



Stevedoring Industry Legislation Amendment Act 1990

No. 9 of 1991

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**MINOR AMENDMENTS OF THE STEVEDORING INDUSTRY FINANCE
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**MINOR AMENDMENTS OF THE STEVEDORING INDUSTRY LEVY COLLECTION
ACT 1977**



Stevedoring Industry Legislation Amendment Act 1990

No. 9 of 1991

An Act to amend the law relating to the stevedoring industry

*[Assented to 21 January 1991]
[Date of commencement 17 February 1991]*

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Stevedoring Industry Legislation Amendment Act 1990*.

PART 2—AMENDMENTS OF THE STEVEDORING INDUSTRY FINANCE COMMITTEE ACT 1977

Principal Act

2. In this Part, “Principal Act” means the *Stevedoring Industry Finance Committee Act 1977*.

Interpretation

3. Section 3 of the Principal Act is amended:

(a) by inserting the following definitions:

“‘ACTU’ means the Australian Council of Trade Unions;

‘Authority’ means the Waterfront Industry Reform Authority referred to in clause 4 of the Reform Agreement;

‘levy’ means levy imposed by the *Stevedoring Industry Levy Act 1977*;

‘Reform Agreement’ means the Waterfront Industry Reform ‘In-principle’ Agreement that was entered into by the Commonwealth on 31 October 1989 with:

(a) the ACTU; and

(b) 8 organisations registered under the *Industrial Relations Act 1988* with members employed in the stevedoring industry; and

(c) 1 employer in the stevedoring industry; and

(d) 7 Waterside Workers’ Federation of Australia Joint Venture Stevedoring companies; and

(e) the Association.

(b) by omitting the definitions of “approved bank” and “Fund” and substituting the following definitions:

“‘approved bank’ means a bank as defined by subsection 5 (1) of the *Banking Act 1959*, or:

(a) another bank; or

(b) any other financial institution;

approved by the Treasurer;

‘Fund’ means the Stevedoring Employees’ Retirement Fund referred to in the recitals to the trust deed made on 6 October 1967 between the Association and 5 trustees.”.

Constitution of Committee

4. Section 5 of the Principal Act is amended by inserting after paragraph (1) (a) the following paragraphs:

“(aa) an officer of the Department;

(ab) a person appointed on the nomination of the Authority;”.

Functions of Committee

5. Section 6 of the Principal Act is amended:

(a) by omitting from paragraph (b) “imposed by the *Stevedoring Industry Levy Act 1977*”;

(b) by inserting after paragraph (c) the following paragraph:

“(ca) to make recommendations to the Minister as to when a levy should cease to apply to an employer in relation to the employment of waterside workers at a port;”.

Heading to Part III

6. The heading to Part III of the Principal Act is omitted and the following heading is substituted:

“PART III—PAYMENTS BY COMMITTEE”.

Payments to employers in respect of satisfaction of award obligations

7. (1) Section 8 of the Principal Act is amended:

(a) by omitting subsection (1) and substituting the following subsections:

“(1) Subject to subsection (1B), where the Committee is satisfied that the Association has, on or after the commencement of this subsection, incurred expenditure in discharging a relevant award obligation, the Committee must pay to the Association an amount equal to the amount of the expenditure.

“(1A) Subject to subsection (1B), where the Committee is satisfied that an employer has, on or after the commencement of this subsection, incurred expenditure in discharging a relevant award obligation, the Committee must:

- (a) pay to the Association in respect of that employer; or
- (b) pay to the employer;

an amount equal to the amount of that expenditure.

“(1B) The Committee must not pay an amount equal to expenditure incurred in discharging a relevant award obligation under subsection (1) or (1A) if:

- (a) the obligation is in relation to a Division B waterside worker at a port; and
- (b) the obligation came into existence on or after the finishing date in relation to that port.”;

(b) by omitting subsection 4 and substituting the following subsection:

“(4) In this section:

‘finishing date’ has the same meaning as in section 9A of the *Stevedoring Industry Levy Act 1977*;

‘relevant award obligation’, in relation to an employer or in relation to an Association, means an obligation imposed on the employer or the Association, as the case may be, by an award or order of the Australian Conciliation Arbitration Commission or of the Australian Industrial Relations Commission, being an obligation that has been approved by the Minister and is described by the award or order as being a relevant award obligation for the purposes of this Act.”.

(2) Section 8 of the Principal Act continues to apply to expenditure referred to in that section incurred before the commencement of this Act as if the amendment made by subsection (1) had not been made.

Repeal of section 8A

8. Section 8A of the Principal Act is repealed.
9. Section 12 of the Principal Act is repealed and the following section is substituted:

Other payments

“12. (1) Subject to any direction of the Minister, the Committee may, in addition to any payments under sections 8, 9, 10 and 11:

- (a) make payments to the Association or to employers in respect of the provision of prescribed benefits to waterside workers; and
- (b) make payments to the Association or to eligible persons in respect of the provision of prescribed benefits to eligible employees.

“(2) In this section:

‘eligible employee’ means:

- (a) an employee who is eligible for the ‘one-off’ special retirement and redundancy package under clause 6 of the Reform Agreement; and
- (b) a prescribed employee;

‘eligible person’ means a person who employs an eligible employee.”.

Application of moneys of Committee

10. Section 18 of the Principal Act is amended by inserting after paragraph (a) the following paragraph:

“(aa) in payment to the Commonwealth of amounts equal to the expenses incurred by the Commonwealth in relation to:

- (i) the collection or recovery of levy; and
- (ii) the payment, of amounts equal to the amounts of levy collected or recovered, to the Committee; and”.

Contracts

11. Section 19 of the Principal Act is amended by omitting “\$20,000” and substituting “\$100,000”.

Audit

12. Section 22 of the Principal Act is amended by omitting from subsection (7) “\$200” and substituting “\$1,000”.

Deputies

13. Section 23 of the Principal Act is amended:

- (a) by inserting in subsection (1) "(aa), (ab)," after "(a),";
- (b) by inserting in subsection (4) "(ab)," after "5 (1)".

Meetings of the Committee

14. Section 26 of the Principal Act is amended by omitting from subsection (4) "5" and substituting "7".

Minor amendments

15. The Principal Act is further amended as set out in Schedule 1.

PART 3—AMENDMENTS OF THE STEVEDORING INDUSTRY LEVY COLLECTION ACT 1977

Principal Act

16. In this Part, "Principal Act" means the *Stevedoring Industry Levy Collection Act 1977*.

Interpretation

17. Section 3 of the Principal Act is amended:

- (a) by inserting "or" at the end of paragraph (a) of the definition of "Division B waterside worker" in subsection (1);
- (b) by omitting paragraph (b) from the definition of "Division B waterside worker" in subsection (1);
- (c) by omitting from subsection (1) the definition of "local cargo" and substituting the following definition:

"local cargo" means cargo that is consigned from a port in Australia to:

 - (a) another port in Australia; or
 - (b) an off-shore industry fixed structure; or
 - (c) an off-shore industry mobile unit;

other than cargo consigned on a through bill of lading to or from a port outside Australia;";
- (d) by inserting in subsection (1) the following definitions:

"off-shore industry fixed structure" has the meaning given to it in clause 2 of the Schedule;

"off-shore industry mobile structure" has the meaning given to it in clause 3 of the Schedule;";
- (e) by omitting from subsection (1) the definition of "participating party";
- (f) by omitting "by a participating party" (wherever occurring) from the definition of "waterside worker" in subsection (1);

- (g) by inserting "and" at the end of paragraph (a) of the definition of "waterside worker" in subsection (1);
- (h) by omitting "employed" (first occurring) from paragraph (b) of the definition of "waterside worker" in subsection (1);
- (j) by omitting "and" from subparagraph (b) (vi) of the definition of "waterside worker" in subsection (1);
- (k) by omitting paragraph (c) from the definition of "waterside worker" in subsection (1);
- (m) by omitting subsection (3).

Penalty for non-payment

18. Section 7 of the Principal Act is amended by omitting from subsection (1) "10 per centum" and substituting "20%".

Offences relating to returns etc.

19. Section 9 of the Principal Act is amended by omitting from subsection (1) "\$300" and substituting "\$1,500".

Access to premises, books etc.

20. Section 10 of the Principal Act is amended by omitting from subsection (5) "\$200" and substituting "\$1,000".

Regulations

21. Section 11 of the Principal Act is amended by omitting from paragraph (f) "\$200" and substituting "\$1,000".

New Schedule

22. The Principal Act is amended by adding at the end the Schedule set out in Schedule 2 to this Act.

Minor amendments

23. The Principal Act is further amended as set out in Schedule 3.

SCHEDULE 1

Section 15

MINOR AMENDMENTS OF THE STEVEDORING INDUSTRY FINANCE COMMITTEE ACT 1977

Section 3 (definition of “Chairman”):

Omit the definition, substitute the following definition:
“Chairperson” means the Chairperson of the Committee;”.

Section 3 (definition of “member of the Committee”):

Omit “Chairman”, substitute “Chairperson”.

Paragraph 5 (1) (a):

Omit “Chairman”, substitute “Chairperson”.

Subsection 5 (4):

Insert “or her” after “his”.

Subsection 22 (1):

Insert “or her” after “his”.

Subsection 22 (2):

Insert “or her” after “his”.

Subsection 22 (4):

Omit “him”, substitute “the Auditor-General”.

Subsection 22 (5):

Omit “him”, substitute “the Auditor-General”.

Subsection 22 (6):

- (a) Omit “him” (first occurring), substitute “the Auditor-General”.
- (b) Insert “or her” after “furnish him”.

Subsection 24 (1):

Omit “Chairman” (wherever occurring), substitute “Chairperson”.

Paragraph 24 (1) (b):

Insert “or her” after “his”.

Subsection 24 (3):

Insert “or her” after “his” (wherever occurring).

Subsection 24 (4):

Omit “Chairman” (wherever occurring), substitute “Chairperson”.

SCHEDULE 1—continued

Subsection 25 (1):

Omit “he”, substitute “the member”.

Subsection 26 (2):

Omit “Chairman” (wherever occurring), substitute “Chairperson”.

Subsection 26 (3):

Omit “Chairman” (wherever occurring), substitute “Chairperson”.

Subsection 26 (5):

Omit “Chairman”, substitute “Chairperson”.

Subsection 26 (6):

Omit “Chairman” (wherever occurring), substitute “Chairperson”.

Subsection 26 (7):

Omit “Chairman” (wherever occurring), substitute “Chairperson”.

Subsection 29 (5):

Omit “Chairman”, substitute “Chairperson”.

SCHEDULE 2

Section 22

New Schedule

SCHEDULE

Section 39

INTERPRETATION FOR ADDITIONAL OPERATION OF ACT

1. In this Schedule, unless the contrary intention appears:

“Australian Coastal sea” means:

- (a) the territorial sea of Australia; and
- (b) the sea on the landward side of the territorial sea of Australia and not within the limits of a State or Territory;

“natural resources” means the mineral and other non-living resources of the seabed and its subsoil.

2. A reference in this Act to an off-shore industry fixed structure is to be read as a reference to a structure (including a pipeline) that:

- (a) is fixed to the seabed and is not able to be moved as an entity from one place to another; and
- (b) is used or intended for use in, or in any operations or activities associated with or incidental to, exploring or exploiting the natural resources of any or all of the following, being:
 - (i) the continental shelf of Australia; and
 - (ii) the seabed of the Australian coastal sea; and
 - (iii) the subsoil of that seabed.

3. A reference in this Act to an off-shore industry mobile unit is to be read as a reference to:

- (a) a vessel that is used or intended for use wholly or primarily in, or in any operations or activities associated with, or incidental to, exploring or exploiting the natural resources of any or all of the following, being:
 - (i) the continental shelf of Australia;
 - (ii) the seabed of the Australian coastal sea;
 - (iii) the subsoil of that seabed;by drilling the seabed or its subsoil, or by obtaining substantial quantities of material from the seabed or its subsoil, with equipment that is on or forms part of the vessel; or
- (b) a structure (not being a vessel) that:
 - (i) is able to float or be floated; and
 - (ii) is able to move or be moved as an entity from one place to another; and
 - (iii) is used or intended for use wholly or primarily in, or in any operations or activities associated with or incidental

SCHEDULE 2—continued

to, exploring or exploiting the natural resources of any or all of the following, being:

- (A) the continental shelf of Australia;
- (B) the seabed of the Australian coastal sea;
- (C) the subsoil of that seabed;

by drilling the seabed or its subsoil, or by obtaining substantial quantities of material from the seabed or its subsoil, with equipment that is on or forms part of the structure; or

- (c) a barge or like vessel fitted with living quarters for more than 12 persons and used or intended for use wholly or primarily in connection with the construction, maintenance or repair of off-shore industry fixed structures.

4. The reference in paragraph 3 (a) or subparagraph 3 (b) (iii) to a vessel or other structure that is, or is to be, used in any operations or activities associated with or incidental to, exploring or exploiting particular natural resources includes a reference to such a vessel or other structure that is also used, or is also to be used, in operations or activities associated with or incidental to, exploring or exploiting other natural resources.

5. The reference in paragraph 3 (c) to a barge or like vessel that is, or is to be, used in connection with the construction, maintenance or repair of off-shore industry fixed structures includes a reference to such a vessel that is also used, or is also to be used, in connection with the construction, maintenance or repair of other structures.

SCHEDULE 3

Section 23

**MINOR AMENDMENTS OF THE STEVEDORING INDUSTRY
LEVY COLLECTION ACT 1977**

Subsections 4 (1) and (3):

Omit “man-hours”, substitute “worker-hours”.

Subsection 4 (2):

Insert “or she” after “he” (wherever occurring).

Subsection 6 (1):

Insert “or her” after “him” (wherever occurring).

Subsection 6 (2):

(a) Omit “man-hours” (wherever occurring), substitute “worker-hours”;

(b) Insert “or her” after “him” (wherever occurring).

Subsection 7 (2):

Insert “or her” after “his”.

Paragraph 9 (1) (a):

Insert “or she” after “he”.

Subsection 10 (4):

Insert “or she” after “he”.

NOTES

1. No. 123, 1977, as amended. For previous amendments, see No. 36, 1978; No. 140, 1984; Nos. 87 and 127, 1988; and No. 129, 1989.
2. No. 122, 1977, as amended. For previous amendments, see No. 80, 1982.

*[Minister's second reading speech made in—
House of Representatives on 12 September 1990
Senate on 15 October 1990]*