

FREMANTLE HARBOUR TRUST.

9° Elizabeth II., No. LXXV.

No. 75 of 1960.

AN ACT to amend the Fremantle Harbour Trust Act, 1902-1957.*[Assented to 12th December, 1960.]*

BE 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:—

1. (1) This Act may be cited as the *Fremantle Harbour Trust Act Amendment Act, 1960.*

Short title
and citation.

(2) In this Act the Fremantle Harbour Trust Act, 1902-1957, is referred to as the principal Act.

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Appendix to
1934 Vol. of
Sessional
Statutes.

(3) The principal Act as amended by this Act may be cited as the Fremantle Harbour Trust Act, 1902-1960.

S. 2
amended.

2. Section two of the principal Act is amended by inserting after the word, "the" in line three of the interpretation, "The harbour" the word, "First."

S. 27A added.

3. The principal Act is amended by adding after section twenty-seven the following section:—

Power to
acquire
land
compulsorily.

27A. Subject to this Act, wherever any land is required for the purposes of this Act such land may be entered upon, surveyed and taken under the powers contained in and in accordance with the procedure prescribed by the Public Works Act, 1902.

S. 58
repealed and
re-enacted.

4. Section fifty-eight of the principal Act is repealed and re-enacted with amendments as follows:—

Funds.

58. (1) Except to the extent that section fifty-eight A of this Act provides otherwise, the funds necessary for the effectual exercise by the commissioners of the powers conferred by this Act shall be—

- (a) such moneys as are from time to time appropriated by Parliament for that purpose;
- (b) the income derived by the commissioners from all dues, charges, rents and other levies under the authority of this Act; and
- (c) such moneys as the commissioners may borrow under and subject to the provisions of this Act.

(2) All moneys referred to in subsection (1) of this section shall be paid into, and be placed to the credit of an account at the Treasury to be called "The Fremantle Harbour Trust Account", and shall be applied to the purposes of this Act.

(3) The moneys from time to time in the said account shall be chargeable with—

- (a) all capital expenditure incurred in connection with the acquisition by purchase or compulsory taking of land or land and buildings, or other property, or in connection with the establishment and maintenance of any works or undertakings vested in or to be carried on by the commissioners under this Act;
- (b) the fees or remuneration and allowances payable to the commissioners;
- (c) the salaries and wages of officers and servants employed in or in connection with the activities carried on by the commissioners; and
- (d) all other expenditure lawfully incurred by the commissioners in the exercise of their powers or the discharge of their duties or obligations under this Act.

5. The principal Act is amended by adding after section fifty-eight the following sections—

Ss. 58A-58L added.

58A. (1) Service charges collected by the commissioners for attendance money and administration expenses under section thirty-one A of this Act shall be paid by the commissioners into the Treasury to the credit of an account to be called "Fremantle Harbour Trust Attendance Money Account", and shall be used for payment of attendance money payable under an award or agreement referred to in that section.

Collection of service charges.

(2) Where there is, or is likely to be a deficiency in the Account referred to in subsection (1) of this section, the commissioners may, in order to make good or to avoid the deficiency, borrow from the Treasurer, who may lend to the commissioners from the Public Account,

such sums, on such terms and conditions as to repayment, and as to payment of interest, as the Treasurer specifies, and is hereby authorised to specify.

Power of
commis-
sioners to
borrow
money from
Treasurer.

58B. (1) The commissioners in addition to the powers conferred on them by sections fifty-eight C and fifty-eight D of this Act may, with the approval of the Governor, borrow from the Treasurer, and in such case the Treasurer shall make advances to the commissioners out of moneys appropriated by Parliament to such purpose to enable the commissioners to defray expenditure incurred by them under this Act at any time when the moneys in The Fremantle Harbour Trust Account are not sufficient to meet that expenditure in full.

(2) The commissioners shall pay to the Treasurer in respect of moneys borrowed pursuant to subsection (1) of this section interest at such rate and at such times as the Governor shall determine.

(3) The moneys borrowed and the interest payable in respect thereof shall be a charge upon the moneys in The Fremantle Harbour Trust Account from time to time, and upon any works, undertakings and other assets vested in the commissioners.

Power of
commis-
sioners to
borrow
money on
issue of
debentures
or inscribed
stock.

58C. (1) Subject to subsection (2) of this section, the commissioners may at any time, and from time to time, with the approval of the Governor—

- (a) borrow and reborrow moneys by the issue and creation and sale of debentures and of inscribed stock for the purpose of raising the funds of the commissioners for the effectual exercise by them of the powers conferred by this Act;

- (b) create and issue debentures and inscribed stock in exchange for any debentures and inscribed stock respectively issued in respect of moneys previously borrowed by the commissioners, and not repaid;
- (c) create, issue and sell debentures and inscribed stock for the purpose of borrowing money for redeeming any loans owing by the commissioners, and for paying the expenses incurred in the issue and creation of the debentures and inscribed stock and otherwise carrying out the provisions of this Act;
- (d) effect any conversion authorised by this section either by arrangement with the holders of the existing debentures or registered owners of inscribed stock, or by the purchase of the debentures or inscribed stock out of moneys raised by the sale of debentures and inscribed stock, or partly in the one way and partly in the other.

(2) The Governor shall not approve of the borrowing by the commissioners of moneys under the provisions of this section, unless a proposal in writing showing—

- (a) the term and particulars of the proposed loan;
- (b) the rate of interest to be paid on the loan;
- (c) the purposes to which the money proposed to be borrowed is to be applied; and
- (d) the manner in which the loan is to be repaid,

is first submitted by the commissioners to, and approved by, the Minister.

(3) Any moneys borrowed by the commissioners under the provisions of this section—

- (a) may be raised as one loan or as several loans; and
- (b) may be raised—
 - (i) by the issue of debentures with or without interest coupons attached;
 - (ii) by the creation and issue of inscribed stock to be called “The Fremantle Harbour Trust Inscribed Stock”;
 - (iii) partly as provided by subparagraph (i), and partly as provided by subparagraph (ii) of this paragraph; or
 - (iv) in such other manner as the Governor may approve.

Power to borrow to repay loan.

58D. For the purpose of making provision to repay either the whole or any part of any loan raised by the commissioners under the provisions of this Act, the commissioners may with the consent of the Governor, and subject to subsection (2) of section fifty-eight C of this Act, borrow the moneys necessary for that purpose before the loan or part of it becomes payable.

Moneys borrowed charged on revenues of commissioners and guaranteed by the State.

58E. (1) Due payment of debentures and inscribed stock respectively issued or created under the provisions of section fifty-eight C of this Act and sold by the commissioners, with all interest thereon, shall be charged on and secured upon the revenues of the commissioners.

(2) For the purposes of subsection (1) of this section “revenues” of the commissioners means all dues, charges, rents and other levies authorised to be collected and received by the commissioners.

(3) The due repayment of the principal moneys and the payment of all interest secured by debentures or inscribed stock issued or created by the commissioners under the provisions of section fifty-eight C of this Act is hereby guaranteed by the Government of the State.

(4) Any sums required by the Treasurer for fulfilling any guarantee given by this Act shall be paid out of the Public Account which is hereby to the necessary extent appropriated accordingly, and any sums received or recovered by the Treasurer from the commissioners or otherwise in respect of a sum so paid by the Treasurer shall be paid into the Public Account.

58F. (1) The provisions of Part I of the Second Schedule to this Act shall apply with respect to debentures and inscribed stock issued by the commissioners under the provisions of section fifty-eight C of this Act.

Provisions of
Second
Schedule
to apply to
debentures
and
inscribed
stock.

(2) The provisions of Part II of that Schedule shall apply with respect to debentures issued under the provisions of section fifty-eight C of this Act.

(3) The provisions of Part III of that Schedule shall apply with respect to inscribed stock issued in Perth in the State under the provisions of section fifty-eight C of this Act.

58G. (1) Debentures and inscribed stock created and issued by the commissioners under the provisions of section fifty-eight C of this Act shall—

Debentures
and inscribed
stock
authorised
trustee
investments.

- (a) be securities authorised by the laws relating to the investment of trust moneys; and
- (b) have the status of Government securities within the meaning of any Act in force for the time being relating to friendly societies.

(2) Unless he is expressly forbidden by the instrument, if any, creating the trust, a trustee may invest trust funds in his hands in the debentures and inscribed stock referred to in subsection (1) of this section.

(3) The debentures and inscribed stock shall be a lawful investment for moneys which a body corporate is authorised or directed to invest, in addition to any other investments expressly authorised for the investment of the moneys.

(4) A trustee or body corporate may pursuant to this Act convert the debentures in his or its hands into inscribed stock.

Contribution
of interest
and sinking
fund.

58H. (1) There shall be entered and debited each year in The Fremantle Harbour Trust Account such amounts as shall be fixed by the Treasurer as the interest and sinking fund contributions payable for the year in respect of such portion of the General Loan Fund as shall have been applied to the exercise by the commissioners of any of the powers conferred upon them or the discharge of the duties imposed upon them by this Act.

(2) Such contributions shall be paid to the Treasurer.

(3) The accrued interest in the sinking fund contributions as certified by the Under Treasurer shall be incorporated in the accounts of the commissioners in relation to the exercise by them of the powers conferred upon them by this Act.

Interest on
daily
balance.

58I. (1) Interest on the daily balance of money provided out of the Public Account for the purposes of this Act shall be charged in the books of account of the commissioners in relation to the exercise of their powers and the discharge of their duties under this Act, and the amount of that interest shall be paid to the credit of the Public Account half-yearly or at such other times as the Treasurer may direct.

(2) The rate of interest shall be fixed from time to time by the Treasurer.

58J. All moneys standing to the credit of The Fremantle Harbour Trust Account may, until required by the commissioners in connection with the exercise of their powers or the discharge of their duties under this Act, be temporarily invested as the Treasurer may direct, and all interest derived from the investment shall be paid to the credit of that account.

Moneys may be temporarily invested.

58K. Any profit at the end of any financial year resulting from the activities carried on by the commissioners under this Act which is available in cash after making full allowance for interest and sinking fund contributions, and depreciation, obsolescence and maintenance of plant, may be used by the commissioners for any of the purposes of this Act, unless the Treasurer requires payment to be made to the credit of the Public Account.

Application of profit.

58L. The commissioners shall determine the amount of the depreciation and obsolescence of the assets in relation to the exercise by the commissioners of their powers and the discharge of their duties under this Act, and that amount shall apply for the purpose of section fifty-eight K of this Act unless in the opinion of the Auditor General that amount should be increased, in which case the amount determined by the Auditor General shall apply.

Commissioners to determine depreciation.

6. The principal Act is amended by adding after section sixty the following section:—

S. 60A added.

60A. The commissioners may in respect of their works and undertakings establish in their books such reserve accounts as they think fit subject to the approval of the Treasurer, and may in every year credit to each reserve account so established such sums as they think fit.

Reserve accounts.

Schedule amended.

7. The Schedule to the principal Act is amended by substituting for the heading, "THE SCHEDULE" the heading, "FIRST SCHEDULE."

Second Schedule added.

8. The principal Act is amended by adding after the Schedule a Second Schedule as follows:—

SECOND SCHEDULE.

PART I.—DEBENTURES AND INSCRIBED STOCK.

The following provisions shall apply to debentures and inscribed stock issued by the commissioners under the provisions of section fifty-eight C of this Act:—

1. All debentures and inscribed stock—

Interest.

(a) shall bear interest at such rate and be redeemable on such date and at such place as the commissioners may, with the approval of the Governor, determine; and

Debentures and stock payable before due date.

(b) may with the consent of the holder or the registered owner thereof, as the case may be, be paid off at any time before the due date for repayment, at not more than the face value thereof.

When interest payable.

2. Interest secured by any debentures or inscribed stock issued or created pursuant to this Act shall be payable half-yearly on such days at such places as the commissioners determine.

Debentures and stock interchangeable.

3. The commissioners may, at the request of the holder of a debenture or of the registered owner of inscribed stock issued or created pursuant to this Act, in lieu thereof issue to him inscribed stock or debentures, as the case may be, in respect of the same loan, and of the same amount, and of the same currency, and bearing the same interest.

Brokerage.

4. The commissioners may pay moneys by way of brokerage for the making, procuring, negotiating, or obtaining the loan of any money borrowed under the authority conferred by section fifty-eight C of this Act.

Sinking Fund.

5. (1) The commissioners shall set aside half-yearly by way of a sinking fund for the purpose of redeeming any loans raised by them pursuant to section fifty-eight C of this Act an amount calculated at a rate approved by the Treasurer and sanctioned by the Governor.

(2) When it is necessary to have resort to any sinking fund referred to in subclause (1) of this clause for the purpose of paying off either the whole or any part of any

loan in respect of which the fund is provided, the commissioners may sell any securities in which the fund is invested, or may obtain an advance thereon from any bank or from the Treasurer of the State.

6. No notice of any trust, express, implied or constructive, shall be received by the commissioners or by an officer of the commissioners in relation to a debenture or inscribed stock issued or created pursuant to this Act, and the commissioners or the officer shall not be bound to see to the execution of the trust to which the debenture or inscribed stock may be subject.

Notice of trust not receivable.

7. A person advancing money to the commissioners and receiving in consideration of the advance a debenture or inscribed stock issued under this Act shall not be bound to inquire into the application of the money advanced or be in any way responsible for the non-application or mis-application thereof.

Owners of securities not responsible for application of moneys.

PART II.—DEBENTURES.

The following provisions shall apply to debentures issued by the commissioners under this Act:—

1. A debenture shall be in the form prescribed by the regulations.

Form of debenture.

2. A debenture shall—

(a) be sealed with the common seal of the commissioners in the manner prescribed by the regulations; and

Seal.

(b) be numbered consecutively beginning with the number one and proceeding in an arithmetical progression whereof the common difference is one.

Number.

3. A debenture with the interest coupons annexed thereto and every interest coupon after being detached therefrom shall pass by delivery and without any assignment or endorsement.

Pass by delivery.

4. The bearer of a debenture or detached interest coupon shall have the same rights as if he were expressly named as payee therein.

Rights of bearer.

5. No interest shall be payable in respect of a debenture except to the holder of the coupon representing the interest claimed and upon delivery of the same.

Payment of interest.

Restrictions on amount of stock which may be transferred.

(2) A person shall not be entitled or allowed to transfer any fraction of one pound or any smaller sum than ten pounds unless that smaller sum is the full amount of the balance standing to his credit in the stock ledger.

Execution of transfer.

(3) An instrument of transfer of the stock or any share therein shall be executed by all parties and the signatures to the instrument shall be attested in the manner prescribed by the regulations.

Registration of transfer.

(4) An instrument of transfer when executed shall be delivered to the registrar who shall register the same by entering a memorial of it in the stock ledger and shall inscribe the name of the transferee in the stock ledger as the owner of the stock.

Application for transmission (other than transfer) of stock.

5. (1) A person to whom stock is transmitted in consequence of the death or bankruptcy or insolvency of the registered owner of the stock or by any other lawful means than by a transfer in accordance with this Act may apply in the form prescribed by the regulations to the registrar at the registry to be inscribed as the owner of the stock.

Verification of application for transmission.

(2) An application for transmission shall be verified by statutory declaration or in such other manner as is so prescribed, and—

(a) in the case of a transmission consequent on death—the probate of the will or the letters of administration shall be produced to the registrar or in the case of transmission to a survivor or the survivors of a joint owner a certificate of the death of the owner who has died accompanied by a statutory declaration identifying the person named in the death certificate with the person who is shown as the registered owner of the stock may if the registrar approves be produced to him in lieu of probate or letters of administration; and

(b) in the case of a transmission consequent on bankruptcy or insolvency—an office copy of the adjudication or order of sequestration shall be delivered to the registrar.

Registration of transmission.

(3) The registrar shall if he is satisfied that the provisions of this Act have been complied with register any such transmission by entering a memorial of it in the stock ledger and inscribe the name of the person to whom the stock has been transmitted in the stock ledger as the registered owner of the stock.

6. (1) A person may by power of attorney under his hand and seal and attested by two or more credible witnesses appoint some person to be his attorney for any purpose in relation to stock (including an application for conversion or to receive interest or redemption money).

Power of attorney.

(2) A power of attorney shall be valid and effectual for all purposes therein mentioned until notice of its revocation or of the bankruptcy insolvency lunacy unsoundness of mind or death of the principal has been received by the registrar at the registry.

7. (1) An instrument of transfer of stock or of any part thereof shall not be registered on any Saturday or holiday or within the period of fourteen days or within such period (not exceeding twenty-one days) as is prescribed next before any of the days on which the interest thereon is payable.

When transfer books to be closed and ledgers balanced.

(2) During the periods referred to in the last preceding subclause the commissioners shall cause the amount of the stock respectively standing to the credit of the several registered owners thereof to be ascertained and the balances to be struck and carried forward in the proper stock ledger.

(3) An instrument of transfer of stock or of any part thereof shall not be registered during the period of twenty-one days immediately preceding the date of maturity of stock.

8. (1) The receipt of the person in whose name stock stands in the stock ledger, or if it stands in the names of more persons than one the receipt of one of the persons named in the stock ledger shall be a sufficient discharge to the commissioners for any interest payable in respect of the stock, notwithstanding any trusts to which the stock may then be subject and whether or not the commissioners have had notice of the trusts, and the commissioners shall not be bound to see to the application of the money paid upon such receipt.

Receipt of registered stock-holders to discharge without regard to trust.

(2) If stock is held in joint names and one or more of the registered owners of the stock dies becomes bankrupt insolvent or otherwise legally incapable, the receipt of any one of the other joint owners or survivors shall be a sufficient discharge to the commissioners for any interest payable in respect of the stock, notwithstanding that a transmission has not been registered as required by this Act.

Receipt where one of joint holders dies, etc.