

## FREMANTLE HARBOUR TRUST.

13° Elizabeth II., No. XXXV.

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No. 35 of 1964.

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### AN ACT to amend the Fremantle Harbour Trust Act, 1902-1960.

[Assented to 12th November, 1964.]

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

Short title  
and citation.

1. (1) This Act may be cited as the *Fremantle Harbour Trust Act Amendment Act, 1964.*

Reprinted in  
Vol. 16 of  
the Re-  
printed Acts.  
Approved  
for reprint,  
19th June,  
1962.

(2) In this Act the Fremantle Harbour Trust Act, 1902-1960, is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Fremantle Port Authority Act, 1902-1964.

2. This Act shall come into operation on a date to be fixed by proclamation. Commencement.

3. The long title of the principal Act is amended— Long title amended.

(a) by substituting for the words, “Fremantle Harbour Trust Commission” in lines one and two, the words, “Fremantle Port Authority”; and

(b) by substituting for the words, “their powers and authorities” in lines three and four, the words, “the powers and authorities of the Fremantle Port Authority”.

4. The principal Act is amended by adding after section one, the following section— S. 1A added.

1A. (1) On and after the commencement of this section the body corporate constituted under this Act by the name “Fremantle Harbour Trust Commissioners” is preserved and continues in existence as a body corporate under and subject to the provisions of this Act by the name “Fremantle Port Authority”, but so that the corporate identity of the body corporate and its rights, powers, functions, duties and liabilities shall not be affected. Change of name of body corporate.

(2) A reference to the Fremantle Harbour Trust Commissioners, whether by use of that name or a similar or abbreviated form of that name,—

(a) in a law of the State passed or made before the commencement of this section;

(b) in any document or other instrument made, executed, entered into or done before the commencement of this section; and

- (c) made before the commencement of this section in any other manner,

shall, unless the context is such that it would be incorrect or inappropriate, be read and construed as a reference to the Fremantle Port Authority.

(3) For the purposes of this section the term "law of the State" means—

- (a) an Act;
- (b) regulations, rules or by-laws having effect by virtue of an Act; and
- (c) an instrument having effect by virtue of an Act or of any regulations, rules or by-laws referred to in paragraph (b) of this subsection. .

S. 2  
amended.

5. Section two of the principal Act is amended—

- (a) by substituting for the interpretation, "Commissioners", the following interpretation—

"Commissioner" means a commissioner of the Port Authority constituted under this Act. ;

- (b) by adding after the interpretation, "Owner", the following interpretation—

"Port Authority" means the Fremantle Port Authority constituted under this Act. ; and

- (c) by substituting for the word, "harbour" occurring twice in line one of the interpretation, "The harbour", the word, "port" in each case.

Heading  
preceding  
S. 3 amended.

6. The principal Act is amended by substituting for the word, "Commission" in the heading immediately preceding section three, the words, "Port Authority".

7. Section three of the principal Act is repealed and the following section substituted—

S. 3 repealed and section substituted.

3. (1) For the purposes of this Act and for carrying this Act into execution there shall be a Port Authority to be known as the "Fremantle Port Authority" consisting of five commissioners appointed as provided by this Act.

Fremantle Port Authority constituted.

(2) The Port Authority is a body corporate with perpetual succession and a common seal and in its corporate name is capable of suing and being sued, and subject to this Act has power to acquire, hold and dispose of real and personal property, and may do and suffer all such acts and things as bodies corporate may do and suffer.

8. The principal Act is amended by substituting the words, "Port Authority" for the word, "commissioners" in—

Ss. 5 and 9 amended.

(a) line two of section five; and

(b) line two of paragraph (c) and line three of paragraph (d) of subsection (1) of section nine.

9. Section ten of the principal Act is repealed and the following section substituted—

S. 10 repealed and section substituted.

10. The chairman and the other commissioners of the Port Authority shall be paid such remuneration respectively as the Governor shall from time to time determine. .

Remuneration of commissioners.

10. Section eleven of the principal Act is repealed.

S. 11 repealed.

11. The principal Act is amended by substituting the words, "Port Authority" for the word, "commissioners" in—

Ss. 13, 14 and 16 amended.

(a) the last line of section thirteen;

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(b) line two of section fourteen; and

(c) line one of section sixteen.

S. 17  
amended.

12. Section seventeen of the principal Act is amended—

(a) by substituting for the word, “commissioners” in line one, the words, “Port Authority”; and

(b) by substituting for the word, “their” in line one of paragraph (1) and line one of paragraph (2), the word, “its” in each case.

S. 18  
amended.

13. Section eighteen of the principal Act is amended by substituting for the word, “commissioners” in lines two and three, the words, “Port Authority”.

S. 19  
amended.

14. Section nineteen of the principal Act is amended—

(a) by repealing subsection (1) and substituting the following subsection—

(1) The Port Authority may—

(a) with the approval of the Governor, appoint a general manager, an assistant general manager, a wharf manager, a harbour master, and a secretary, and with such approval dismiss any of those officers; and

(b) from time to time appoint such other officers and such servants as may be necessary for the administration of this Act, and at any time dismiss any of those officers and servants. ;

- (b) by substituting for the word, "commissioners" in line two of subsection (2), in line three of subsection (3), and in lines one and ten of subsection (4), the words, "Port Authority" in each case; and
- (c) by substituting for the word, "their" in line ten of subsection (4), the word, "its".

15. Section twenty of the principal Act is amended by substituting for the word, "commissioners" in line three, the words, "Port Authority". S. 20  
amended.

16. Section twenty-two of the principal Act is amended— S. 22  
amended.

- (a) by substituting for the word, "commissioners" in line one, the words, "Port Authority";
- (b) by substituting for paragraph (1), the following paragraph—
  - (1) all lands of the Crown within the boundaries of the port, as described in the First Schedule to this Act, including the bed and shores of the port; ;
- (c) by substituting for paragraph (2), the following paragraph—
  - (2) all harbour lights and beacons within the boundaries of the port, except the lighthouses on Rottnest Island; ;
- (d) by substituting for the word, "wharfs" in line one of paragraph (3), the passage, "wharves, wharf loading areas" ;
- (e) by substituting for the word, "harbour" in the last line of paragraph (3), and in paragraph (a) of the proviso, the word, "port" in each case; and

- (f) by substituting for the word, "commissioners" in lines one and two and in line four of paragraph (4), and in line two of paragraph (b) of the proviso, the words, "Port Authority" in each case.

S. 23  
amended.

17. Section twenty-three of the principal Act is amended—

- (a) by substituting for the word, "commissioners" in line one and in line eight, the words, "Port Authority" in each case; and
- (b) by substituting for the passage, ", their officers and servants" in the last line, the words, "and officers and servants of the Port Authority".

Heading  
preceding  
S. 24  
amended.

18. The principal Act is amended by substituting for the word, "Commissioners" in the heading immediately preceding section twenty-four, the words, "the Port Authority".

S. 24  
amended.

19. Section twenty-four of the principal Act is amended—

- (a) by substituting for the word, "commissioners" in line one, the words, "Port Authority";
- (b) by substituting for the word, "harbour" in line two, the word, "port"; and
- (c) by substituting for the word, "them" in the last line, the word, "it".

S. 25  
repealed  
and  
re-enacted.

20. Section twenty-five of the principal Act is repealed and the following section substituted—

Construction  
of port  
works.

25. (1) The construction, completion and extension within the port of port works may, with the approval of the Minister, be undertaken

by the Port Authority, which shall be deemed a local authority within the meaning of the Public Works Act, 1902.

(2) In this section the term "port works" includes any pier, quay, wharf, jetty, bridge, viaduct, embankment or dam, or any reclamation of land from the sea or river, or excavation, deepening, dredging or widening of any channel, basin or other part of the port. .

21. Section twenty-six of the principal Act is amended— S. 26  
amended.

- (a) by substituting for the word, "commissioners" in line one, the words, "Port Authority";
- (b) by substituting for the word, "them" in the last line of paragraph (a), the word, "it";
- (c) by substituting for the word, "they" in line eight of paragraph (d), the words, "Port Authority";
- (d) by substituting for the passage, "conveniences." in the last line of paragraph (d), the passage, "conveniences; and"; and
- (e) by adding after paragraph (d), the following paragraphs—
  - (e) may erect or place any harbour light, signal, buoy or beacon within the boundaries of the port, or alter the position of any harbour light, signal, buoy or beacon; and
  - (f) may remove, discontinue or replace any harbour light, signal, buoy or beacon, or vary the character of, or the mode of exhibiting, any harbour light, signal, buoy or beacon as may from time to time be required.



S. 27  
amended.

22. Section twenty-seven of the principal Act is amended—

- (a) by substituting for the word, “commissioners” in line two, the words, “Port Authority”; and
- (b) by substituting for the word, “them” in line three, the word, “it”.

S. 28  
amended.

23. Section twenty-eight of the principal Act is amended—

- (a) by substituting for the passage, “commissioners may, by their corporate name,” in lines one and two, the words, “Port Authority may”; and
- (b) by substituting for the word, “they” in line three, and the word, “them” in line eight, and the word, “they” in the second last line, the word, “it” in each case.

S. 29  
amended.

24. Section twenty-nine of the principal Act is amended—

- (a) by substituting for the word, “harbour” in lines four, nine and twelve of subsection (1), the word, “port” in each case;
- (b) by substituting for the words, “commissioners in their” in line five of subsection (1), the words, “Port Authority in its”; and
- (c) by substituting for the word, “commissioners” in line ten of subsection (1) and in line six of subsection (2), the words, “Port Authority” in each case.

Ss. 30 and  
31 amended.

25. The principal Act is amended by substituting the words “Port Authority” for the word, “commissioners” in—

- (a) lines one and four of section thirty; and
- (b) lines one, three and six of section thirty-one.

26. Section thirty-one A of the principal Act is amended— S. 31A  
amended.

- (a) by substituting for the word, “commissioners” in line two of subsection (3), the words, “Port Authority”;
- (b) by substituting for the word, “harbour” in lines six and ten of subsection (3), the word, “port” in each case,
- (c) by substituting for the word, “commissioners” in line three of subsection (4), the words, “Port Authority”;
- (d) by substituting for the words, “commissioners estimate” in line six of subsection (4), the words, “Port Authority estimates”;
- (e) by substituting for the passage, “section thirty-one A of this Act” in lines eight and nine of subsection (4), the passage, “subsection (1) of this section”; and
- (f) by substituting for the passage, “1912-1952” in line four of paragraph (a) of subsection (4), the figures, “1912”.

27. Section thirty-two of the principal Act is amended by substituting for the word, “harbour” in the last line of subsection (1), the word, “port”. S. 32  
amended.

28. Sections thirty-three and thirty-four of the principal Act are repealed. Ss. 33 and 34  
repealed.

29. Section thirty-five of the principal Act is amended— S. 35  
amended.

- (a) by substituting for the word, “harbour” in line two, the word, “port”;
- (b) by substituting the words, “Port Authority” for the word, “commissioners” in—
  - (i) lines one, six, eight and ten of paragraph (1);
  - (ii) lines five and nine of paragraph (2);

- (iii) line one of paragraph (3); and
- (iv) line three of paragraph (4); and
- (c) by substituting for the word, "themselves" in line nine, and in lines ten and eleven, of paragraph (3), the word, "itself" in each case.

Ss. 36 and 37  
amended.

30. The principal Act is amended by substituting the words, "Port Authority" for the word, "commissioners" in—

- (a) lines four and twelve and thirteen of section thirty-six; and
- (b) line four of section thirty-seven.

S. 38  
amended.

31. Section thirty-eight of the principal Act is amended—

- (a) by substituting for the word, "commissioners" in lines two and seven, the words, "Port Authority" in each case; and
- (b) by substituting for the word, "harbour" in line three, the word, "port".

S. 39 and  
preceding  
heading  
amended

32. The principal Act is amended by substituting the words, "Port Authority" for—

- (a) the word, "Commissioners" in the heading immediately preceding section thirty-nine; and
- (b) the word, "commissioners" in line one of section thirty-nine.

S. 41 and  
preceding  
heading  
amended.

33. The principal Act is amended by substituting the word, "Port" for the word, "Harbour" in—

- (a) the heading immediately preceding section forty-one; and
- (b) line one of section forty-one.

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34. Section forty-two of the principal Act is repealed. S. 42 repealed.

35. Section forty-three of the principal Act is amended— S. 43 amended.

- (a) by substituting for the word, “commissioners” in line one of subsection (1), the words, “Port Authority”;
- (b) by substituting for the word, “harbour” in lines two and seven of subsection (1), the word, “port” in each case;
- (c) by substituting for the word, “commissioners” in lines one and five of subsection (2) the words, “Port Authority” in each case; and
- (d) by substituting for the words, “the commissioners” in line six of subsection (2), the word, “it”.

36. Section forty-five of the principal Act is amended— S. 45 amended.

- (a) by substituting for the word, “commissioners” in lines four, seven and ten, the words, “Port Authority” in each case; and
- (b) by substituting for the word, “their” in line seven, the word, “its”.

37. Section forty-six of the principal Act is repealed. S. 46 repealed.

38. The principal Act is amended by substituting the words, “Port Authority” for the word, “commissioners” in— Ss. 47 and 51 amended.

- (a) line four of paragraph (2) and lines four and five of paragraph (3), of section forty-seven; and
- (b) lines one and two of section fifty-one.

S. 54  
amended.

39. Section fifty-four of the principal Act is amended—

- (a) by substituting for the word, “ten” in lines four and six, the words, “one hundred” in each case; and
- (b) by adding after the word, “amount” being the last word in the section, the passage, “, and such penalty shall be in addition to the dues payable by him”.

S. 55  
amended.

40. Section fifty-five of the principal Act is amended—

- (a) by substituting for the word, “commissioners” in lines one and two, line seven and line sixteen the words, “Port Authority” in each case;
- (b) by substituting for the word, “them” in line nine, the word, “it”; and
- (c) by substituting for the word, “harbour” occurring twice in line twelve, the word, “port” in each case.

Ss. 56 and 57  
amended.

41. The principal Act is amended by substituting the words, “Port Authority” for the word, “commissioners” in—

- (a) lines three and five of section fifty-six; and
- (b) line seven of section fifty-seven.

S. 58  
amended.

42. Section fifty-eight of the principal Act is amended—

- (a) by substituting for the word, “commissioners” in lines three and four, line nine and line twelve of subsection (1), the words, “Port Authority” in each case;
- (b) by substituting for the passage, “to be called “The Fremantle Harbour Trust Account”” in lines three and four of subsection (2), the passage, “, or at a bank

carrying on business within the State approved by the Treasurer, to be called "The Fremantle Port Authority Account" ";

- (c) by substituting for the word, "commissioners" in the last line of paragraph (a), in lines three and four of paragraph (c) and in line two of paragraph (d) of subsection (3), the words, "Port Authority" in each case; and
- (d) by substituting for the word, "their" in lines two and three of paragraph (d) of subsection (3), the word, "its" in each case.

43. Section fifty-eight A of the principal Act is amended—

S. 58A  
amended.

- (a) by substituting for the word, "commissioners" in lines two and four of subsection (1), the words, "Port Authority" in each case;
- (b) by substituting for the words, "Harbour Trust" in line six of subsection (1), the words, "Port Authority"; and
- (c) by substituting for the word, "commissioners" in lines three and five of subsection (2), the words, "Port Authority" in each case.

44. Section fifty-eight B of the principal Act is repealed and the following section substituted—

S. 58B  
repealed and  
section  
substituted.  
Power of  
Port  
Authority  
to borrow.

58B. (1) When at any time the funds of the Port Authority are not sufficient to defray expenditure incurred by it under this Act, the Port Authority may borrow from the Treasurer, or from a bank carrying on business within the State approved by the Treasurer, moneys for the purpose of enabling the Port Authority to defray such expenditure, and where advances are made by the Treasurer under this subsection, such advances may be so made out of moneys appropriated by Parliament for the purposes of this Act.

(2) In respect of moneys borrowed from the Treasurer pursuant to this section, the Port Authority shall pay to the Treasurer interest at such rate and at such times as the Treasurer shall determine.

(3) Any moneys borrowed by the Port Authority under this section and the interest payable in respect thereof shall be a charge upon the moneys from time to time standing to the credit of the Port Authority at the Treasury or in any account of the Port Authority at any bank, and upon any works, undertakings and other assets vested in the Port Authority, and the due repayment of the principal moneys so borrowed and the payment of all interest payable in respect thereof is hereby guaranteed by the Government of the State. .

S. 58C  
amended.

45. Section fifty-eight C of the principal Act is amended—

- (a) by substituting for the word, ‘commissioners’ in line two of subsection (1), the passage, “Port Authority, in addition to the powers conferred on it by section fifty-eight B of this Act,”;
- (b) by substituting for the word, “commissioners” wherever occurring in paragraphs (a), (b) and (c) of subsection (1), and in subsections (2) and (3), the words, “Port Authority”;
- (c) by substituting for the word, “them” in line five of paragraph (a) of subsection (1), the word, “it”; and
- (d) by substituting for the words, “Harbour Trust” in line three of subparagraph (ii) of paragraph (b) of subsection (3), the words, “Port Authority”.

Ss. 58D, 58E,  
58F and 58G  
amended.

46. The principal Act is amended by substituting the words, “Port Authority” for the word, “commissioners” in—

- (a) lines three and four of section fifty-eight D;

- (b) lines four and six of subsection (1), lines two and four of subsection (2), line four of subsection (3) and line six of subsection (4), of section fifty-eight E;
- (c) line four of subsection (1) of section fifty-eight F; and
- (d) line two of subsection (1) of section fifty-eight G.

47. Section fifty-eight H of the principal Act is <sup>S. 58H</sup> amended—

- (a) by substituting for the words, “The Fremantle Harbour Trust Account” in line two of subsection (1), the words, “the accounts of the Port Authority”;
- (b) by substituting for the word “commissioners” in line seven of subsection (1), the words, “Port Authority”;
- (c) by substituting for the word, “them” in lines eight and nine of subsection (1), the word, “it” in each case;
- (d) by substituting for the word, “commissioners” in lines three and four of subsection (3), the words, “Port Authority”; and
- (e) by substituting for the word, “them” in lines four and five of subsection (3), the word, “it” in each case.

48. Section fifty-eight I of the principal Act is <sup>S. 58I</sup> amended—

- (a) by substituting for the word, “commissioners” in line four of subsection (1), the words, “Port Authority”; and
- (b) by substituting for the word, “their” occurring twice in line five of subsection (1), the word, “its” in each case.



S. 58J  
amended.

49. Section fifty-eight J of the principal Act is amended—

- (a) by substituting for the words, “The Fremantle Harbour Trust Account” in lines one and two, the passage, “the Port Authority, whether at the Treasury or in any account of the Port Authority at any bank,” ;
- (b) by substituting for the word, “commissioners” in line three, the words, “Port Authority”; and
- (c) by substituting for the word, “their” occurring twice in line four, the word, “its” in each case.

S. 58K  
amended.

50. Section fifty-eight K of the principal Act is amended by substituting for the word, “commissioners” in lines three and seven, the words, “Port Authority” in each case.

S. 58L  
amended.

51. Section fifty-eight L of the principal Act is amended—

- (a) by substituting for the word, “commissioners” in line one, and in lines three and four, the words, “Port Authority” in each case; and
- (b) by substituting for the word, “their” occurring twice in line four, the word, “its” in each case.

S. 60  
amended.

52. Section sixty of the principal Act is amended—

- (a) by substituting for the word, “commissioners” in line one, the words, “Port Authority”;
- (b) by substituting for the word, “them” in lines one and two of paragraph (a), the word, “it” in each case; and
- (c) by substituting for the word, “commissioners” in paragraph (b), the words, “Port Authority”.

53. Section sixty A of the principal Act is amended— S. 60A amended.

- (a) by substituting for the word, “commissioners” in line one, the words, “Port Authority”;
- (b) by substituting for the word, “their” in lines one and two, the word, “its” in each case; and
- (c) by substituting for the words, “they think” in lines three and six, the words, “it thinks” in each case.

54. Section sixty-two of the principal Act is amended— S. 62 amended.

- (a) by substituting for the word, “commissioners” in line one, the words, “Port Authority”; and
- (b) by substituting for the word, “their” in line one, the word, “its”.

55. The principal Act is amended by substituting the words, “Port Authority” for the word, “commissioners” in— Ss. 63 and 64 amended.

- (a) line one of subsection (1) of section sixty-three; and
- (b) line one of section sixty-four.

56. Section sixty-five of the principal Act is amended— S. 65 amended.

- (a) by substituting for the word, “commissioners” wherever occurring therein, the words, “Port Authority”;
- (b) by substituting for the word, “their” in line one of paragraph (1) and line two of paragraph (3), the word, “its” in each case;
- (c) by deleting paragraph (2a);

- (d) by substituting for the word, "harbour" wherever it occurs in paragraphs (3a), (4), (7), (10) and (11), the word, "port" in each case;
- (e) by substituting for the word, "wharfs" in line one of paragraph (12), the passage, "wharves, wharf loading areas";
- (f) by substituting for the word, "harbour" in the last line of paragraph (17), in line five of paragraph (20), in line four of paragraph (41), in line six of paragraph (51), in line two of paragraph (52), in lines three, four, ten and seventeen and eighteen of paragraph (52a), and in line three of paragraph (53), the word, "port" in each case; and
- (g) by substituting for the word, "their" in lines three and four of paragraph (44), line two of paragraph (51) and in lines five, six and eighteen of paragraph (52a), the word, "its" in each case.

S. 66  
amended.

57. Section sixty-six of the principal Act is amended by substituting for the word, "commissioners" in lines two and three of paragraph (2), the words, "Port Authority".

S. 68  
amended

58. Section sixty-eight of the principal Act is amended—

- (a) by substituting for the passage, "of Fremantle, East Fremantle, and North Fremantle" in lines two and three, the words, "having boundaries contiguous to the port";
- (b) by substituting for the word, "commissioners" in lines three and four, the words, "Port Authority"; and
- (c) by substituting for the word, "harbour" in lines eight and nine, and in line nine, the word, "port" in each case.

59. The principal Act is amended by substituting the word, "port" for the word, "harbour" in—

Ss. 72, 74, 78  
and 79  
amended.

- (a) lines one and two of section seventy-two;
- (b) line two of section seventy-four;
- (c) line four of section seventy-eight; and
- (d) line three of section seventy-nine.

60. The principal Act is amended by substituting the words, "Port Authority" for the word, "commissioners" in—

Ss. 81 and 82  
amended.

- (a) lines six and seven of paragraph (c) of section eighty-one; and
- (b) lines two and three of section eighty-two.

61. Section eighty-four of the principal Act is amended by substituting for the word, "harbour" in line three, the word, "port".

S 84  
amended.

62. The principal Act is amended by substituting the words, "Port Authority" for the word, "commissioners" in—

Ss. 85, 86 and  
87 amended.

- (a) line three of section eighty-five;
- (b) the last line of section eighty-six; and
- (c) line one of section eighty-eight.

63. The First Schedule to the principal Act is amended—

First  
Schedule  
amended.

- (a) by substituting for the word, "Harbour" in line one, the word, "Port";
- (b) by substituting for the words, "Harbour Trust" in line twenty-one, the words, "Port Authority";
- (c) by substituting for the word, "Harbour" in line one of the description of the Outer Harbour, the word, "Port"; and
- (d) by substituting for the word, "Harbour" in the second last line, the word, "Port".

Second  
Schedule  
amended.

64. The Second Schedule to the principal Act is amended—

- (a) by substituting for the word, “commissioners” wherever occurring therein, the words, “Port Authority”;
  - (b) by substituting for the word, “them” in line three of subclause (1) of clause 5 of Part I, the word, “its”;
  - (c) by substituting for the words, “Harbour Trust” in line two of Part III, the words, “Port Authority”; and
  - (d) by substituting for the word, “have” in line eight of subclause (1) of clause 8 of Part III, the word, “has”.
-