worker had become so entitled—ordinary pay for the excess, if any, over his total entitlement of the period or total of the periods of long service leave on ordinary pay given pursuant to this Act by that employer to and taken by the worker.

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Long Service Leave (Amendment).

The amount so deducted shall not exceed the lesser of—

- (i) the ordinary pay which would have been payable for the period of leave or excess leave, as the case may be, had it been taken on such termination; and
 - (ii) (a) where the period in respect of which the deduction is to be made is of the same duration as the leave taken, the ordinary pay for the period during which the leave was taken; or
 - (b) where the period in respect of which the deduction is to be made is not of the same duration as the leave taken, the ordinary pay for the lowest paid period during the leave taken which is of the same duration as the period in respect of which the deduction is to be made.
- (d) by inserting in paragraph (d) of subsection eleven of the same section after the word “shall” the words “, subject to subsection twelve of this section,”;
- (e) by inserting next after the same subsection the following new subsections:—

(12) (a) Paragraph (d) of subsection eleven of this section shall not, where the period during which a person served as a member of the naval, military or air forces of the Commonwealth commenced by enlistment or appointment in any such force after the second day of September, one thousand nine hundred and forty-five, apply to and in respect of that period unless, pursuant to an

Act

Long Service Leave (Amendment).

Act of the Parliament of the Commonwealth of Australia enacted before or after the commencement of the Long Service Leave (Amendment) Act, 1967, that person was entitled to apply to be reinstated in his former civil employment on the termination of his period of service as such a member and he did not, at the expiration of the period during which that right subsisted, continue as a member of such a force.

(b) For the purposes of this subsection, the former employer to whom application for reinstatement is required to be made pursuant to an Act of the Parliament of the Commonwealth of Australia referred to in paragraph (a) of this subsection shall, notwithstanding anything contained in any such Act, be deemed to be and always to have been the employer by whom the member of the naval, military or air forces of the Commonwealth was last employed before the commencement of the service, as such a member, entitling him to apply to be reinstated in civil employment.

(13) (a) In this subsection—

“Award” means award or industrial agreement made under the Commonwealth Conciliation and Arbitration Act 1904 of the Parliament of the Commonwealth of Australia, or an award made or an industrial agreement filed under the Industrial Arbitration Act, 1940, or any Act amending or replacing either of those Acts.

“Corporation” means any body corporate formed or incorporated in or outside New South Wales.

“Holding company” and “subsidiary” have and shall be deemed always to have had the meanings respectively ascribed thereto by the Companies Act, 1961, or any Act amending or replacing that Act.

“Termination”

Long Service Leave (Amendment).

“Termination” means termination by any person or by any cause.

(b) For the purposes of this subsection—

(i) where a corporation is—

(a) the holding company, or

(b) a subsidiary, or

(c) a subsidiary of the holding company, of another corporation, the first mentioned corporation and that other corporation shall, and no two corporations shall in any other case, be deemed to be related to each other;

(ii) a worker shall be deemed to have transferred from the service of an employer to the service of another employer, only if before, concurrently with or within a period of two months after the termination of his services with the first mentioned employer he entered into a contract of employment with that other employer, and the transfer shall be deemed to have occurred at the time of that termination.

(c) Where before or after the commencement of the Long Service Leave (Amendment) Act, 1967, a worker has transferred from the service of an employer (in this paragraph called the first employer) being a corporation to the service of another employer being a corporation related to the first employer at the time of that transfer, then for the purposes of this section—

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

(ii)

Long Service Leave (Amendment).

(ii) the period of service which the worker had had with the first employer before the commencement of his service with that other employer (including any service which by reason of a prior transfer or prior transfers or for any other reason he is deemed by this section or, for the purposes of long service leave for such service, he is deemed by any Act or award to have had with the first employer) shall be deemed to be service of the worker with that other employer.

(d) Where before or after the commencement of the Long Service Leave (Amendment) Act, 1967, a worker has entered into a contract of employment with an employer, being a corporation, within a period of twelve months after the completion of an apprenticeship with another employer, being a corporation which at the time of such entry into employment was related to the first mentioned employer, the period of his apprenticeship shall be taken into account for the purpose of ascertaining the period of his service with the first mentioned employer under that contract of employment.

(e) Where the services of a worker with an employer are terminated and that employer is a corporation to which any other corporation is related at the time of that termination, the services of the worker shall not, for the purposes of subsections two and five of this section, be deemed to have been so terminated if he transfers to the employment of any such related corporation.

(f) A worker or his personal representative shall not be entitled by virtue of this subsection to long service leave or payment therefor in respect of any period of service if in respect of that period of service an employer was required by any other provisions of this Act, or by any other Act or any award,

Long Service Leave (Amendment).

award, to give to the worker any long service leave and to pay wages or other remuneration therefor, or to pay wages or other remuneration for long service leave deemed to have been given to the worker, and if the obligations of that employer in that behalf have been fully satisfied and discharged.

Amendment
of Act No.
48, 1963.

Sec. 4.

(Long service
leave.)

3. The Long Service Leave (Metalliferous Mining Industry) Act, 1963, as amended by the Decimal Currency Act, 1965, is amended—

- (a) (i) by inserting in paragraph (a) of subsection two of section four after the word “subsection” the words “and subsection thirteen of this section”;
- (ii) by inserting in subparagraph (ii) of the same paragraph after the words “for any reason” the words “other than the worker’s serious and wilful misconduct,”;
- (b) (i) by inserting at the end of subsection three of the same section the following words :—

Provided that where any leave has been given to and taken by the worker pursuant to subsection (3A) of this section, this subsection shall apply to and in respect of so much only of the leave to which the worker has become entitled as has not been so given and taken.

- (ii) by inserting next after the same subsection the following new subsection :—

(3A) If the employer and the worker so agree, a period of long service leave of not less than one month may be given by the employer, and taken by the worker, wholly or partly in advance before the worker has become entitled to any long service leave or to the amount so agreed to be given and taken. No such agreement shall, for the purposes of paragraph (b) of subparagraph (i) of paragraph

(a)

Long Service Leave (Amendment).

- (a) of subsection two of this section, be deemed to confer on the worker an entitlement to long service leave.
- (c) (i) by inserting in subparagraph (ii) of paragraph (a) of subsection five of the same section after the word "termination" the words "and has not been taken";
- (ii) by inserting in the same paragraph after the words "the worker shall" the words ", subject to subsection thirteen of this section,";
- (iii) by inserting in paragraph (b) of the same subsection after the word "death" the words "and has not been taken";
- (iv) by inserting at the end of the same subsection the following new paragraph :—

(c) On the termination of the services of a worker who had taken any leave pursuant to subsection (3A) of this section his employer may, subject to this paragraph and subsection thirteen of this section, deduct from any remuneration payable on such termination in respect of the worker's services—

- (i) if the worker had not become entitled to any long service leave in the course of or upon the termination of his services—ordinary pay for the leave so taken; or
- (ii) if the worker had become so entitled—ordinary pay for the excess, if any, over his total entitlement of the period or total of the periods of long service leave on ordinary pay given pursuant to this Act by that employer to and taken by the worker.

The

Long Service Leave (Amendment).

The amount so deducted shall not exceed the lesser of—

- (i) the ordinary pay which would have been payable for the period of leave or excess leave, as the case may be, had it been taken on such termination; and
 - (ii) (a) where the period in respect of which the deduction is to be made is of the same duration as the leave taken, the ordinary pay for the period during which the leave was taken; or
(b) where the period in respect of which the deduction is to be made is not of the same duration as the leave taken, the ordinary pay for the lowest paid period during the leave taken which is of the same duration as the period in respect of which the deduction is to be made.
- (d) by inserting in paragraph (d) of subsection eleven of the same section after the word “shall” the words “, subject to subsection twelve of this section,”;
- (e) by inserting next after the same subsection the following new subsections :—

(12) (a) Paragraph (d) of subsection eleven of this section shall not, where the period during which a person served as a member of the naval, military or air forces of the Commonwealth commenced by enlistment or appointment in any such force after the second day of September, one thousand nine hundred and forty-five, apply to and in respect of that period unless, pursuant to an Act of the Parliament of the Commonwealth of Australia enacted before or after the commencement of the Long Service Leave (Amendment) Act, 1967,

Long Service Leave (Amendment).

1967, that person was entitled to apply to be reinstated in his former civil employment on the termination of his period of service as such a member and he did not, at the expiration of the period during which that right subsisted, continue as a member of such a force.

(b) For the purposes of this subsection, the former employer to whom application for reinstatement is required to be made pursuant to an Act of the Parliament of the Commonwealth of Australia referred to in paragraph (a) of this subsection shall, notwithstanding anything contained in any such Act, be deemed to be and always to have been the employer by whom the member of the naval, military or air forces of the Commonwealth was last employed before the commencement of the service, as such a member, entitling him to apply to be reinstated in civil employment.

(13) (a) In this subsection—

“Award” means award or industrial agreement made under the Commonwealth Conciliation and Arbitration Act 1904 of the Parliament of the Commonwealth of Australia, or an award made or an industrial agreement filed under the Industrial Arbitration Act, 1940, or any Act amending or replacing either of those Acts.

“Corporation” means any body corporate formed or incorporated in or outside New South Wales.

“Holding company” and “subsidiary” have and shall be deemed always to have had the meanings respectively ascribed thereto by the Companies Act, 1961, or any Act amending or replacing that Act.

“Termination” means termination by any person or by any cause.

(b)

Long Service Leave (Amendment).

(b) For the purposes of this subsection—

(i) where a corporation is—

(a) the holding company, or

(b) a subsidiary, or

(c) a subsidiary of the holding company,

of another corporation, the first mentioned corporation and that other corporation shall, and no two corporations shall in any other case, be deemed to be related to each other;

(ii) a worker shall be deemed to have transferred from the service of an employer to the service of another employer, only if before, concurrently with or within a period of two months after the termination of his services with the first mentioned employer he entered into a contract of employment with that other employer, and the transfer shall be deemed to have occurred at the time of that termination.

(c) Where before or after the commencement of the Long Service Leave (Amendment) Act, 1967, a worker has transferred from the service of an employer (in this paragraph called the first employer) being a corporation to the service of another employer being a corporation related to the first employer at the time of that transfer, then for the purposes of this section—

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

(ii)

Long Service Leave (Amendment).

(ii) the period of service which the worker had had with the first employer before the commencement of his services with that other employer (including any service which by reason of a prior transfer or prior transfers or for any other reason he is deemed by this section or, for the purposes of long service leave for such service, he is deemed by any Act or award to have had with the first employer) shall be deemed to be service of the worker with that other employer.

(d) Where before or after the commencement of the Long Service Leave (Amendment) Act, 1967, a worker has entered into a contract of employment with an employer, being a corporation, within a period of twelve months after the completion of an apprenticeship with another employer, being a corporation which at the time of such entry into employment was related to the first mentioned employer, the period of his apprenticeship shall be taken into account for the purpose of ascertaining the period of his service with the first mentioned employer under that contract of employment.

(e) Where the services of a worker with an employer are terminated and that employer is a corporation to which any other corporation is related at the time of that termination, the services of the worker shall not, for the purposes of subsections two and five of this section, be deemed to have been so terminated if he transfers to the employment of any such related corporation.

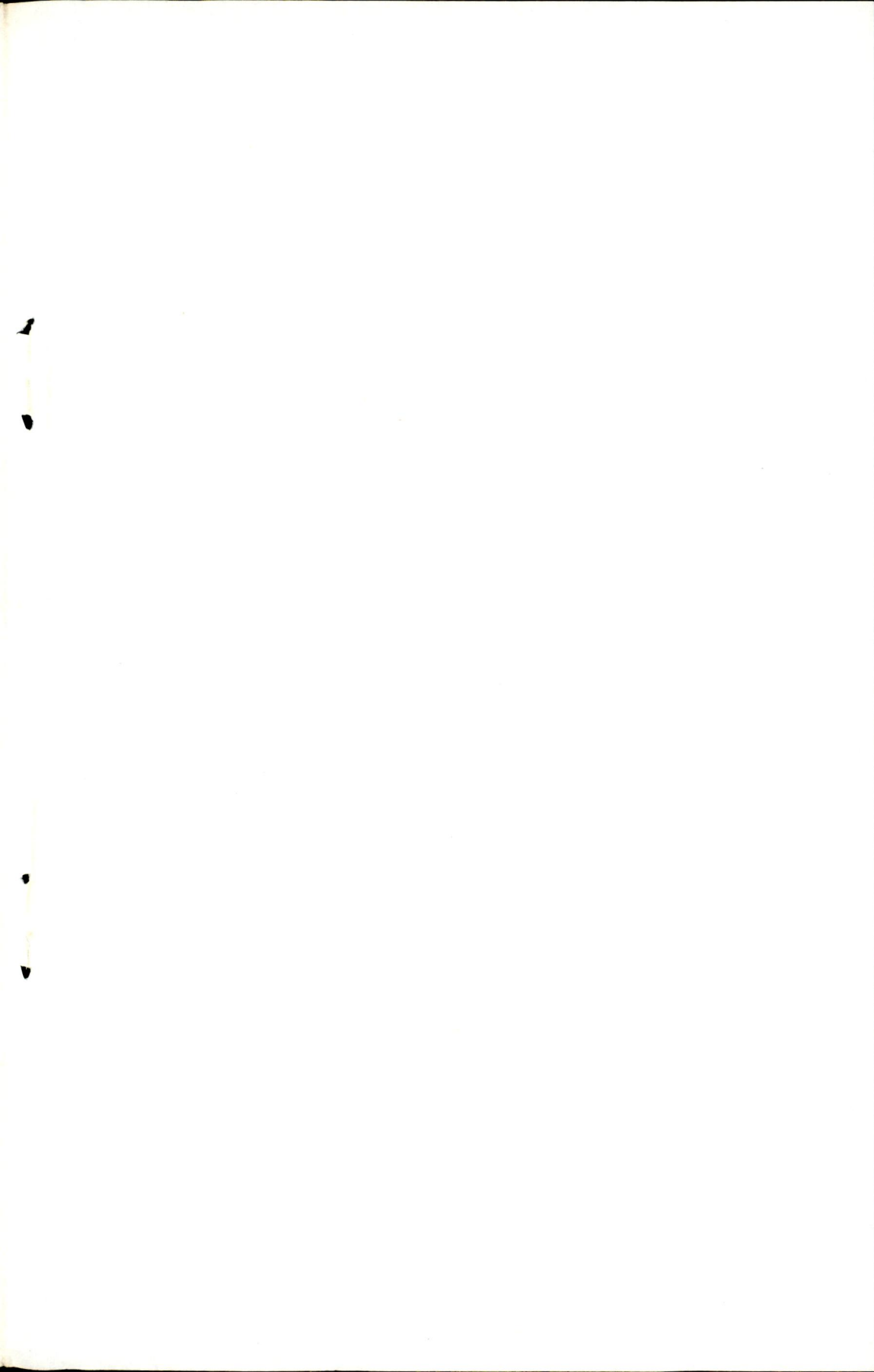
(f) A worker or his personal representative shall not be entitled by virtue of this subsection to long service leave or payment therefor in respect of any period of service if in respect of that period of service an employer was required by any other provisions of this Act, or by any other Act or any award, to give to the worker any long service
leave

Long Service Leave (Amendment).

leave and to pay wages or other remuneration therefor, or to pay wages or other remuneration for long service leave deemed to have been given to the worker, and if the obligations of that employer in that behalf have been fully satisfied and discharged.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1968





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.

I. P. K. VIDLER,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 6 December, 1967.*

New South Wales



ANNO SEXTO DECIMO

ELIZABETHÆ II REGINÆ

Act No. 87, 1967.

An Act to make further provisions with respect to long service leave; for this purpose to amend the Long Service Leave Act, 1955-1965, and the Long Service Leave (Metalliferous Mining Industry) Act, 1963; and for purposes connected therewith. [Assented to, 18th December, 1967.]

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, 1967".

Short title
and citation.

(2)

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

G. R. CRAWFORD,
Chairman of Committees of the Legislative Assembly.

Long Service Leave (Amendment).

(2) The Long Service Leave Act, 1955, as amended by subsequent Acts and by this Act, may be cited as the Long Service Leave Act, 1955-1967.

(3) The Long Service Leave (Metalliferous Mining Industry) Act, 1963, as amended by the Decimal Currency Act, 1965, and by this Act, may be cited as the Long Service Leave (Metalliferous Mining Industry) Act, 1963-1967.

Amendment
of Act No.
38, 1955.

Sec. 4.
(Long
service
leave.)

2. The Long Service Leave Act, 1955-1965, is amended—

- (a) (i) by inserting in paragraph (a) of subsection two of section four after the word "subsection" the words "and subsection thirteen of this section";
- (ii) by inserting in subparagraph (iii) of the same paragraph after the words "for any reason" the words "other than the worker's serious and wilful misconduct,";

- (b) (i) by inserting at the end of subsection three of the same section the following words:—

Provided that where any leave has been given to and taken by the worker pursuant to subsection (3A) of this section, this subsection shall apply to and in respect of so much only of the leave to which the worker has become entitled as has not been so given and taken.

- (ii) by inserting next after the same subsection the following new subsection:—

(3A) If the employer and the worker so agree, a period of long service leave of not less than one month may be given by the employer, and taken by the worker, wholly or partly in advance before the worker has become entitled to any long service leave or to the amount so agreed to be given and taken. No such agreement shall, for the purposes of paragraph (b) or (c) of subparagraph (i) of paragraph (a) of

Long Service Leave (Amendment).

of subsection two of this section, be deemed to confer on the worker an entitlement to long service leave.

- (c) (i) by inserting in subparagraph (ii) of paragraph (a) of subsection five of the same section after the word "termination" the words "and has not been taken";
- (ii) by inserting in the same paragraph after the words "the worker shall" the words ", subject to subsection thirteen of this section,";
- (iii) by inserting in paragraph (b) of the same subsection after the word "death" the words "and has not been taken";
- (iv) by inserting at the end of the same subsection the following new paragraph : —

(c) On the termination of the services of a worker who had taken any leave pursuant to subsection (3A) of this section his employer may, subject to this paragraph and subsection thirteen of this section, deduct from any remuneration payable on such termination in respect of the worker's services—

- (i) if the worker had not become entitled to any long service leave in the course of or upon the termination of his services—ordinary pay for the leave so taken; or
- (ii) if the worker had become so entitled—ordinary pay for the excess, if any, over his total entitlement of the period or total of the periods of long service leave on ordinary pay given pursuant to this Act by that employer to and taken by the worker.

The

Long Service Leave (Amendment).

The amount so deducted shall not exceed the lesser of—

- (i) the ordinary pay which would have been payable for the period of leave or excess leave, as the case may be, had it been taken on such termination; and
 - (ii) (a) where the period in respect of which the deduction is to be made is of the same duration as the leave taken, the ordinary pay for the period during which the leave was taken; or
 - (b) where the period in respect of which the deduction is to be made is not of the same duration as the leave taken, the ordinary pay for the lowest paid period during the leave taken which is of the same duration as the period in respect of which the deduction is to be made.
- (d) by inserting in paragraph (d) of subsection eleven of the same section after the word “shall” the words “, subject to subsection twelve of this section,”;
- (e) by inserting next after the same subsection the following new subsections :—
- (12) (a) Paragraph (d) of subsection eleven of this section shall not, where the period during which a person served as a member of the naval, military or air forces of the Commonwealth commenced by enlistment or appointment in any such force after the second day of September, one thousand nine hundred and forty-five, apply to and in respect of that period unless, pursuant to an

Act

Long Service Leave (Amendment).

Act of the Parliament of the Commonwealth of Australia enacted before or after the commencement of the Long Service Leave (Amendment) Act, 1967, that person was entitled to apply to be reinstated in his former civil employment on the termination of his period of service as such a member and he did not, at the expiration of the period during which that right subsisted, continue as a member of such a force.

(b) For the purposes of this subsection, the former employer to whom application for reinstatement is required to be made pursuant to an Act of the Parliament of the Commonwealth of Australia referred to in paragraph (a) of this subsection shall, notwithstanding anything contained in any such Act, be deemed to be and always to have been the employer by whom the member of the naval, military or air forces of the Commonwealth was last employed before the commencement of the service, as such a member, entitling him to apply to be reinstated in civil employment.

(13) (a) In this subsection—

“Award” means award or industrial agreement made under the Commonwealth Conciliation and Arbitration Act 1904 of the Parliament of the Commonwealth of Australia, or an award made or an industrial agreement filed under the Industrial Arbitration Act, 1940, or any Act amending or replacing either of those Acts.

“Corporation” means any body corporate formed or incorporated in or outside New South Wales.

“Holding company” and “subsidiary” have and shall be deemed always to have had the meanings respectively ascribed thereto by the Companies Act, 1961, or any Act amending or replacing that Act.

“Termination”

Long Service Leave (Amendment).

“Termination” means termination by any person or by any cause.

(b) For the purposes of this subsection—

(i) where a corporation is—

(a) the holding company, or

(b) a subsidiary, or

(c) a subsidiary of the holding company,

of another corporation, the first mentioned corporation and that other corporation shall, and no two corporations shall in any other case, be deemed to be related to each other;

(ii) a worker shall be deemed to have transferred from the service of an employer to the service of another employer, only if before, concurrently with or within a period of two months after the termination of his services with the first mentioned employer he entered into a contract of employment with that other employer, and the transfer shall be deemed to have occurred at the time of that termination.

(c) Where before or after the commencement of the Long Service Leave (Amendment) Act, 1967, a worker has transferred from the service of an employer (in this paragraph called the first employer) being a corporation to the service of another employer being a corporation related to the first employer at the time of that transfer, then for the purposes of this section—

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

(ii)

Long Service Leave (Amendment).

(ii) the period of service which the worker had had with the first employer before the commencement of his service with that other employer (including any service which by reason of a prior transfer or prior transfers or for any other reason he is deemed by this section or, for the purposes of long service leave for such service, he is deemed by any Act or award to have had with the first employer) shall be deemed to be service of the worker with that other employer.

(d) Where before or after the commencement of the Long Service Leave (Amendment) Act, 1967, a worker has entered into a contract of employment with an employer, being a corporation, within a period of twelve months after the completion of an apprenticeship with another employer, being a corporation which at the time of such entry into employment was related to the first mentioned employer, the period of his apprenticeship shall be taken into account for the purpose of ascertaining the period of his service with the first mentioned employer under that contract of employment.

(e) Where the services of a worker with an employer are terminated and that employer is a corporation to which any other corporation is related at the time of that termination, the services of the worker shall not, for the purposes of subsections two and five of this section, be deemed to have been so terminated if he transfers to the employment of any such related corporation.

(f) A worker or his personal representative shall not be entitled by virtue of this subsection to long service leave or payment therefor in respect of any period of service if in respect of that period of service an employer was required by any other provisions of this Act, or by any other Act or any award,

Long Service Leave (Amendment).

award, to give to the worker any long service leave and to pay wages or other remuneration therefor, or to pay wages or other remuneration for long service leave deemed to have been given to the worker, and if the obligations of that employer in that behalf have been fully satisfied and discharged.

Amendment
of Act No.
48, 1963.

Sec. 4.

(Long ser-
vice leave.)

3. The Long Service Leave (Metalliferous Mining Industry) Act, 1963, as amended by the Decimal Currency Act, 1965, is amended—

- (a) (i) by inserting in paragraph (a) of subsection two of section four after the word “subsection” the words “and subsection thirteen of this section”;
- (ii) by inserting in subparagraph (ii) of the same paragraph after the words “for any reason” the words “other than the worker’s serious and wilful misconduct.”;
- (b) (i) by inserting at the end of subsection three of the same section the following words :—

Provided that where any leave has been given to and taken by the worker pursuant to subsection (3A) of this section, this subsection shall apply to and in respect of so much only of the leave to which the worker has become entitled as has not been so given and taken.

- (ii) by inserting next after the same subsection the following new subsection :—

(3A) If the employer and the worker so agree, a period of long service leave of not less than one month may be given by the employer, and taken by the worker, wholly or partly in advance before the worker has become entitled to any long service leave or to the amount so agreed to be given and taken. No such agreement shall, for the purposes of paragraph (b) of subparagraph (i) of paragraph

(a)

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(a) of subsection two of this section, be deemed to confer on the worker an entitlement to long service leave.

- (c) (i) by inserting in subparagraph (ii) of paragraph (a) of subsection five of the same section after the word "termination" the words "and has not been taken";
- (ii) by inserting in the same paragraph after the words "the worker shall" the words " , subject to subsection thirteen of this section,";
- (iii) by inserting in paragraph (b) of the same subsection after the word "death" the words "and has not been taken";
- (iv) by inserting at the end of the same subsection the following new paragraph :—

(c) On the termination of the services of a worker who had taken any leave pursuant to subsection (3A) of this section his employer may, subject to this paragraph and subsection thirteen of this section, deduct from any remuneration payable on such termination in respect of the worker's services—

- (i) if the worker had not become entitled to any long service leave in the course of or upon the termination of his services—ordinary pay for the leave so taken ; or
- (ii) if the worker had become so entitled—ordinary pay for the excess, if any, over his total entitlement of the period or total of the periods of long service leave on ordinary pay given pursuant to this Act by that employer to and taken by the worker.

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The amount so deducted shall not exceed the lesser of—

- (i) the ordinary pay which would have been payable for the period of leave or excess leave, as the case may be, had it been taken on such termination; and
- (ii) (a) where the period in respect of which the deduction is to be made is of the same duration as the leave taken, the ordinary pay for the period during which the leave was taken; or
(b) where the period in respect of which the deduction is to be made is not of the same duration as the leave taken, the ordinary pay for the lowest paid period during the leave taken which is of the same duration as the period in respect of which the deduction is to be made.

(d) by inserting in paragraph (d) of subsection eleven of the same section after the word "shall" the words ", subject to subsection twelve of this section,";

(e) by inserting next after the same subsection the following new subsections :—

(12) (a) Paragraph (d) of subsection eleven of this section shall not, where the period during which a person served as a member of the naval, military or air forces of the Commonwealth commenced by enlistment or appointment in any such force after the second day of September, one thousand nine hundred and forty-five, apply to and in respect of that period unless, pursuant to an Act of the Parliament of the Commonwealth of Australia enacted before or after the commencement of the Long Service Leave (Amendment) Act,

1967,

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1967, that person was entitled to apply to be reinstated in his former civil employment on the termination of his period of service as such a member and he did not, at the expiration of the period during which that right subsisted, continue as a member of such a force.

(b) For the purposes of this subsection, the former employer to whom application for reinstatement is required to be made pursuant to an Act of the Parliament of the Commonwealth of Australia referred to in paragraph (a) of this subsection shall, notwithstanding anything contained in any such Act, be deemed to be and always to have been the employer by whom the member of the naval, military or air forces of the Commonwealth was last employed before the commencement of the service, as such a member, entitling him to apply to be reinstated in civil employment.

(13) (a) In this subsection—

“Award” means award or industrial agreement made under the Commonwealth Conciliation and Arbitration Act 1904 of the Parliament of the Commonwealth of Australia, or an award made or an industrial agreement filed under the Industrial Arbitration Act, 1940, or any Act amending or replacing either of those Acts.

“Corporation” means any body corporate formed or incorporated in or outside New South Wales.

“Holding company” and “subsidiary” have and shall be deemed always to have had the meanings respectively ascribed thereto by the Companies Act, 1961, or any Act amending or replacing that Act.

“Termination” means termination by any person or by any cause.

(b)

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(b) For the purposes of this subsection—

(i) where a corporation is—

(a) the holding company, or

(b) a subsidiary, or

(c) a subsidiary of the holding company,

of another corporation, the first mentioned corporation and that other corporation shall, and no two corporations shall in any other case, be deemed to be related to each other;

(ii) a worker shall be deemed to have transferred from the service of an employer to the service of another employer, only if before, concurrently with or within a period of two months after the termination of his services with the first mentioned employer he entered into a contract of employment with that other employer, and the transfer shall be deemed to have occurred at the time of that termination.

(c) Where before or after the commencement of the Long Service Leave (Amendment) Act, 1967, a worker has transferred from the service of an employer (in this paragraph called the first employer) being a corporation to the service of another employer being a corporation related to the first employer at the time of that transfer, then for the purposes of this section—

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

(ii)

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(ii) the period of service which the worker had had with the first employer before the commencement of his services with that other employer (including any service which by reason of a prior transfer or prior transfers or for any other reason he is deemed by this section or, for the purposes of long service leave for such service, he is deemed by any Act or award to have had with the first employer) shall be deemed to be service of the worker with that other employer.

(d) Where before or after the commencement of the Long Service Leave (Amendment) Act, 1967, a worker has entered into a contract of employment with an employer, being a corporation, within a period of twelve months after the completion of an apprenticeship with another employer, being a corporation which at the time of such entry into employment was related to the first mentioned employer, the period of his apprenticeship shall be taken into account for the purpose of ascertaining the period of his service with the first mentioned employer under that contract of employment.

(e) Where the services of a worker with an employer are terminated and that employer is a corporation to which any other corporation is related at the time of that termination, the services of the worker shall not, for the purposes of subsections two and five of this section, be deemed to have been so terminated if he transfers to the employment of any such related corporation.

(f) A worker or his personal representative shall not be entitled by virtue of this subsection to long service leave or payment therefor in respect of any period of service if in respect of that period of service an employer was required by any other provisions of this Act, or by any other Act or any award, to give to the worker any long service

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leave and to pay wages or other remuneration therefor, or to pay wages or other remuneration for long service leave deemed to have been given to the worker, and if the obligations of that employer in that behalf have been fully satisfied and discharged.

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

A. R. CUTLER,
Governor.

*Government House,
Sydney, 18th December, 1967.*

