

*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.*

R. E. WARD,  
*Clerk of the Legislative Assembly.*

*Legislative Assembly Chamber,  
Sydney, 2 June, 1977.*

## **New South Wales**



ANNO VICESIMO SEXTO

## **ELIZABETHÆ II REGINÆ**

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Act No. , 1977.

An Act to amend sections 3 and 4 of the Long Service Leave (Metalliferous Mining Industry) Act, 1963, in connection with the calculation of ordinary pay for the purpose of a payment for long service leave.

BE



*Long Service Leave (Metalliferous Mining Industry) Amendment.*

**B**E 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. This Act may be cited as the "Long Service Leave Short (Metalliferous Mining Industry) Amendment Act, 1977". title.

2. The Long Service Leave (Metalliferous Mining Amendment Industry) Act, 1963, is amended in the manner set forth in of Act No. 48, 1963.  
10 Schedule 1.

SCHEDULE 1.

Sec. 2.

AMENDMENTS TO THE LONG SERVICE LEAVE  
(METALLIFEROUS MINING INDUSTRY) ACT, 1963.

(1) (a) Section 3 (1), definition of "Ordinary pay"—

15 Omit the definition, insert instead :—

"Ordinary pay", in relation to any worker,  
means the sum of—

20 (a) where the worker is, on the prescribed date, remunerated wholly in relation to an ordinary time rate of pay fixed by the terms of his employment—

25 (i) the amount of the ordinary remuneration of the worker, as on the prescribed date; or

SCHEDULE



*Long Service Leave (Metalliferous Mining Industry) Amendment.*

**SCHEDULE 1—continued.**

**AMENDMENTS TO THE LONG SERVICE LEAVE (METALLIFEROUS MINING INDUSTRY) ACT, 1963—continued.**

- 5 (ii) the average weekly  
amount of the ordinary  
remuneration which was  
10 earned by him as a  
worker during that part  
of the period of 5 years  
ending on the prescribed  
date during which he was  
so remunerated,

whichever is the greater;

- 15 (b) where the worker is, on the  
prescribed date, remunerated  
otherwise than wholly in  
relation to an ordinary time rate  
of pay so fixed—the amount of  
20 the average weekly wage which  
was earned by him as a worker  
(being the average of the  
amounts received by him each  
week under those terms after  
25 excluding any amount payable  
to him in respect of shift work,  
overtime or other penalty rates)  
during the period actually  
worked by him during—

- 30 (i) the period of 12 months;  
or

**SCHEDULE**



Long Service Leave (Metalliferous Mining Industry) Amendment.**SCHEDULE 1—continued.****AMENDMENTS TO THE LONG SERVICE LEAVE (METALLIFEROUS MINING INDUSTRY) ACT, 1963—continued.**

- (ii) the period of 5 years,
- 5 ending on the prescribed date, whichever amount of average weekly wage is the greater;
- 10 (c) the average weekly amount of bonuses received by him as a worker employed by the person who is his employer on the prescribed date during—
- 15 (i) where paragraph (a) (i) or (b) (i) applies for the purpose of calculating his ordinary pay, the period of 12 months; or
- 20 (ii) where paragraph (a) (ii) or (b) (ii) applies for that purpose, the period of 5 years,
- ending on the prescribed date; and
- 25 (d) where he was, immediately before the prescribed date, provided with board or lodging by the person who is his employer on the prescribed date—the cash value of that board or lodging.

**SCHEDULE**



*Long Service Leave (Metalliferous Mining Industry) Amendment.*

**SCHEDULE 1—continued.**

**AMENDMENTS TO THE LONG SERVICE LEAVE (METALLIFEROUS MINING INDUSTRY) ACT, 1963—continued.**

**(b) Section 3 (2), (2A), (2B)—**

5 Omit subsection 3 (2), insert instead :—

(2) For the purposes of—

10 (a) the definition of “ordinary pay” in subsection (1) and of subsection (2A), “prescribed date”, in relation to a worker—

15 (i) means, except as provided in subparagraph (ii), the date immediately preceding the date on which that worker enters, or is deemed to have entered upon long service leave or the date of that worker’s death, as the case may require; or

20 (ii) where the worker has, in relation to any period of long service leave, entered into an agreement authorised by subsection (2B), means, in relation to that period of long service leave, the date of that agreement;

25 (b) paragraph (a) of that definition, “ordinary remuneration”, in relation to a worker, means the remuneration for that worker’s normal weekly number of hours of work calculated at the time rate of pay fixed by the terms of his employment for his work under

**SCHEDULE**



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*Long Service Leave (Metalliferous Mining Industry) Amendment.*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE LONG SERVICE LEAVE (METALLIFEROUS MINING INDUSTRY) ACT, 1963—*continued.*

5                   the terms of his employment reduced  
by any amount payable to him in  
respect of shift work, overtime or other  
penalty rates or, where 2 or more time  
rates of pay are so fixed, the amount  
10                   of remuneration for that worker's  
normal weekly number of hours of  
work calculated at the higher or  
highest of those rates and so reduced;

15                   (c) paragraph (c) of that definition,  
"bonus", in relation to a worker, means  
any amount received by that worker  
under the terms of his employment  
under any bonus, incentive or other  
similar scheme, not being an amount  
20                   taken into consideration in determining  
the amount of the average weekly wage  
of that worker referred to in paragraph  
(b) of that definition; and

25                   (d) paragraph (d) of that definition, the  
cash value of any board or lodging  
provided for a worker shall be deemed  
to be its cash value as fixed by or  
under the terms of the worker's  
employment or, if it is not so fixed,  
30                   shall be computed at the rate of \$15, or  
such greater sum as may be prescribed  
instead, a week for board and \$5, or  
such greater sum as may be prescribed  
instead, a week for lodging.

## SCHEDULE



*Long Service Leave (Metalliferous Mining Industry) Amendment.*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE LONG SERVICE LEAVE (METALLIFEROUS MINING INDUSTRY) ACT, 1963—*continued.*

5 (2A) For the purposes of subsection (2)  
(b), where no normal weekly number of hours  
of work is fixed for a worker under the terms of  
his employment, the normal weekly number of  
hours of work shall be deemed to be the  
10 average weekly number of hours worked by him  
during the period of 12 months, or 5 years, as  
the case may require, ending on the prescribed  
date.

15 (2B) Where long service leave has accrued  
to a worker and the employer of that worker and  
that worker have agreed that the taking of the  
long service leave due to him or any part thereof  
shall be postponed that employer and that worker  
may agree that, for the purposes of the definition  
of "ordinary pay" in subsection (1), the  
20 prescribed date shall, in relation to that long  
service leave or part, as the case may be, be the  
date the agreement was entered into.

(2) (a) Section 4 (5) (c)—  
25 Omit "ordinary pay for the leave so taken",  
insert instead "the amount paid to the worker  
as ordinary pay for the leave so taken".

(b) Section 4 (5) (c)—  
30 Omit "ordinary pay" where secondly occurring,  
insert instead "the amount paid to the worker  
as ordinary pay".

SCHEDULE



*Long Service Leave (Metalliferous Mining Industry) Amendment.*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE LONG SERVICE LEAVE (METALLIFEROUS MINING INDUSTRY) ACT, 1963—*continued.*

(c) Section 4 (5) (c)—

5 Omit "The amount so deducted shall not exceed the lesser of—

10 (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

15 (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

20 (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."

25 (d) Section 4 (5A)—

After section 4 (5), insert :—

(5A) Notwithstanding subsection (5) (c), the deduction to be made pursuant to subsection

SCHEDULE



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*Long Service Leave (Metalliferous Mining Industry) Amendment.*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE LONG SERVICE LEAVE (METALLIFEROUS MINING INDUSTRY) ACT, 1963—*continued.*

5           (5) (c) shall not exceed the amount of  
ordinary pay that would have been payable  
for the period of leave or excess leave, as the  
case may be, had it been taken on the termination  
of the services of the worker.

(e) Section 4 (6)—  
10           Omit the subsection.

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BY AUTHORITY  
D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1977  
[16c]



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No. , 1977.

## A BILL

To amend sections 3 and 4 of the Long Service Leave (Metalliferous Mining Industry) Act, 1963, in connection with the calculation of ordinary pay for the purpose of a payment for long service leave.

[MR HILLS—23 March, 1977.]

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*Long Service Leave (Metalliferous Mining Industry) Amendment.*

**B**E 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. This Act may be cited as the "Long Service Leave Short (Metalliferous Mining Industry) Amendment Act, 1977". title.

2. The Long Service Leave (Metalliferous Mining Industry) Act, 1963, is amended in the manner set forth in Amendment of Act No. 48, 1963.  
10 Schedule 1.

SCHEDULE 1.

Sec. 2.

AMENDMENTS TO THE LONG SERVICE LEAVE  
(METALLIFEROUS MINING INDUSTRY) ACT, 1963.

(1) (a) Section 3 (1), definition of "Ordinary pay"—

15 Omit the definition, insert instead :—

"Ordinary pay", in relation to any worker,  
means the sum of—

20 (a) where the worker is, on the prescribed date, remunerated wholly in relation to an ordinary time rate of pay fixed by the terms of his employment—

25 (i) the amount of the ordinary remuneration of the worker, as on the prescribed date; or

SCHEDULE



*Long Service Leave (Metalliferous Mining Industry) Amendment.*

**SCHEDULE 1—continued.**

**AMENDMENTS TO THE LONG SERVICE LEAVE (METALLIFEROUS MINING INDUSTRY) ACT, 1963—continued.**

- 5 (ii) the average weekly  
amount of the ordinary  
remuneration which was  
earned by him as a  
worker during that part  
10 of the period of 5 years  
ending on the prescribed  
date during which he was  
so remunerated,

whichever is the greater;

- 15 (b) where the worker is, on the  
prescribed date, remunerated  
otherwise than wholly in  
relation to an ordinary time rate  
of pay so fixed—the amount of  
20 the average weekly wage which  
was earned by him as a worker  
(being the average of the  
amounts received by him each  
week under those terms after  
25 excluding any amount payable  
to him in respect of shift work,  
overtime or other penalty rates)  
during the period actually  
worked by him during—

- 30 (i) the period of 12 months;  
or

**SCHEDULE**



*Long Service Leave (Metalliferous Mining Industry) Amendment.*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE LONG SERVICE LEAVE (METALLIFEROUS MINING INDUSTRY) ACT, 1963—*continued.*

- (ii) the period of 5 years,
- 5 ending on the prescribed date, whichever amount of average weekly wage is the greater;
- (c) the average weekly amount of
- 10 bonuses received by him as a worker employed by the person who is his employer on the prescribed date during—
- (i) where paragraph (a) (i)
- 15 or (b) (i) applies for the purpose of calculating his ordinary pay, the period of 12 months; or
- (ii) where paragraph (a) (ii)
- 20 or (b) (ii) applies for that purpose, the period of 5 years,
- ending on the prescribed date; and
- (d) where he was, immediately before
- 25 the prescribed date, provided with board or lodging by the person who is his employer on the prescribed date—the cash value of that board or lodging.

SCHEDULE



*Long Service Leave (Metalliferous Mining Industry) Amendment.*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE LONG SERVICE LEAVE (METALLIFEROUS MINING INDUSTRY) ACT, 1963—*continued.*

(b) Section 3 (2), (2A), (2B)—

5 Omit subsection 3 (2), insert instead :—

(2) For the purposes of—

(a) the definition of “ordinary pay” in subsection (1) and of subsection (2A), “prescribed date”, in relation to  
10 a worker—

(i) means, except as provided in subparagraph (ii), the date immediately preceding the date on which that worker enters, or is deemed to have entered upon long service leave or the date of that worker’s death, as the case may require; or

20 (ii) where the worker has, in relation to any period of long service leave, entered into an agreement authorised by subsection (2B), means, in  
25 relation to that period of long service leave, the date of that agreement;

(b) paragraph (a) of that definition, “ordinary remuneration”, in relation  
30 to a worker, means the remuneration for that worker’s normal weekly number of hours of work calculated at the time rate of pay fixed by the terms of his employment for his work under

SCHEDULE



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*Long Service Leave (Metalliferous Mining Industry) Amendment.*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE LONG SERVICE LEAVE (METALLIFEROUS MINING INDUSTRY) ACT, 1963—*continued.*

5 the terms of his employment reduced  
by any amount payable to him in  
respect of shift work, overtime or other  
penalty rates or, where 2 or more time  
rates of pay are so fixed, the amount  
10 of remuneration for that worker's  
normal weekly number of hours of  
work calculated at the higher or  
highest of those rates and so reduced;

(c) paragraph (c) of that definition,  
15 "bonus", in relation to a worker, means  
any amount received by that worker  
under the terms of his employment  
under any bonus, incentive or other  
similar scheme, not being an amount  
taken into consideration in determining  
20 the amount of the average weekly wage  
of that worker referred to in paragraph  
(b) of that definition; and

(d) paragraph (d) of that definition, the  
25 cash value of any board or lodging  
provided for a worker shall be deemed  
to be its cash value as fixed by or  
under the terms of the worker's  
employment or, if it is not so fixed,  
shall be computed at the rate of \$15, or  
30 such greater sum as may be prescribed  
instead, a week for board and \$5, or  
such greater sum as may be prescribed  
instead, a week for lodging.

## SCHEDULE



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*Long Service Leave (Metalliferous Mining Industry) Amendment.*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE LONG SERVICE LEAVE (METALLIFEROUS MINING INDUSTRY) ACT, 1963—*continued.*

5 (2A) For the purposes of subsection (2)  
(b), where no normal weekly number of hours  
of work is fixed for a worker under the terms of  
his employment, the normal weekly number of  
hours of work shall be deemed to be the  
10 average weekly number of hours worked by him  
during the period of 12 months, or 5 years, as  
the case may require, ending on the prescribed  
date.

15 (2B) Where long service leave has accrued  
to a worker and the employer of that worker and  
that worker have agreed that the taking of the  
long service leave due to him or any part thereof  
shall be postponed that employer and that worker  
may agree that, for the purposes of the definition  
of "ordinary pay" in subsection (1), the  
20 prescribed date shall, in relation to that long  
service leave or part, as the case may be, be the  
date the agreement was entered into.

## (2) (a) Section 4 (5) (c)—

25 Omit "ordinary pay for the leave so taken",  
insert instead "the amount paid to the worker  
as ordinary pay for the leave so taken".

## (b) Section 4 (5) (c)—

30 Omit "ordinary pay" where secondly occurring,  
insert instead "the amount paid to the worker  
as ordinary pay".

## SCHEDULE



*Long Service Leave (Metalliferous Mining Industry) Amendment.*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE LONG SERVICE LEAVE (METALLIFEROUS MINING INDUSTRY) ACT, 1963—*continued.*

(c) Section 4 (5) (c)—

5 Omit "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

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 period in respect of which the deduction is to be made."

20 (d) Section 4 (5A)—

After section 4 (5), insert :—

(5A) Notwithstanding subsection (5) (c), the deduction to be made pursuant to subsection

SCHEDULE



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*Long Service Leave (Metalliferous Mining Industry) Amendment.*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE LONG SERVICE LEAVE (METAL-  
LIFEROUS MINING INDUSTRY) ACT, 1963—*continued.*

5           (5) (c) shall not exceed the amount of  
ordinary pay that would have been payable  
for the period of leave or excess leave, as the  
case may be, had it been taken on the termination  
of the services of the worker.

(e) Section 4 (6)—  
10           Omit the subsection.







*PROOF*

**LONG SERVICE LEAVE (METALLIFEROUS MINING  
INDUSTRY) AMENDMENT BILL, 1977**

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**EXPLANATORY NOTE**

THE object of this Bill is to amend the Long Service Leave (Metalliferous Mining Industry) Act, 1963, to provide that the ordinary pay of a worker entitled to long service leave shall be calculated by reference to—

- (a) the average of his weekly pay during the 5 year period prior to his taking that leave; or
- (b) the weekly pay actually being paid to him prior to his taking that leave, whichever is the greater.

The Bill makes other provisions of a minor or ancillary nature.

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# THE HISTORY OF THE UNITED STATES

## CHAPTER I

The first chapter of the history of the United States is the story of the discovery of the continent by Christopher Columbus in 1492. This event marked the beginning of European settlement in North America.

The second chapter of the history of the United States is the story of the early years of settlement, from 1492 to 1600. This period was characterized by the arrival of the first European settlers and the establishment of the first colonies.

The third chapter of the history of the United States is the story of the growth of the colonies, from 1600 to 1700. This period was marked by the increasing number of settlers and the development of the colonial economy.

The fourth chapter of the history of the United States is the story of the American Revolution, from 1700 to 1789. This period was characterized by the struggle for independence from British rule and the establishment of the new nation.



PROOF

No. , 1977.

## A BILL

To amend sections 3 and 4 of the Long Service Leave (Metalliferous Mining Industry) Act, 1963, in connection with the calculation of ordinary pay for the purpose of a payment for long service leave.

[MR HILLS—23 March, 1977.]

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*Long Service Leave (Metalliferous Mining Industry) Amendment.*

**B**E 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. This Act may be cited as the "Long Service Leave Short (Metalliferous Mining Industry) Amendment Act, 1977". title.

2. The Long Service Leave (Metalliferous Mining Amendment of Act No. 48, 1963. Industry) Act, 1963, is amended in the manner set forth in Schedule 1.

SCHEDULE 1.

Sec. 2.

AMENDMENTS TO THE LONG SERVICE LEAVE  
(METALLIFEROUS MINING INDUSTRY) ACT, 1963.

(1) (a) Section 3 (1), definition of "Ordinary pay"—

15 Omit the definition, insert instead:—

"Ordinary pay", in relation to any worker,  
means the sum of—

20 (a) where the worker is, on the prescribed date, remunerated wholly in relation to an ordinary time rate of pay fixed by the terms of his employment—

25 (i) the amount of the ordinary remuneration of the worker, as on the prescribed date; or

SCHEDULE



*Long Service Leave (Metalliferous Mining Industry) Amendment.*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE LONG SERVICE LEAVE (METALLIFEROUS MINING INDUSTRY) ACT, 1963—*continued.*

- 5 (ii) the average weekly  
amount of the ordinary  
remuneration which was  
earned by him as a  
worker during that part  
10 of the period of 5 years  
ending on the prescribed  
date during which he was  
so remunerated,  
whichever is the greater;
- 15 (b) where the worker is, on the  
prescribed date, remunerated  
otherwise than wholly in  
relation to an ordinary time rate  
of pay so fixed—the amount of  
20 the average weekly wage which  
was earned by him as a worker  
(being the average of the  
amounts received by him each  
week under those terms after  
25 excluding any amount payable  
to him in respect of shift work,  
overtime or other penalty rates)  
during the period actually  
worked by him during—
- 30 (i) the period of 12 months;  
or

SCHEDULE



*Long Service Leave (Metalliferous Mining Industry) Amendment.*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE LONG SERVICE LEAVE (METALLIFEROUS MINING INDUSTRY) ACT, 1963—*continued.*

- 5 (ii) the period of 5 years,  
ending on the prescribed date,  
whichever amount of average  
weekly wage is the greater;
- 10 (c) the average weekly amount of  
bonuses received by him as a  
worker employed by the person  
who is his employer on the  
prescribed date during—
- 15 (i) where paragraph (a) (i)  
or (b) (i) applies for the  
purpose of calculating his  
ordinary pay, the period  
of 12 months; or
- 20 (ii) where paragraph (a) (ii)  
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that purpose, the period  
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- 25 (d) where he was, immediately before  
the prescribed date, provided  
with board or lodging by the  
person who is his employer on  
the prescribed date—the cash  
value of that board or lodging.

SCHEDULE



*Long Service Leave (Metalliferous Mining Industry) Amendment.*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE LONG SERVICE LEAVE (METALLIFEROUS MINING INDUSTRY) ACT, 1963—*continued.*

(b) Section 3 (2), (2A), (2B)—

5 Omit subsection 3 (2), insert instead :—

(2) For the purposes of—

(a) the definition of “ordinary pay” in  
subsection (1) and of subsection  
10 (2A), “prescribed date”, in relation to  
a worker—

(i) means, except as provided in  
subparagraph (ii), the date  
immediately preceding the  
15 date on which that worker  
enters, or is deemed to have  
entered upon long service  
leave or the date of that  
worker’s death, as the case may  
require; or

(ii) where the worker has, in  
relation to any period of long  
service leave, entered into an  
agreement authorised by sub-  
20 section (2B), means, in  
relation to that period of long  
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(b) paragraph (a) of that definition,  
“ordinary remuneration”, in relation  
25 to a worker, means the remuneration  
for that worker’s normal weekly  
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the time rate of pay fixed by the terms  
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*Long Service Leave (Metalliferous Mining Industry) Amendment.*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE LONG SERVICE LEAVE (METALLIFEROUS MINING INDUSTRY) ACT, 1963—*continued.*

5 the terms of his employment reduced  
by any amount payable to him in  
respect of shift work, overtime or other  
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20 the amount of the average weekly wage  
of that worker referred to in paragraph  
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25 cash value of any board or lodging  
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employment or, if it is not so fixed,  
shall be computed at the rate of \$15, or  
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*Long Service Leave (Metalliferous Mining Industry) Amendment.*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE LONG SERVICE LEAVE (METALLIFEROUS MINING INDUSTRY) ACT, 1963—*continued.*

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(b), where no normal weekly number of hours  
of work is fixed for a worker under the terms of  
his employment, the normal weekly number of  
hours of work shall be deemed to be the  
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during the period of 12 months, or 5 years, as  
the case may require, ending on the prescribed  
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to a worker and the employer of that worker and  
that worker have agreed that the taking of the  
long service leave due to him or any part thereof  
shall be postponed that employer and that worker  
may agree that, for the purposes of the definition  
20 of "ordinary pay" in subsection (1), the  
prescribed date shall, in relation to that long  
service leave or part, as the case may be, be the  
date the agreement was entered into.

(2) (a) Section 4 (5) (c)—

25 Omit "ordinary pay for the leave so taken",  
insert instead "the amount paid to the worker  
as ordinary pay for the leave so taken".

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*Long Service Leave (Metalliferous Mining Industry) Amendment.*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE LONG SERVICE LEAVE (METALLIFEROUS MINING INDUSTRY) ACT, 1963—*continued.*

(c) Section 4 (5) (c)—

5 Omit "The amount so deducted shall not exceed the lesser of—

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25 (d) Section 4 (5A)—

After section 4 (5), insert :—

(5A) Notwithstanding subsection (5) (c), the deduction to be made pursuant to subsection

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*Long Service Leave (Metalliferous Mining Industry) Amendment.*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE LONG SERVICE LEAVE (METALLIFEROUS MINING INDUSTRY) ACT, 1963—*continued.*

5           (5) (c) shall not exceed the amount of  
ordinary pay that would have been payable  
for the period of leave or excess leave, as the  
case may be, had it been taken on the termination  
of the services of the worker.

(e) Section 4 (6)—  
10           Omit the subsection.

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BY AUTHORITY  
D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1977







# New South Wales



ANNO VICESIMO SEXTO

## ELIZABETHÆ II REGINÆ

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### Act No. 49, 1977.

An Act to amend sections 3 and 4 of the Long Service Leave (Metalliferous Mining Industry) Act, 1963, in connection with the calculation of ordinary pay for the purpose of a payment for long service leave. [Assented to, 21st June, 1977.]

BE



*Long Service Leave (Metalliferous Mining Industry) Amendment.*

**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short  
title.

1. This Act may be cited as the "Long Service Leave (Metalliferous Mining Industry) Amendment Act, 1977".

Amendment  
of Act No.  
48, 1963.

2. The Long Service Leave (Metalliferous Mining Industry) Act, 1963, is amended in the manner set forth in Schedule 1.

Sec. 2.

### SCHEDULE 1.

#### AMENDMENTS TO THE LONG SERVICE LEAVE (METALLIFEROUS MINING INDUSTRY) ACT, 1963.

(1) (a) Section 3 (1), definition of "Ordinary pay"—

Omit the definition, insert instead :—

"Ordinary pay", in relation to any worker,  
means the sum of—

(a) where the worker is, on the prescribed date, remunerated wholly in relation to an ordinary time rate of pay fixed by the terms of his employment—

(i) the amount of the ordinary remuneration of the worker, as on the prescribed date; or

SCHEDULE



*Long Service Leave (Metalliferous Mining Industry) Amendment.*

**SCHEDULE 1—continued.**

**AMENDMENTS TO THE LONG SERVICE LEAVE (METALLIFEROUS MINING INDUSTRY) ACT, 1963—continued.**

- (ii) the average weekly amount of the ordinary remuneration which was earned by him as a worker during that part of the period of 5 years ending on the prescribed date during which he was so remunerated,
- whichever is the greater;

- (b) where the worker is, on the prescribed date, remunerated otherwise than wholly in relation to an ordinary time rate of pay so fixed—the amount of the average weekly wage which was earned by him as a worker (being the average of the amounts received by him each week under those terms after excluding any amount payable to him in respect of shift work, overtime or other penalty rates) during the period actually worked by him during—

- (i) the period of 12 months;  
or



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*Long Service Leave (Metalliferous Mining Industry) Amendment.*

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**SCHEDULE 1—continued.****AMENDMENTS TO THE LONG SERVICE LEAVE (METALLIFEROUS MINING INDUSTRY) ACT, 1963—continued.**

- (ii) the period of 5 years,  
ending on the prescribed date,  
whichever amount of average  
weekly wage is the greater;
- (c) the average weekly amount of  
bonuses received by him as a  
worker employed by the person  
who is his employer on the  
prescribed date during—
- (i) where paragraph (a) (i)  
or (b) (i) applies for the  
purpose of calculating his  
ordinary pay, the period  
of 12 months; or
- (ii) where paragraph (a) (ii)  
or (b) (ii) applies for  
that purpose, the period  
of 5 years,  
ending on the prescribed date;  
and
- (d) where he was, immediately before  
the prescribed date, provided  
with board or lodging by the  
person who is his employer on  
the prescribed date—the cash  
value of that board or lodging.

**SCHEDULE**



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*Long Service Leave (Metalliferous Mining Industry) Amendment.*

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**SCHEDULE 1—continued.**

**AMENDMENTS TO THE LONG SERVICE LEAVE (METALLIFEROUS MINING INDUSTRY) ACT, 1963—continued.**

**(b) Section 3 (2), (2A), (2B)—**

Omit subsection 3 (2), insert instead :—

**(2) For the purposes of—**

**(a) the definition of “ordinary pay” in subsection (1) and of subsection (2A), “prescribed date”, in relation to a worker—**

**(i) means, except as provided in subparagraph (ii), the date immediately preceding the date on which that worker enters, or is deemed to have entered upon long service leave or the date of that worker’s death, as the case may require; or**

**(ii) where the worker has, in relation to any period of long service leave, entered into an agreement authorised by subsection (2B), means, in relation to that period of long service leave, the date of that agreement;**

**(b) paragraph (a) of that definition, “ordinary remuneration”, in relation to a worker, means the remuneration for that worker’s normal weekly number of hours of work calculated at the time rate of pay fixed by the terms of his employment for his work under**

**SCHEDULE**



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*Long Service Leave (Metalliferous Mining Industry) Amendment.*

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**SCHEDULE 1—continued.****AMENDMENTS TO THE LONG SERVICE LEAVE (METALLIFEROUS MINING INDUSTRY) ACT, 1963—continued.**

the terms of his employment reduced by any amount payable to him in respect of shift work, overtime or other penalty rates or, where 2 or more time rates of pay are so fixed, the amount of remuneration for that worker's normal weekly number of hours of work calculated at the higher or highest of those rates and so reduced;

- (c) paragraph (c) of that definition, "bonus", in relation to a worker, means any amount received by that worker under the terms of his employment under any bonus, incentive or other similar scheme, not being an amount taken into consideration in determining the amount of the average weekly wage of that worker referred to in paragraph (b) of that definition; and

- (d) paragraph (d) of that definition, the cash value of any board or lodging provided for a worker shall be deemed to be its cash value as fixed by or under the terms of the worker's employment or, if it is not so fixed, shall be computed at the rate of \$15, or such greater sum as may be prescribed instead, a week for board and \$5, or such greater sum as may be prescribed instead, a week for lodging.

**SCHEDULE**



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*Long Service Leave (Metalliferous Mining Industry) Amendment.*

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**SCHEDULE 1—continued.**

**AMENDMENTS TO THE LONG SERVICE LEAVE (METALLIFEROUS MINING INDUSTRY) ACT, 1963—continued.**

(2A) For the purposes of subsection (2) (b), where no normal weekly number of hours of work is fixed for a worker under the terms of his employment, the normal weekly number of hours of work shall be deemed to be the average weekly number of hours worked by him during the period of 12 months, or 5 years, as the case may require, ending on the prescribed date.

(2B) Where long service leave has accrued to a worker and the employer of that worker and that worker have agreed that the taking of the long service leave due to him or any part thereof shall be postponed that employer and that worker may agree that, for the purposes of the definition of "ordinary pay" in subsection (1), the prescribed date shall, in relation to that long service leave or part, as the case may be, be the date the agreement was entered into.

**(2) (a) Section 4 (5) (c)—**

Omit "ordinary pay for the leave so taken", insert instead "the amount paid to the worker as ordinary pay for the leave so taken".

**(b) Section 4 (5) (c)—**

Omit "ordinary pay" where secondly occurring, insert instead "the amount paid to the worker as ordinary pay".

**SCHEDULE**



*Long Service Leave (Metalliferous Mining Industry) Amendment.***SCHEDULE 1—continued.****AMENDMENTS TO THE LONG SERVICE LEAVE (METALLIFEROUS MINING INDUSTRY) ACT, 1963—continued.****(c) Section 4 (5) (c)—**

Omit "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) Section 4 (5A)—**

After section 4 (5), insert :—

(5A) Notwithstanding subsection (5) (c), the deduction to be made pursuant to subsection



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*Long Service Leave (Metalliferous Mining Industry) Amendment.*

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**SCHEDULE 1—*continued.***

**AMENDMENTS TO THE LONG SERVICE LEAVE (METALLIFEROUS MINING INDUSTRY) ACT, 1963—*continued.***

(5) (c) shall not exceed the amount of ordinary pay that would have been payable for the period of leave or excess leave, as the case may be, had it been taken on the termination of the services of the worker.

**(e) Section 4 (6)—**

Omit the subsection.

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BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1977







*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.*

**R. E. WARD,**  
*Clerk of the Legislative Assembly.*

*Legislative Assembly Chamber,  
Sydney, 7 June, 1977.*

## **New South Wales**



ANNO VICESIMO SEXTO

**ELIZABETHÆ II REGINÆ**

\*\*\*\*\*

**Act No. 49, 1977.**

An Act to amend sections 3 and 4 of the Long Service Leave (Metalliferous Mining Industry) Act, 1963, in connection with the calculation of ordinary pay for the purpose of a payment for long service leave. [Assented to, 21st June, 1977.]

**BE**

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

**T. J. CAHILL,**  
*Chairman of Committees of the Legislative Assembly.*



*Long Service Leave (Metalliferous Mining Industry) Amendment.*

**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short  
title.

1. This Act may be cited as the "Long Service Leave (Metalliferous Mining Industry) Amendment Act, 1977".

Amendment  
of Act No.  
48, 1963.

2. The Long Service Leave (Metalliferous Mining Industry) Act, 1963, is amended in the manner set forth in Schedule 1.

Sec. 2.

# SCHEDULE 1.

## AMENDMENTS TO THE LONG SERVICE LEAVE (METALLIFEROUS MINING INDUSTRY) ACT, 1963.

(1) (a) Section 3 (1), definition of "Ordinary pay"—

Omit the definition, insert instead :—

"Ordinary pay", in relation to any worker,  
means the sum of—

(a) where the worker is, on the prescribed date, remunerated wholly in relation to an ordinary time rate of pay fixed by the terms of his employment—

(i) the amount of the ordinary remuneration of the worker, as on the prescribed date; or

## SCHEDULE



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*Long Service Leave (Metalliferous Mining Industry) Amendment.*

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**SCHEDULE 1—continued.**

**AMENDMENTS TO THE LONG SERVICE LEAVE (METALLIFEROUS MINING INDUSTRY) ACT, 1963—continued.**

- (ii) the average weekly amount of the ordinary remuneration which was earned by him as a worker during that part of the period of 5 years ending on the prescribed date during which he was so remunerated,

whichever is the greater;

- (b) where the worker is, on the prescribed date, remunerated otherwise than wholly in relation to an ordinary time rate of pay so fixed—the amount of the average weekly wage which was earned by him as a worker (being the average of the amounts received by him each week under those terms after excluding any amount payable to him in respect of shift work, overtime or other penalty rates) during the period actually worked by him during—

- (i) the period of 12 months;  
or

**SCHEDULE**



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*Long Service Leave (Metalliferous Mining Industry) Amendment.*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE LONG SERVICE LEAVE (METALLIFEROUS MINING INDUSTRY) ACT, 1963—*continued.*

- (ii) the period of 5 years,  
ending on the prescribed date,  
whichever amount of average  
weekly wage is the greater;
- (c) the average weekly amount of  
bonuses received by him as a  
worker employed by the person  
who is his employer on the  
prescribed date during—
  - (i) where paragraph (a) (i)  
or (b) (i) applies for the  
purpose of calculating his  
ordinary pay, the period  
of 12 months; or
  - (ii) where paragraph (a) (ii)  
or (b) (ii) applies for  
that purpose, the period  
of 5 years,ending on the prescribed date;  
and
- (d) where he was, immediately before  
the prescribed date, provided  
with board or lodging by the  
person who is his employer on  
the prescribed date—the cash  
value of that board or lodging.

## SCHEDULE



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*Long Service Leave (Metalliferous Mining Industry) Amendment.*

---

SCHEDULE 1—*continued.*

AMENDMENTS TO THE LONG SERVICE LEAVE (METALLIFEROUS MINING INDUSTRY) ACT, 1963—*continued.*

(b) Section 3 (2), (2A), (2B)—

Omit subsection 3 (2), insert instead :—

(2) For the purposes of—

(a) the definition of “ordinary pay” in subsection (1) and of subsection (2A), “prescribed date”, in relation to a worker—

(i) means, except as provided in subparagraph (ii), the date immediately preceding the date on which that worker enters, or is deemed to have entered upon long service leave or the date of that worker’s death, as the case may require; or

(ii) where the worker has, in relation to any period of long service leave, entered into an agreement authorised by subsection (2B), means, in relation to that period of long service leave, the date of that agreement;

(b) paragraph (a) of that definition, “ordinary remuneration”, in relation to a worker, means the remuneration for that worker’s normal weekly number of hours of work calculated at the time rate of pay fixed by the terms of his employment for his work under

SCHEDULE



---

*Long Service Leave (Metalliferous Mining Industry) Amendment.*

---

SCHEDULE 1—*continued.*AMENDMENTS TO THE LONG SERVICE LEAVE (METALLIFEROUS MINING INDUSTRY) ACT, 1963—*continued.*

the terms of his employment reduced by any amount payable to him in respect of shift work, overtime or other penalty rates or, where 2 or more time rates of pay are so fixed, the amount of remuneration for that worker's normal weekly number of hours of work calculated at the higher or highest of those rates and so reduced;

- (c) paragraph (c) of that definition, "bonus", in relation to a worker, means any amount received by that worker under the terms of his employment under any bonus, incentive or other similar scheme, not being an amount taken into consideration in determining the amount of the average weekly wage of that worker referred to in paragraph (b) of that definition; and
- (d) paragraph (d) of that definition, the cash value of any board or lodging provided for a worker shall be deemed to be its cash value as fixed by or under the terms of the worker's employment or, if it is not so fixed, shall be computed at the rate of \$15, or such greater sum as may be prescribed instead, a week for board and \$5, or such greater sum as may be prescribed instead, a week for lodging.

## SCHEDULE



---

*Long Service Leave (Metalliferous Mining Industry) Amendment.*

---

SCHEDULE 1—*continued.*

AMENDMENTS TO THE LONG SERVICE LEAVE (METALLIFEROUS MINING INDUSTRY) ACT, 1963—*continued.*

(2A) For the purposes of subsection (2) (b), where no normal weekly number of hours of work is fixed for a worker under the terms of his employment, the normal weekly number of hours of work shall be deemed to be the average weekly number of hours worked by him during the period of 12 months, or 5 years, as the case may require, ending on the prescribed date.

(2B) Where long service leave has accrued to a worker and the employer of that worker and that worker have agreed that the taking of the long service leave due to him or any part thereof shall be postponed that employer and that worker may agree that, for the purposes of the definition of "ordinary pay" in subsection (1), the prescribed date shall, in relation to that long service leave or part, as the case may be, be the date the agreement was entered into.

(2) (a) Section 4 (5) (c)—

Omit "ordinary pay for the leave so taken", insert instead "the amount paid to the worker as ordinary pay for the leave so taken".

(b) Section 4 (5) (c)—

Omit "ordinary pay" where secondly occurring, insert instead "the amount paid to the worker as ordinary pay".

SCHEDULE



---

*Long Service Leave (Metalliferous Mining Industry) Amendment.*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE LONG SERVICE LEAVE (METALLIFEROUS MINING INDUSTRY) ACT, 1963—*continued.*

## (c) Section 4 (5) (c)—

Omit "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) Section 4 (5A)—

After section 4 (5), insert :—

(5A) Notwithstanding subsection (5) (c), the deduction to be made pursuant to subsection

## SCHEDULE



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*Long Service Leave (Metalliferous Mining Industry) Amendment.*

---

SCHEDULE 1—*continued.*

AMENDMENTS TO THE LONG SERVICE LEAVE (METALLIFEROUS MINING INDUSTRY) ACT, 1963—*continued.*

(5) (c) shall not exceed the amount of ordinary pay that would have been payable for the period of leave or excess leave, as the case may be, had it been taken on the termination of the services of the worker.

(e) Section 4 (6)—

Omit the subsection.

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

A. R. CUTLER,  
*Governor.*

*Government House,  
Sydney, 21st June, 1977.*



At 10:15 AM

I am sorry to hear that you are ill.

Very truly yours,

A. J. C. [Signature]

It is a pleasure to hear from you and to know that you are well. I hope you will continue to improve and that you will be able to return to your normal activities soon.

Yours sincerely,

A. J. C. [Signature]