

CONCURRENCE COPY

LONG SERVICE LEAVE (METALLIFEROUS MINING INDUSTRY) AMENDMENT BILL, 1983

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

This Bill is cognate with the Industrial Arbitration (Amendment) Bill, 1983.

The object of this Bill is to amend the Long Service Leave (Metalliferous Mining Industry) Act, 1963 ("the Act"), so as—

- (a) to require the long service leave records relating to employees required to be kept under the Act to be kept for at least 6 years (Schedule 1 (1));
- (b) to empower inspectors or specially authorised public servants to obtain by post a copy of any such long service leave record and certain other information in order to investigate claims for unpaid long service leave payment (Schedule 1 (2) and (3)); and
- (c) to extend the period during which a claim for unpaid long service leave payments may be made under the Act from 2 years to 6 years (Schedule 1 (4)).

The Bill also amends the Act by way of statute law revision (Schedule 2).

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**LONG SERVICE LEAVE (METALLIFEROUS MINING
INDUSTRY) AMENDMENT BILL, 1983**

No. , 1983.

A BILL FOR

An Act to amend the Long Service Leave (Metalliferous Mining Industry) Act, 1963, with respect to the investigation of unpaid long service leave payments, and in other respects.

[MR HILLS—21 *September*, 1983.]

Long Service Leave (Metalliferous Mining Industry) Amendment.

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 Short title.

1. This Act may be cited as the "Long Service Leave (Metalliferous Mining Industry) Amendment Act, 1983".

Schedules.

2. This Act contains the following Schedules:—

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

SCHEDULE 2.—AMENDMENTS TO THE LONG SERVICE LEAVE (METALLIFEROUS MINING INDUSTRY) ACT, 1963, BY WAY OF STATUTE LAW REVISION.

15 Amendment of Act No. 48, 1963.

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

SCHEDULE 1.

(Sec. 3.)

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

(1) Section 8—

After "prescribed", insert "for a period of at least 6 years after the last entry therein".

Long Service Leave (Metalliferous Mining Industry) Amendment.

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

(2) Section 9 (3), (4)—

5 After section 9 (2), insert:—

(3) Where a worker claims that an employer has not paid the full amount of any payment which has become due to the worker under this Act, an inspector may, by notice in writing served personally or by post, require the employer to deliver or to send by post to the inspector, within such time and to such place as are specified in the notice—

10 (a) a copy of such specified part of the long service leave record required to be kept under this Act; and

15 (b) such other information of a specified kind relating to that payment,

as the inspector considers necessary in order to investigate the claim.

(4) A public servant authorised in that behalf by the Under Secretary of the Department of Industrial Relations may exercise the power conferred on an inspector by subsection (3).

20 (3) Section 10 (5)—

After section 10 (4), insert:—

(5) In this section, “inspector” includes a public servant authorised under section 9 (4).

(4) Section 12 (1)—

25 Omit “a period of two years immediately preceding the date of the application”, insert instead “the period of 6 years immediately preceding the date of the application but not earlier than 2 years before the date of assent to the Long Service Leave (Metalliferous Mining Industry) Amendment Act, 1983”.

Long Service Leave (Metalliferous Mining Industry) Amendment.

SCHEDULE 2.

(Sec. 3.)

AMENDMENTS TO THE LONG SERVICE LEAVE (METALLIFEROUS MINING INDUSTRY) ACT,
1963, BY WAY OF STATUTE LAW REVISION.

- 5 (1) (a) Long title—
Omit “—1963”.
- (b) Long title—
Omit “—1961”.
- (2) Section 1 (2)—
10 Omit the subsection.
- (3) (a) Section 3 (1), definition of “Award”—
Omit the definition, insert instead:—
“Award” means an award within the meaning of the Industrial Arbitration Act, 1940.
- 15 (b) Section 3 (1), definition of “Industrial agreement”—
Omit the definition, insert instead:—
“Industrial agreement” means an industrial agreement within the meaning of the Industrial Arbitration Act, 1940.
- (c) Section 3 (1), definition of “Industrial Arbitration Act”—
20 Omit the definition.
- (d) Section 3 (1), definition of “Inspector”—
After “Arbitration Act”, insert “, 1940”.
- (e) Section 3 (1), definition of “Prescribed”—
Omit the definition.
- 25 (f) Section 3 (3)—
After “Arbitration Act”, insert “, 1940”.

Long Service Leave (Metalliferous Mining Industry) Amendment.

SCHEDULE 2—*continued.*AMENDMENTS TO THE LONG SERVICE LEAVE (METALLIFEROUS MINING INDUSTRY) ACT,
1963, BY WAY OF STATUTE LAW REVISION—*continued.*

- (4) (a) Section 4 (2) (b) (i)—
5 After “Industrial Arbitration Act”, insert “, 1940”.
- (b) Section 4 (3A)—
Omit “paragraph (b) of subparagraph (i) of paragraph (a) of subsection
(2)”, insert instead “subsection (2) (a) (i) (b)”.
- (c) Section 4 (11) (a) (i)—
10 Omit “—1963”.
- (d) Section 4 (11) (a) (i)—
Omit “Acts, 1940–1955”, insert instead “Act, 1940”.
- (e) Section 4 (12) (a)—
15 Omit “Paragraph (d) of subsection (11)”, insert instead “Subsection (11)
(d)”.
- (f) Section 4 (13) (a), definition of “Award”—
Omit the definition, insert instead:—
“Award” includes—
(a) an industrial agreement; and
20 (b) an award or industrial agreement made under the Concili-
ation and Arbitration Act 1904 of the Commonwealth.
- (g) Section 4 (13) (a), definition of “Holding company” and “subsidiary”—
Omit “Companies Act, 1961, or any Act amending or replacing that Act”,
insert instead “Companies (New South Wales) Code”.
- 25 (5) (a) Section 5 (1) (b)—
After “Arbitration Act”, insert “, 1940”.

Long Service Leave (Metalliferous Mining Industry) Amendment.

SCHEDULE 2—*continued.*AMENDMENTS TO THE LONG SERVICE LEAVE (METALLIFEROUS MINING INDUSTRY) ACT,
1963, BY WAY OF STATUTE LAW REVISION—*continued.*

- (b) Section 5 (2) (b)—
- 5 Omit “subsection (4) of section 88c of the Industrial Arbitration Acts, 1940–1955, or pursuant to the provisions of subsection (2) of section 5 of the Long Service Leave Act, 1955–1963”, insert instead “section 88c (4) of the Industrial Arbitration Act, 1940, or section 5 (2) of the Long Service Leave Act, 1955”.
- 10 (c) Section 5 (2) (c) (ii)—
- Omit “Acts, 1940–1955”, insert instead “Act, 1940”.
- (d) Section 5 (2) (c) (ii)—
- Omit “—1963”.
- (e) Section 5 (2) (c) (ii)—
- 15 Omit “, as amended by subsequent Acts”.
- (6) Sections 6, 12 (2), 14—
- After “Arbitration Act” wherever occurring, insert “, 1940”.
- (7) Section 6—
- Omit “the said section”, insert instead “section 4”.
- 20 (8) Sections 11 (1), 12 (1)—
- After “Arbitration Act” wherever occurring, insert “, 1940”.
- (9) Section 13 (2)—
- Omit “the said subsection”, insert instead “subsection (1)”.

Long Service Leave (Metalliferous Mining Industry) Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS TO THE LONG SERVICE LEAVE (METALLIFEROUS MINING INDUSTRY) ACT,
1963, BY WAY OF STATUTE LAW REVISION—*continued.*

(10) Section 15 (3)—

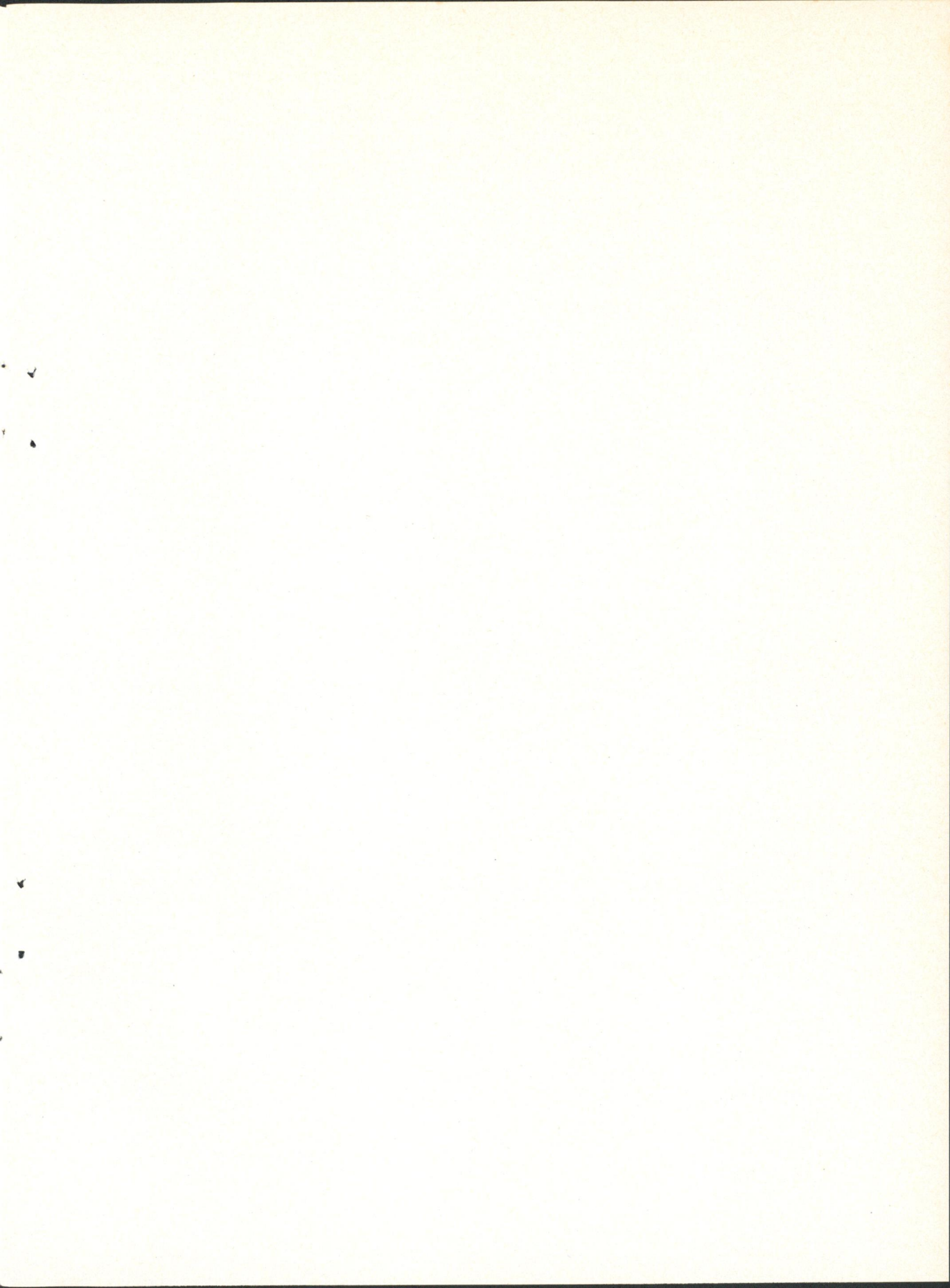
5 Omit the subsection, insert instead:—

(3) Section 41 of the Interpretation Act, 1897, applies in respect of a regulation made under this Act as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1983

(40c)



**LONG SERVICE LEAVE (METALLIFEROUS MINING
INDUSTRY) AMENDMENT ACT, 1983, No. 100**

New South Wales



ANNO TRICESIMO SECUNDO

ELIZABETHÆ II REGINÆ

Act No. 100, 1983.

An Act to amend the Long Service Leave (Metalliferous Mining Industry) Act, 1963, with respect to the investigation of unpaid long service leave payments, and in other respects. [Assented to, 9th November, 1983.]

Long Service Leave (Metalliferous Mining Industry) Amendment.

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

Short title.

1. This Act may be cited as the "Long Service Leave (Metalliferous Mining Industry) Amendment Act, 1983".

Schedules.

2. This Act contains the following Schedules:—

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

SCHEDULE 2.—AMENDMENTS TO THE LONG SERVICE LEAVE (METALLIFEROUS MINING INDUSTRY) ACT, 1963, BY WAY OF STATUTE LAW REVISION.

Amendment of Act No. 48, 1963.

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

SCHEDULE 1.

(Sec. 3.)

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

(1) Section 8—

After "prescribed", insert "for a period of at least 6 years after the last entry therein".

Long Service Leave (Metalliferous Mining Industry) Amendment.

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

(2) Section 9 (3), (4)—

After section 9 (2), insert:—

(3) Where a worker claims that an employer has not paid the full amount of any payment which has become due to the worker under this Act, an inspector may, by notice in writing served personally or by post, require the employer to deliver or to send by post to the inspector, within such time and to such place as are specified in the notice—

(a) a copy of such specified part of the long service leave record required to be kept under this Act; and

(b) such other information of a specified kind relating to that payment,

as the inspector considers necessary in order to investigate the claim.

(4) A public servant authorised in that behalf by the Under Secretary of the Department of Industrial Relations may exercise the power conferred on an inspector by subsection (3).

(3) Section 10 (5)—

After section 10 (4), insert:—

(5) In this section, “inspector” includes a public servant authorised under section 9 (4).

(4) Section 12 (1)—

Omit “a period of two years immediately preceding the date of the application”, insert instead “the period of 6 years immediately preceding the date of the application but not earlier than 2 years before the date of assent to the Long Service Leave (Metalliferous Mining Industry) Amendment Act, 1983”.

Long Service Leave (Metalliferous Mining Industry) Amendment.

SCHEDULE 2.

(Sec. 3.)

AMENDMENTS TO THE LONG SERVICE LEAVE (METALLIFEROUS MINING INDUSTRY) ACT,
1963, BY WAY OF STATUTE LAW REVISION.

- (1) (a) Long title—
Omit “—1963”.
- (b) Long title—
Omit “—1961”.
- (2) Section 1 (2)—
Omit the subsection.
- (3) (a) Section 3 (1), definition of “Award”—
Omit the definition, insert instead:—
“Award” means an award within the meaning of the Industrial Arbitration Act, 1940.
- (b) Section 3 (1), definition of “Industrial agreement”—
Omit the definition, insert instead:—
“Industrial agreement” means an industrial agreement within the meaning of the Industrial Arbitration Act, 1940.
- (c) Section 3 (1), definition of “Industrial Arbitration Act”—
Omit the definition.
- (d) Section 3 (1), definition of “Inspector”—
After “Arbitration Act”, insert “, 1940”.
- (e) Section 3 (1), definition of “Prescribed”—
Omit the definition.
- (f) Section 3 (3)—
After “Arbitration Act”, insert “, 1940”.

Long Service Leave (Metalliferous Mining Industry) Amendment.

SCHEDULE 2—*continued.*AMENDMENTS TO THE LONG SERVICE LEAVE (METALLIFEROUS MINING INDUSTRY) ACT,
1963, BY WAY OF STATUTE LAW REVISION—*continued.*

(4) (a) Section 4 (2) (b) (i)—

After "Industrial Arbitration Act", insert ", 1940".

(b) Section 4 (3A)—

Omit "paragraph (b) of subparagraph (i) of paragraph (a) of subsection (2)", insert instead "subsection (2) (a) (i) (b)".

(c) Section 4 (11) (a) (i)—

Omit "—1963".

(d) Section 4 (11) (a) (i)—

Omit "Acts, 1940–1955", insert instead "Act, 1940".

(e) Section 4 (12) (a)—

Omit "Paragraph (d) of subsection (11)", insert instead "Subsection (11) (d)".

(f) Section 4 (13) (a), definition of "Award"—

Omit the definition, insert instead:—

"Award" includes—

(a) an industrial agreement; and

(b) an award or industrial agreement made under the Conciliation and Arbitration Act 1904 of the Commonwealth.

(g) Section 4 (13) (a), definition of "Holding company" and "subsidiary"—

Omit "Companies Act, 1961, or any Act amending or replacing that Act", insert instead "Companies (New South Wales) Code".

(5) (a) Section 5 (1) (b)—

After "Arbitration Act", insert ", 1940".

Long Service Leave (Metalliferous Mining Industry) Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS TO THE LONG SERVICE LEAVE (METALLIFEROUS MINING INDUSTRY) ACT,
1963, BY WAY OF STATUTE LAW REVISION—*continued.*

(b) Section 5 (2) (b)—

Omit “subsection (4) of section 88c of the Industrial Arbitration Acts, 1940–1955, or pursuant to the provisions of subsection (2) of section 5 of the Long Service Leave Act, 1955–1963”, insert instead “section 88c (4) of the Industrial Arbitration Act, 1940, or section 5 (2) of the Long Service Leave Act, 1955”.

(c) Section 5 (2) (c) (ii)—

Omit “Acts, 1940–1955”, insert instead “Act, 1940”.

(d) Section 5 (2) (c) (ii)—

Omit “—1963”.

(e) Section 5 (2) (c) (ii)—

Omit “, as amended by subsequent Acts”.

(6) Sections 6, 12 (2), 14—

After “Arbitration Act” wherever occurring, insert “, 1940”.

(7) Section 6—

Omit “the said section”, insert instead “section 4”.

(8) Sections 11 (1), 12 (1)—

After “Arbitration Act” wherever occurring, insert “, 1940”.

(9) Section 13 (2)—

Omit “the said subsection”, insert instead “subsection (1)”.

Long Service Leave (Metalliferous Mining Industry) Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS TO THE LONG SERVICE LEAVE (METALLIFEROUS MINING INDUSTRY) ACT,
1963, BY WAY OF STATUTE LAW REVISION—*continued.*

(10) Section 15 (3)—

Omit the subsection, insert instead:—

(3) Section 41 of the Interpretation Act, 1897, applies in respect of a regulation made under this Act as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.

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

J. A. ROWLAND,
Governor.

*Government House,
Sydney, 9th November, 1983.*

