

*The Fremantle Harbour Trust Act, 1902.*

(2° Edwardi VII., No. 17.)

ARRANGEMENT.

Sec.		Sec.	<i>Pilotage.</i>
1.	Short title and commencement.	31.	<i>Pilotage.</i>
2.	Interpretation.		<i>Lights, Buoys, and Signals.</i>
	<i>Constitution of Commission.</i>	32.	(1.) Harbour lights, buoys, and beacons, not to be erected or removed without sanction of Minister. (2.) And may be controlled by Minister.
3.	The Fremantle Harbour Trust Commissioners.	33.	Minister may act on neglect of commissioners.
4.	Appointment of commissioners.		<i>Wrecks, Obstructions, and Damage.</i>
5.	Seal of commissioners. Deed, instrument, or writing, sealed, admissible in evidence.	34.	Removal of wreck.
6.	Term of office.	35.	Responsibility for injury to works of harbour.
7.	Vacancies.	36.	Recovery by owner from master of ship.
8.	Deputy commissioners.		<i>Actions against Commissioners and Officers.</i>
9.	Tenure of office.	37.	Commissioners not liable for acts or omissions of pilots.
10.	Remuneration of commissioners.	38.	Actions against commissioners or officers.
11.	Remuneration of chairman.		<i>Harbour Dues and Wharfage Charges.</i>
12.	Maximum remuneration.	39.	Harbour dues, etc., to be made by regulation.
13.	Quorum.	40.	Existing dues and charges to continue.
14.	Acting chairman.	41.	(1.) Tonnage of British vessels. (2.) Foreign vessels.
15.	Procedure on difference of opinion.	42.	Ascertainment of tonnage of other foreign vessels.
16.	Acts of commissioners not invalidated by vacancy.	43.	List of dues to be exhibited.
17.	(1.) Minutes of proceedings. (2.) Half-yearly report.	44.	In case of difference, power to weigh or measure goods.
18.	Office of commissioner not to be deemed an office of profit.	45.	Liability for dues payable by ship.
	<i>Officers.</i>	46.	Liability for dues payable for goods.
19.	Appointment of officers and servants.	47.	Persons other than master or owner of ship liable for dues may retain moneys received on account of master or owner of ship for such payments.
20.	Certain officers to give security.	48.	Recovery of dues.
21.	Harbour master.	49.	Persons authorised to collect dues may distrain.
	<i>Vesting of property.</i>	50.	Settlement of dispute concerning dues or charges occasioned by distress.
22.	Property vested in commissioners.	51.	Penalty on evasion.
23.	Lands vested in commissioners free from municipal rates.		<i>Finance.</i>
	<i>Powers and Duties of Commissioners.</i>	52.	Minister to declare value of property vested in commissioners.
24.	Commissioners to control, maintain, and preserve property.	53.	Subsequent works.
25.	Harbour extensions.		
26.	Roadways and approaches.		
27.	Power to lease lands for certain purposes.		
28.	Commissioners may make contracts, etc.		
29.	Goods left on wharfs, etc., may be advertised and sold.		
30.	Disputes between departments to be settled by Minister.		

---

*Fremantle Harbour Trust.*

---

- Sec.  
54. Collection of dues, etc.  
55. Expenditure.  
56. Accounts.  
57. Accounts to be balanced.  
58. Books may be inspected.  
59. Accounts to be audited and furnished.

*Regulations.*

60. Power to make regulations.  
    Proceedings of the Board.  
    Harbour control.  
    Harbour dues.  
    Wharfs, etc.  
    Duties of employees.  
    Ferries.  
    Tugs.  
    Ballast and other boats.  
    License fees for boats, etc.  
    Pilotage.  
    Collection of rates and dues.  
    Generally.

61. Penalties for breach of regulations.  
62. Regulations to be approved by the Governor and published in *Government Gazette*.

*Offences.*

63. Penalty for not complying with directions of harbour master.

- Sec.  
64. Power of harbour master to remove vessels.  
65. Penalty on master or person on board for obstructing harbour master.  
66. Harbour master may slacken ropes.  
67. Restriction on deposit of ballast or rubbish.  
68. Series of acts tending to the injury of navigation.  
69. Penalties for damaging lights, buoys, or beacons  
70. Penalty for wilfully cutting moorings.  
71. Penalty for wilful damage to works.  
72. Penalty for wilful damage to lights.  
73. Offence incurring penalty.  
74. Penalty for offering bribes to officers.  
75. Summary procedure for breach of by-laws.  
76. What shall be sufficient averment.  
77. Application of penalties.  
78. Offenders may be prosecuted under other Acts.

—————  
SCHEDULE.  
—————



Western Australia.

ANNO SECUNDO

EDWARDI VII. REGIS.

\*\*\*\*\*

No. XVII.

AN ACT to constitute the Fremantle Harbour Trust Commission; to regulate the appointment of Commissioners; to define their powers and authorities; and for other purposes incidental thereto.

[Assented to, 11th December, 1902.]

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

1. THIS Act may be cited as the Fremantle Harbour Trust Act, 1902, and shall come into force on the first day of January, One thousand nine hundred and three.

Short title and commencement.

2. IN this Act, and any regulations thereunder, the following words shall have the meaning stated, unless the contrary intention appears:—

Interpretation.  
See N.S.W. Act,  
No. 1, 1901, s. 3.

“Buoy and beacons” include all other marks and signs placed for the purpose of navigation.

*Fremantle Harbour Trust.*

“Commissioners.”—The Fremantle Harbour Trust Commissioners constituted under this Act.

“Goods.”—All wares and merchandise, and all chattels, live stock, and other things of whatsoever description.

“Harbour master” includes assistant harbour master.

“Master” includes every person having the command, charge, or management of a vessel for the time being.

“Minister” means the responsible Minister of the Crown charged with the administration of this Act.

“Owner” includes any person who is owner jointly with any other person, and any joint stock company; and when used in relation to goods, includes any consignor, consignee, shipper, or agent for the sale or custody, loading or unloading of goods.

“Ship.”—Every description of vessel used in navigation and not propelled exclusively by oars.

“The harbour.”—So much of the harbour of Fremantle as is contained within the boundaries described in the Schedule to this Act, or as altered from time to time by the Governor.

“Vessel.”—Any ship, lighter, barge, boat, raft, or craft, of whatever description, and howsoever navigated.

*Constitution of the Commission.*

The Fremantle Harbour Trust Commissioners. See N.S.W. Act, No. 1, 1901, s. 5.

3. THERE shall be five commissioners for carrying this Act into execution, who shall be a body corporate by the name of the Fremantle Harbour Trust Commissioners, with perpetual succession, a common seal, and power to hold land.

Appointment of Commissioners.

4. (1.) THE commissioners shall be appointed by the Governor.

(2.) One of the commissioners shall be annually appointed by the Governor as chairman.

Seal of commissioners.

5. JUDICIAL notice shall be taken of the incorporation and common seal of the commissioners, and every deed, instrument, or writing, when sealed, shall be admissible in evidence on the mere production thereof, without any other or further proof of the making of such deed, instrument, or writing.

Deed, instrument, or writing, sealed, admissible in evidence.

*Fremantle Harbour Trust.*

6. EVERY commissioner shall hold office for the term of three years, and, at the expiration of his term of office, shall be eligible for re-appointment for a like term of three years.

Term of office.

7. ON the occurrence of any vacancy in the office of a commissioner, the Governor may appoint a person to the vacant office, whose term of office shall be for his predecessor's unexpired term of office.

Vacancies.

8. (1.) IN the case of illness, suspension, or absence of any commissioner, the Governor may appoint some person to act as the deputy of such commissioner during such illness, suspension, or absence, and until such appointment is terminated by notice in the *Government Gazette*. Every person so appointed shall, while so acting, have all the powers and perform all the duties of such commissioner.

Deputy commis-  
sioners.

(2.) If such commissioner is the chairman, the Governor may temporarily appoint another commissioner acting chairman, who while so acting shall have all the powers and perform all the duties of the chairman.

9. (1.) THE Governor may suspend a commissioner from his office—

Tenure of office.  
See N.S.W. Act,  
No. 1, 1901, ss. 9  
and 10.

- (a.) For misbehaviour or incompetence; or
- (b.) If he becomes bankrupt, or applies to take the benefit of any Act for the relief of bankrupt or insolvent debtors; or
- (c.) If he absents himself from three consecutive meetings of the commissioners (except on leave granted by the Governor) or becomes incapable of performing his duties; or
- (d.) If he becomes concerned or interested in any written contract made by or on behalf of the commissioners, or participates or claims to be entitled to participate in the profits thereof, or in any benefit or emolument arising therefrom.

Provided that this subsection shall not extend to an interest as a shareholder in an incorporated company of at least twenty members.

(2.) The Minister shall cause to be laid before Parliament a full statement of the grounds of suspension within seven days after such suspension, if Parliament is sitting, and, when Parliament is not sitting, within seven days after the next sitting.

*Fremantle Harbour Trust.*

(3.) A commissioner suspended under this section shall not be restored to office, unless both Houses of Parliament, within thirty days from the time when such statement has been laid before them, declare by resolution that the said commissioner ought to be restored to office.

(4.) If both Houses of Parliament within the said time so declare, the said commissioner shall be restored by the Governor accordingly and subject thereto may be removed from office.

(5.) A commissioner shall not be removed from office except as hereinbefore provided.

Remuneration of commissioners.

10. EACH commissioner, other than the chairman, may receive a fee of Two guineas for every ordinary meeting of the commissioners at which he attends.

Remuneration of chairman.

11. THE chairman shall receive a fee of Four guineas for every ordinary meeting of the commissioners at which he attends.

Maximum remuneration.

12. THE fees payable to the chairman shall not in any one year exceed Three hundred pounds, and those payable to any commissioner other than the chairman shall not in any one year exceed One hundred and fifty pounds.

Quorum.

13. FOR the conduct of business, any three commissioners shall be a quorum, and shall have all the powers and authorities vested in the commissioners.

Acting chairman.

14. IN the absence of the chairman from any meeting of the commissioners, or if after being present he retires, the commissioners present may elect one of their number to be acting chairman for that meeting or for the remainder of the meeting.

Procedure on difference of opinion.

15. IF, at any meeting at which four commissioners only are present, such commissioners shall be equally divided in opinion, the chairman or acting chairman shall have a casting as well as a deliberative vote.

Acts of commissioners not invalidated by vacancy.

16. NO act or proceeding of the commissioners shall be invalidated or prejudiced by reason only of the fact that at the time when such proceeding or act was taken, done, or commenced, there was a vacancy in the office of any commissioner.

Minutes of proceedings.

17. THE commissioners shall—

(1.) Keep minutes of their proceedings in such manner and form as the Governor shall direct; and

*Fremantle Harbour Trust.*

- (2.) Make a half-yearly report of their proceedings to the Minister, who on receipt thereof may forthwith publish such report, and such report shall be laid before both Houses of Parliament.

Half-yearly report.

18. THE office of commissioner, and the office of any person employed or retained by the commissioners otherwise than at a salary, shall not be deemed an office of profit within the meaning of the Constitution Act, 1889, or any amendment thereof.

Office of commissioner not to be deemed an office of profit.

*Officers.*

19. (1.) THE Governor, on the nomination of the commissioners, may appoint a secretary, an engineer, a harbour master, assistant harbour masters, pilots, berthing masters, and such other officers and servants as may be necessary for the administration of this Act, and on the recommendation of the commissioners, may dismiss any such officer or servant.

Appointment of officers and servants. See N.S.W. Act, No. 1, s. 17.

(2.) All persons so appointed shall be subject to the control of the commissioners.

(3.) The appointment and dismissal of servants and labourers, at daily or weekly wages, shall be in the sole power of the commissioners.

20. BEFORE any officer or servant, entrusted with the custody of money or other property, shall enter upon the duties of his office, the commissioners shall take from him sufficient security for the faithful execution thereof.

Certain officers to give security.

21. THE harbour master appointed under this Act may also hold the office of chief harbour master for the State.

Harbour master.

*Vesting of Property.*

22. THERE shall be vested in the commissioners, for the purposes of this Act,—

Property vested in commissioners. See N.S.W. Act, No. 1, of 1901, s. 27.

- (1.) All lands of the Crown within the boundaries of the harbour, as described in the Schedule to this Act, including the bed and shores of the harbour.
- (2.) All harbour lights and beacons within the boundaries of the harbour, except the lighthouses on Rottnest Island and at Woodman's Point.
- (3.) All wharfs, docks, landing stages, piers, jetties, wharf sheds, and railways belonging to the Government and within the boundaries of the harbour.

*Fremantle Harbour Trust.*

- (4.) All such other property as the commissioners may acquire or the Governor may at any time think fit to vest in the commissioners for the purposes of this Act.

Provided that the Governor may from time to time, by notification in the *Government Gazette*,—

- (a.) Alter the boundaries of the harbour.  
 (b.) Withdraw any land or other property of any kind from the commissioners, and re-vest the same in His Majesty.

**23.** ALL lands vested in the commissioners under this Act shall be exempt from any rate, tax, or imposition which any local authority might, but for this section, lawfully levy or impose; but nothing herein contained shall preclude a local authority from levying and collecting rates and other lawful charges in respect of land, houses, and buildings of the commissioners leased and occupied for private purposes, and by persons other than the commissioners, their officers and servants.

Lands vested in commissioners free from municipal rates.

N.S.W. Act, No. 1 of 1901, s. 39.

*Powers and Duties of Commissioners.*

**24.** THE commissioners shall have the exclusive control of the harbour, and shall be charged with the maintenance and preservation of all property vested in them under this Act.

Commissioners to control, maintain, and preserve.

See N.S.W. Act, No. 1, 1901, s. 33.

**25.** THE completion and extension within the harbour of all harbour works shall be deemed Government work within the meaning of the Public Works Act, 1902, and may be undertaken by the Minister for Works on the recommendation and under the advice of the commissioners.

Harbour extensions.

**26.** (1.) THE commissioners may make and maintain roads and approaches to all wharfs, docks, piers, jetties, landing stages, slips, platforms, depôts, and sheds that are now or may hereafter be erected on the lands vested in them; and

Roadway and approaches.

See N.S.W. Act, No. 1 of 1901, s. 59.

(2.) Shall cause such wharfs, docks, piers, jetties, landing stages, slips, platforms, depôts, and sheds, and the roads and approaches thereto, to be kept in good repair, and well and sufficiently lighted, watched, and cleansed; and

See *ibid.*

(3.) May provide such depôts and sheds for the reception of goods, and such engines, cranes, hoisting and weighing machines, and other apparatus for facilitating the loading and discharging of vessels, and provide such other conveniences upon or near the wharfs, docks, piers, jetties, landing-stages, slips, or platforms as they may think expedient for the trade of the port, and may make reasonable charges for the use of any such depôts, sheds, engines, cranes, hoisting and weighing machines, and other such apparatus and conveniences.

See *ibid.*, s. 46 (3).

*Fremantle Harbour Trust.*

27. THE Governor may, upon the recommendation of the commissioners, grant leases of any land vested in them by this Act, for any term not exceeding twenty-one years, as yards or sites for ship-building, boat-building, storing of timber, coal, merchandise, or other property, or for the erection of workshops or foundries, or for other purposes connected with shipping, provided that no lease for a period exceeding three years shall be granted unless applications therefor have first been advertised in the *Government Gazette* for one calendar month, and in at least two insertions in a newspaper published in Perth.

Power to lease lands for certain purposes. N.S.W. Act, No. 1 of 1901, s. 41.

28. THE commissioners may, by their corporate name, enter into contracts with any persons for the execution of any work they may think proper to do, or to direct to be done, under the powers conferred by this Act, or for furnishing materials or labour, or for providing proper engines or other power, or for any other matters and things whatsoever necessary to enable them to carry the purposes of this Act into effect, in such manner, and upon such terms, and under such stipulations, regulations, and restrictions as they may think proper.

Commissioners may make contracts, etc. N.S.W. Act, No. 1 of 1901, s. 45.

29. (1.) IF any goods remain upon any wharf or the approaches thereto, or in any store or warehouse, for a longer time than allowed by the regulations, any person authorised by the commissioners may remove the goods to a convenient place, and keep the same until payment of the expenses of such removal and keeping.

Goods left on wharfs, etc., may be advertised and sold. See N.Z. Act, No. 55, 1878, s. 73.

(2.) If such expenses are not paid within seven days after demand thereof made upon the owner, or if the owner is unknown or cannot be found, then after public notice by advertisement, at least once in each of two consecutive weeks, in a newspaper circulating at the port, the commissioners may sell such goods by public auction; provided that goods, if perishable, may be sold without demand after twenty-four hours.

(3.) The proceeds of sale shall be applied in payment of all dues and charges payable in respect of such goods, and the expenses of removal, keeping, and sale thereof, and the surplus shall be rendered to the owner on demand, and in the meantime shall be paid into the Treasury.

30. ANY dispute between the commissioners and the Commissioner of Railways, or any other department of the Government, with respect to any land or other property vested in the commissioners, shall be referred to the Minister, whose decision shall be final and binding upon the parties.

Disputes between departments to be settled by Minister. N.S.W. Act, No. 1, 1901, s. 31.

*Pilotage.*

31. (1.) EXCEPT as otherwise provided by regulations, pilotage shall be compulsory within the boundaries of the harbour.

Pilotage.

*Fremantle Harbour Trust.*

See Merchant Shipping Act, 1894, s. 603.

(2.) If, after a qualified pilot has offered to take charge of the ship, or has made a signal for the purpose, the master of any ship not exempted from pilotage by regulations, pilots the ship himself, he shall be liable for each offence to a fine of double the amount of the pilotage dues that could be demanded under this Act for the conduct of the ship.

*Lights, Buoys, and Signals.*

Harbour lights, buoys, and beacons, not to be erected or removed without sanction of Minister. N.Z. Act, No. 35 of 1878, s. 96.

And may be controlled by Minister. *Ibid.*, s. 100.

**32.** THE commissioners—

- (1.) Shall not erect or place any harbour light, signals, buoy, or beacon within the boundaries of the harbour, or alter or remove the position of any light, signal, buoy, or beacon without the sanction of the Minister; and
- (2.) Shall replace, remove, or discontinue any harbour light, signals, buoys, or beacons, or make any variation in the character of any such light or signals, or in the mode of exhibiting the same, as the Minister may from time to time require.

Minister may act on neglect of commissioners. *Ibid.*, s. 101.

**33.** IF the commissioners shall, for a reasonable time after being required by the Minister in that behalf, fail or neglect to do or perform or cease to do or perform any act or thing of the kind mentioned in the last preceding section, the Minister may take all such steps and do all such acts as may be necessary to give effect to his requirements, and the expense thereof shall be charged to the commissioners.

*Wrecks, Obstructions, and Damage.*

Removal of wreck. See N.Z. Act, No. 35, 1878, s. 105.

**34.** IF any vessel is sunk, stranded, or abandoned within the limits of the harbour in such a way as to tend to the injury of navigation, such vessel, together with the tackle thereof, and the goods if any therein (all of which are in this section hereinafter included under the term "the wreck"), may be removed in the following manner:—

- (1.) The commissioners shall give notice in writing to the owner of such vessel, or to an agent of such owner, that he is required, within a time specified in such notice, either to remove the wreck in a manner satisfactory to the commissioners, or to undertake, under security satisfactory to the commissioners, to remove the wreck in a manner satisfactory to and within a time to be fixed by the commissioners.
- (2.) In case the owner or agent cannot be found within the State, or fails within the time specified in the notice to remove the whole of the wreck in a way satisfactory to the commissioners, or to enter into such undertaking

*Fremantle Harbour Trust.*

as aforesaid to remove the same, or, having undertaken to remove the wreck, fails to remove it in accordance with his undertaking, then the commissioners may remove the wreck, and may recover from the owner, in any Court of competent jurisdiction, the expenses incurred in removing it (in this section referred to as "the expenses of removal").

- (3.) The commissioners may, for the purpose of removal, destroy the wreck or any part of it, and may remove and take possession of the wreck or any part of it, and may sell the same, and may, out of the proceeds, if any, of such sale, without any reference to the part of the wreck from the sale of which such proceeds may accrue, reimburse themselves for the whole of the expenses of removal, and shall, after reimbursing themselves, render the surplus, if any, to the owner.
- (4.) If the proceeds of such sale are insufficient to pay the whole expenses of removal, the commissioners may recover the balance from the owner of the vessel, if such vessel was stranded or sunk by his fault or negligence, or from any other person by whose fault or negligence the vessel was stranded or sunk.

For the purposes of this section the term "owner" shall mean and include not only the owner of the wreck at the time of the sinking, stranding, or abandonment thereof, but also any purchaser of any such wreck, or the materials of which the same may be or may have been composed, so long as the same shall be and remain sunk, stranded, or abandoned.

**35.** WHERE any injury is done by a vessel, floating timber, or material, or by any person employed about the same, to any part of the works or property of the commissioners,

Responsibility for injury to works of harbour.

- (1.) The owner of such vessel, floating timber, and material ;  
and
- (2.) In case the injury is caused through the act or negligence of the master of such vessel, or of the person having charge of such timber or material, the owner and also such master or person

*Ibid.*, s. 106.

shall be answerable in damages to the commissioners for the injury, but the commissioners shall not recover twice for the same cause of action.

**36.** WHERE the owner of any vessel, floating timber, or material pays any money in respect of any injury done to any part of the works or property of the commissioners by any master or other person, or pays any pecuniary penalty by reason of any act or

Recovery by owner from master of ship.

*Ibid.*, s. 107.

*Fremantle Harbour Trust.*

omission of any master or other person, he shall be entitled to recover the money so paid with costs from such master or other person.

*Actions against Commissioners and Officers.*

Commissioners not liable for acts or omissions of pilots. See N.Z. Act, No. 34, 1894, s. 6.

**37.** THE commissioners shall not be liable for any act or omission of any qualified pilot or of their harbour master in case he is a qualified pilot.

Actions against commissioners or officers.

See N.S.W. Act, No. 1, 1901, s. 26, and N.Z. Act, No. 35, 1878, s. 227.

**38.** (1.) ALL actions to be brought against the commissioners, or any person, for anything done under this Act shall be commenced within six months after the act complained of was committed.

(2.) Notice in writing of the intended action, and the cause thereof, shall be served upon the commissioners at least one month before any process is issued, with the name and place of abode of the party intending to bring such action.

(3.) If—

(a.) Tender of sufficient amends has been made before such process is issued; or

(b.) The matter complained of appears to have been done under the authority and in the execution of this Act; or

(c.) Such action is brought after the time limited for bringing the same; or

(d.) Such notice is not given as aforesaid,

judgment shall be given for the defendant with costs.

*Harbour Dues and Wharfage Charges.*

Harbour dues, etc., to be made by regulation.

See N.Z. Act, No. 35, of 1878, s. 110.

**39.** HARBOUR dues and wharfage charges shall be made and levied, and shall be payable in accordance with regulations under this Act.

Existing dues and charges to continue. *Ibid.*, s. 109.

**40.** UNTIL such regulations are made, all harbour dues and wharfage charges now payable by law shall continue to be levied and charged, and shall be payable and paid to the commissioners as if the same had been made payable under this Act.

Tonnage of British vessels.

*Ibid.*, s. 113.

**41.** (1.) WHERE any vessel has been registered at a port in the United Kingdom, or any British possession, the amount of tonnage specified in the certificate of such registry shall, for the purposes of this Act, be deemed to be the tonnage of such vessel.

Foreign vessels. *Ibid.*

(2.) In the case of vessels belonging to any foreign country which has adopted the provisions of the Merchant Shipping Act, 1894, in respect of tonnage, such vessels shall be deemed to be of the tonnage denoted in the certificate of registry or other national papers.

*Fremantle Harbour Trust.*

42. IN order to ascertain the tonnage of any vessel not registered as aforesaid as to which any question arises, any officer appointed in that behalf by the commissioners may measure such vessel according to the regulations for the measurement of shipping for the time being in force in the State.

Ascertainment of tonnage of other foreign vessels. See *ibid.*, s. 114.

43. THE commissioners shall at all times keep exhibited in front of their principal office, a board having painted or affixed thereon lists of all dues and charges payable for the time being.

List of dues to be exhibited. N.Z. Act, No. 35, 1878, s. 116.

44. WHERE a difference arises between any officer authorised to collect any such dues or charges and the owner of goods respecting the weight or quantity of any goods—

In case of difference, power to weigh or measure goods.

- (1.) The officer authorised to collect such dues or charges may cause the goods to be weighed or measured.
- (2.) If the weight or quantity exceeds that alleged by the owner, the expenses of the weighing or measuring shall be paid to the commissioners, and shall be recoverable as dues are recoverable.
- (3.) If the weight or quantity does not exceed that alleged as aforesaid, the expenses of the weighing or measuring shall be paid by and shall be recoverable from the commissioners in any Court of competent jurisdiction.

*Ibid.*, s. 117.

45. THE owner and master of any ship, and such consignee or agent thereof as may have paid or made himself liable to pay any charge on account of the ship, shall be liable to pay the dues payable in respect of such ship.

Liability for dues payable by ship. *Ibid.*, s. 119.

46. THE following persons shall be liable to pay the dues payable in respect of any goods carried in any ship, that is to say, the owner of such goods, and also any consignor, consignee, shipper, or agent for the sale of or custody of such goods, and also any person entitled, either as owner or agent for the owner, to the possession of such goods.

Liability for dues payable for goods. *Ibid.*, s. 120.

47. EVERY consignor, consignee, shipper, or agent, not being the owner or master of any ship or goods, by this Act made liable for the payment of any dues in respect of any ship or goods, as the case may be, may, out of any moneys in his hands received on account of such ship or goods, or belonging to the owner thereof, retain the amount of dues so paid by him, together with any reasonable expenses he may have incurred by reason of payment and liability.

Persons other than master or owner of ship liable for dues may retain moneys received on account of master or owner of ship for such payments.

*Ibid.*, s. 121.

48. ALL dues may be recovered by the commissioners in any Court of competent jurisdiction as a debt due to them.

Recovery of dues. *Ibid.*, s. 122.

*Fremantle Harbour Trust.*

Persons authorised to collect dues may distrain.

*Ibid.*, s. 123.

49. ANY officer authorised to collect dues may distrain any ship and the tackle thereof, or any goods in respect of which dues are payable, and may keep such ship and tackle or goods respectively until such dues are paid; and if the same are not paid within seven days after the distress, may cause the property distrained or any part thereof to be sold, and out of the proceeds of the sale may pay the amount of such dues and the expenses of the distress, keeping, and sale.

Settlement of dispute concerning dues or charges occasioned by distress.

*Ibid.*, s. 124.

50. WHERE a difference arises concerning the amount of any dues payable, or of the charges occasioned by any distress, the person distraining may detain the ship, tackle, or goods distrained until such amount is ascertained by the Local Court at Fremantle, or until he is satisfied that sufficient security has been given for the payment of such amount when ascertained, and of the expenses arising from non-payment thereof. The Court shall, upon application made for that purpose, determine the amount, and award such costs to be paid by either party to the other as the Court thinks reasonable.

Penalty on evasion.

*Ibid.*, s. 125.

51. IF any master, owner, consignor, consignee, shipper, or agent evades or attempts to evade the payment of any dues, he shall incur a penalty either not exceeding Ten pounds, or in case the amount of the dues which he has evaded or has attempted to evade exceeds Ten pounds, then not exceeding such amount.

*Finance.*

Minister to declare value of property vested in commissioners.

N.S.W. Act, No. 1, 1901, s. 73.

52. THE Minister shall, on the commencement of this Act, cause a schedule to be made of all property vested in the commissioners, and shall determine the value thereof to be charged against the commissioners.

Subsequent works.

See *ibid.*, s. 74.

53. AFTER the determination of such value, the Minister shall, at the end of each financial year, cause a schedule to be made of the cost of all additional works and improvements constructed, and the proportionate cost of works in course of construction, and of all property acquired by the commissioners during the preceding financial year, to be charged as aforesaid.

Collection of dues, etc.

See *ibid.*, s. 75.

54. ALL dues, charges, rents, and other moneys levied and collected by the commissioners—

- (1.) Shall be collected and received by them or their authorised officers for the use of His Majesty, and paid into the Treasury to the credit of an account to be called the Fremantle Harbour Trust account; and

*Fremantle Harbour Trust.*

- (2.) Shall, in each year, be chargeable with all fees, salaries, and wages paid by the commissioners. and with all expenditure lawfully incurred by the Board in exercise of their powers under this Act.
- (3.) The balance shall be carried to the Consolidated Revenue Fund, subject to such regulations as may be made by the Governor for the payment of interest on capital, and the provision of a sinking fund.

55. ALL drafts upon the Treasury for expenditure by the commissioners shall be by orders signed by two commissioners, one of whom shall be the chairman or acting chairman, and countersigned by the secretary. Expenditure.

56. THE commissioners shall cause books to be provided and kept, and true and regular accounts to be entered therein of all sums received and paid by them under this Act, and of the several purposes for which such sums shall have been received and paid. Accounts.

57. THE commissioners shall cause their accounts to be balanced twice in every year on the thirtieth day of June and the thirty-first day of December. Accounts to be balanced.

58. (1.) ALL such books shall be open to the inspection of the Minister and the Auditor General, and any person authorised by the Minister or Auditor General to inspect the same, and all such persons may take copies or extracts therefrom. Books may be inspected.  
See N.S.W. Act, No. 1, 1901, s. 76.

(2.) Any clerk or other person having the custody of the books who does not, on demand, permit any person as aforesaid to examine the said books and take such copies or extracts therefrom, shall forfeit and pay for every such offence a sum not exceeding five pounds.

59. THE accounts of all moneys received and disbursed by the commissioners shall be audited twice at least in every year by the Auditor General, who shall have, in respect to such accounts, all the powers conferred on him by the Audit Act, 1891, and any amendment thereof; and the commissioners shall, twice at least in every year, furnish to the Governor a true copy of the accounts so audited as aforesaid, together with a particular statement of all moneys received by the commissioners, and of all expenditure incurred by them; and copies of such accounts and of such statement shall be laid before both Houses of Parliament, if then sitting, or if not then sitting, at the next ensuing session thereof. Accounts to be audited and furnished.  
*Ibid.*, s. 77.

*Fremantle Harbour Trust.**Regulations.*

60. THE commissioners may make regulations under this Act for all or any of the following purposes:—

- (1.) The general conduct of their business and proceedings.
- (2.) Prescribing the days upon which the ordinary meetings of the commissioners shall be held.
- (3.) The control, supervision, and guidance of their officers and servants.
- (4.) Regulating all matters relating to the protection of life and property, and the safe navigation of the harbour.
- (5.) The prevention of overloading or overcrowding of vessels.
- (6.) Regulating the landing, shipping, transshipping, deposit, removal, and keeping of gunpowder and other explosive substances and compounds, or other dangerous goods.
- (7.) Regulating the mode and place of mooring and anchoring of ships, and their position and government in the harbour, and their unmooring and removal out of the harbour.
- (8.) Enabling the harbour master to insure the observance of such by-laws, in case of non-compliance therewith, by mooring, unmooring, placing, or removing a ship, and for that purpose casting off or loosing any warp or rope, or unshackling or loosing any chain by which the ship is moored or fastened, first putting on board a sufficient number of persons for the protection of the ship in case there is no person on board to protect it.
- (9.) Regulating the times, places, order, and mode of the shipping, unshipping, landing, warehousing, stowing, and depositing of goods (with special regulations and restrictions in the case of dangerous goods), and the landing and embarking of passengers, and the taking in and delivery of ballast.
- (10.) Imposing, levying, and receiving all harbour dues, including tonnage dues, light dues, berthing dues, and other tolls, rates, or charges.
- (11.) The exemption of ships in the service of His Majesty or of any British possession, or in the naval service of any foreign power, and of other vessels from harbour dues.
- (12.) Regulating the use of wharfs or docks, quays, landing stages, and other landing places, and generally regulating the traffic on the same;
- (13.) Fixing scales of dues, tolls, and charges to be paid for the use thereof;

Power to make regulations.

Proceedings of the Board.

Harbour control.  
See N.Z. Act, No. 35, 1878, s. 212.

Harbour dues.  
See N.S.W. Act, No. 1, 1901, s. 79 (c).

Wharfs, etc.  
See N.Z. Act, No. 35, 1878, s. 212.

*Fremantle Harbour Trust.*

- (14.) Fixing scales of dues for the storage of goods and charges to be paid for taking into and delivering the same from warehouses or buildings belonging to or in the occupation of the commissioners ;
- (15.) Regulating the use of cranes, weighing and other machines, weights and measures, conveniences or appliances belonging to the commissioners, and fixing charges to be paid for the use of the same ;
- (16.) Regulating the cleansing, repair, and effectual preservation of docks and wharfs, and providing for the keeping and maintenance of the same in a fit state for the convenience of persons walking upon or landing on or embarking from any such wharf ;
- (17.) Regulating the duties and conduct of all persons, as well the servants of the commissioners as others not being officers of customs, who are employed in the harbour ; Duties of employees.
- (18.) Providing for the control and management of steam or other ferry boats plying for hire at wharfs or public thoroughfares ; Ferries.
- (19.) The granting of licenses for tugs to conduct vessels into or out of port, and the fees to be paid for such licenses ; Tugs.
- (20.) Providing for the registration and licensing of all ballast boats, tank boats, cargo boats, lighters, and other vessels and boats plying for hire either for goods or passengers within the harbour, and for the registration and licensing of master boatmen and others, and to prevent unlicensed boatmen plying for hire ; Ballast and other boats.
- (21.) Providing for the inspection of all such boats or vessels and preventing the use of such as are unseaworthy or insufficient ;
- (22.) Providing for the name of each boat or vessel and the name of its owner being shown thereon ;
- (23.) Fixing the fees to be paid for licensing any such boats or vessels as aforesaid, and the fares and charges for the carriage of persons and goods in licensed boats of the several kinds hereinbefore mentioned, or any of them, according to either time or distance. License fees for boats, etc.
- (24.) Regulating the conduct, and for the punishment of misconduct, of licensed boatmen when practising their calling ;
- (25.) The guidance of porters, cabdrivers, carters, carmen, and others carrying goods or driving horses, cabs, carriages, wagons, carts, drays, trucks, or other vehicles for conveying passengers or goods, and other commodities on any wharf ;

*Fremantle Harbour Trust.*

Pilotage.

See N.Z. Act, No. 35  
1878, s. 212.

(26.) Prescribing pilotage rates and determining the nature of the services for which such rates respectively shall be payable.

(27.) The time of payment for pilotage services rendered to any vessel.

(28.) The amount to be paid for detention of pilots on board vessels under quarantine or otherwise ;

(29.) The conditions of exemption from compulsory pilotage ;

(30.) The granting of exemption certificates ;

(31.) The government of pilots, and for insuring the effectual performance of their duties ;

Collection of rates  
and dues.N.Z. Act, No. 35,  
1873, s. 212.

(32.) Empowering a collector of dues, either alone or with other persons, to enter a ship in order to ascertain the dues payable in respect of the ship or of the goods therein ;

(33.) Requiring the master of every ship to report his arrival within a specified time after his arrival ;

(34.) Requiring the master of every ship to produce the certificate of registry to any officer on demand ;

(35.) Requiring the master of every ship to give a copy of the bill of lading or manifest of the cargo, or other proper account of goods intended to be unshipped, and the name of the consignee or other person to whom they are intended to be delivered ;

(36.) Requiring the master of every ship to give notice of the intended time of unshipment ;

(37.) Requiring the shippers of goods to furnish accounts of the goods intended to be shipped ;

(38.) Regulating the time when dues on goods shipped or unshipped are to be payable ;

Generally.

(39.) And for other purposes relating to the convenience of shipping, or of the public, within the harbour, and generally for duly administering and carrying out the powers vested in the commissioners by this Act.

Penalties for breach  
of regulations.**61.** EVERY regulation—

(1.) May impose a penalty not exceeding One hundred pounds for the breach thereof ; and

(2.) May provide that, in addition to the penalty, any expense incurred by the commissioners in consequence of the breach of such regulation shall be paid by the person committing such breach.

Regulations to be  
approved by the  
Governor and pub-  
lished in Govern-  
ment Gazette.

**62.** EVERY regulation shall, upon approval by the Governor and publication in the *Government Gazette*, have the force of law ; and shall be laid before Parliament within fourteen days after such

*Fremantle Harbour Trust.*

publication, if Parliament is then in session, and if not, then within fourteen days after the commencement of the next ensuing session.

*Offences.*

63. THE master of any vessel who, after the service on him of notice in writing signed by the harbour master or any officer acting on behalf of the harbour master, does not forthwith regulate such vessel according to such directions shall be liable to a penalty not exceeding Fifty pounds.

Penalty for not complying with directions of harbour master.  
See N.S.W. Act, No. 1 of 1901, s. 22.

64. IF the master of any vessel within the harbour does not moor, unmoor, place, or remove such vessel according to the directions of the harbour master in writing given to the said master, the harbour master may cause such vessel to be moored, unmoored, placed, or removed according to the directions aforesaid, and employ a sufficient number of persons for that purpose; and the expenses attending such mooring, unmooring, placing, or removing shall be paid by the master of such vessel.

Power of harbour master to remove vessels.  
*Ibid.*, s. 23.

65. IF the master of any vessel, or any person on board, hinders the harbour master or any person employed by him in mooring, unmooring, placing, or removing such vessel, such master or other person shall, on conviction for every such offence, be liable to a penalty not exceeding Fifty pounds.

Penalty on master or person on board for obstructing harbour master.  
See *ibid.*, s. 24.

66. IF any master or other person on board any vessel moored or fastened within the harbour does not, upon demand of the harbour master, unloose or slacken the rope or chain by which such vessel is moored or fastened, or if there is no person on board of any such vessel so moored or fastened, it shall be lawful for the harbour master to unloose or slacken the rope or chain by which such vessel is so moored or fastened, and to cause, if necessary, a sufficient number of persons to be put on board for the protection of the vessel, and all expenses thereby incurred shall be paid by the master of such vessel.

Harbour master may slacken ropes.  
*Ibid.*, s. 25.

67. IF any person commits any of the following offences, so as to be or tend to the injury of navigation, that is to say:—

Restriction on deposit of ballast or rubbish.  
N.Z. Act, No. 35, 1878, s. 217.

- (1.) Casts, or causes to be cast, or suffers to fall, either from on board ship or from land, any ballast, rock, stone, slate, shingle, gravel, sand, earth, cinders, rubbish, or other substance or thing, on any tidal land, or into the harbour, or tidal water, or into the sea below low water-mark; or
- (2.) Casts, or causes to be cast, or suffers to fall, any such substance or thing on land, in a position where the same may be liable to fall or descend, or be carried or washed down by ordinary or high tides, or by any stream or

*Fremantle Harbour Trust.*

flow of water, or by any storm or flood, or otherwise, into the harbour or tidal water, or into the sea; or

- (3.) Casts, or places or leaves, or causes to be cast, placed, or left, any ship or boat laid by or neglected as unfit for sea service, any floating or other timber, or any other thing on any tidal lands, or in the harbour or tidal water, or in the sea,

he shall be guilty of an offence, and for each offence shall be liable to a penalty not exceeding Twenty pounds, and to pay the expenses of the removal to a proper position of any such substance or thing.

Series of acts tending to the injury of navigation.

N.Z. Act, No. 35 of 1878, s.

Penalties for damaging lights, buoys, or beacons.

*Ibid.*, s. 218.

**68.** ANY act shall be deemed to tend to the injury of navigation, within the meaning of this Act, in any case where a series of like acts has produced or would produce injury to navigation.

**69.** IF any person wilfully or negligently commits any of the following offences, that is to say:—

- (1.) Injures any harbour light, or the lights exhibited therein, or any buoy or beacon;
- (2.) Removes, alters, or destroys any harbour light, light-ship, buoy, or beacon;
- (3.) Rides by, makes fast to, or runs foul of any harbour light, light-ship, buoy, or beacon;
- (4.) Removes, alters, injures, or destroys any signal or signal staff used for purposes in aid of vessels navigating,

he shall, in addition to the expenses of making good any damage so occasioned, be liable, on conviction, to a penalty not exceeding One hundred pounds, or imprisonment not exceeding twelve calendar months, with or without hard labour.

Penalty for wilfully cutting moorings.

*Ibid.*, s. 219.

**70.** ANY person excepting the harbour master, or persons acting under his authority, who wilfully cuts, breaks, or destroys the mooring or fastening of any vessel in the harbour shall, for every such offence, incur a penalty not exceeding Fifty pounds, or imprisonment not exceeding twelve calendar months, with or without hard labour.

Penalty for wilful damage to works.

*Ibid.*, s. 220.

**71.** ANY person who wilfully destroys or in any way damages or injures any wharf, shed, roadway, building, or other harbour work whatsoever, or any part thereof, constructed or in course of construction, shall be liable for every such offence to a fine not exceeding One hundred pounds, or to imprisonment not exceeding twelve calendar months, with or without hard labour.

Penalty for wilful damage to lights.

*Ibid.*, s. 221.

**72.** IF any person wilfully or negligently breaks or damages or takes away any lamp or other appliance used for the purpose of lighting any wharf, quay, pier, or any road or dock, or other place, or wilfully extinguishes any light, every person so offending shall be liable to a penalty not exceeding Twenty pounds.

*Fremantle Harbour Trust.*

73. IF any person—

- (a.) Fails, refuses, or neglects to do, or in any manner obstructs, impedes, or interferes with the doing of anything enjoined or authorised to be done; or
- (b.) Wilfully does anything prohibited by this Act; or
- (c.) Molests or makes use of any threatening language to any engineer, surveyor, harbour master, pilot, or other officer or person acting in the execution of his duty, and whether under the authority of the Governor or the Minister, or of the commissioners; or
- (d.) In any other respect offends against any of the provisions of this Act or any regulation thereunder,

Offence incurring penalty.  
*Ibid.*, s. 222.

every such person in any such case so offending shall, where no other penalty is in that behalf specifically provided, be liable to a penalty not exceeding Twenty pounds.

74. ANY person who gives or offers any reward or bribe to any officer or servant of the commissioners for the purpose of gaining an undue preference in the execution of his office, or for the purpose of inducing him to do or omit to do anything relating to his office, shall, for every such offence, be liable to a penalty not exceeding One hundred pounds, or to imprisonment not exceeding twelve calendar months, with or without hard labour.

Penalty for offering bribes to officers.  
*Ibid.*, s. 224.

75. ANY offence against this Act, and any breach of any of the provisions thereof or of any regulation thereunder, may be heard and determined summarily by any two or more Justices of the Peace in the manner provided by the Justices Act, 1902.

Summary procedure for breach of by-laws.  
*Ibid.*, s. 225.

76. IN any proceedings for any offence, the averment that such offence was committed within the limits of the harbour shall be sufficient, without proof of such limits, unless the contrary is proved.

What shall be sufficient averment.  
*Ibid.*, s. 226.

77. ALL penalties recovered for offences against this Act, or against any regulation thereunder, shall be paid to the commissioners, and the proceeds of such penalties are hereby appropriated for the purposes of this Act.

Application of penalties.  
N.S.W. Act, No. 1, 1901, s. 104.

78. WHEN an offender is punishable under the provisions of this Act, and also under the provisions of some other Act, he may be prosecuted and convicted under the provisions of either Act, so that he is not punished twice for the same offence.

Offenders may be prosecuted under other Acts.

In the name and on behalf of the King I hereby assent to this Act.

E. A. STONE, Administrator.

THE SCHEDULE.

---

Section 2.

Bounded by lines starting from the intersection of the South-Eastern side of Lilburn Road, North Fremantle, with the Western side of the Perth-Fremantle Railway Reserve, and extending Southerly along the Western side of the Railway Bridge and the Southern approach thereto, to a point in prolongation North-Easterly of the fence along the North-Western side of the "approach road to Victoria Quay; thence South-Westerly along said fence to its Western extremity; thence Southerly along the Eastern boundary of the Harbour Works Office site to its South-East corner; thence South about 3 chains 40 links; thence about 106° 30' about 11 chains; thence South to the Sea Coast and Westerly along same and the Southern side of the South Mole to its Western extremity; thence West-North-Westerly to the Western extremity of the North Mole; thence Easterly and North-Easterly along the North side of said North Mole and the Sea Coast to a point West of the West corner of North Fremantle Lot 29; thence East to said corner and South-Easterly along the South-West boundary of said Lot 29 and its prolongation to the South-Eastern side of Lilburn Road aforesaid, and along it North-Easterly to the starting point.

And by lines starting from the Western extremity of the North Mole, and extending North-Westerly to the White Buoy on Kingston Spit; thence Westerly to Duck Rock Beacon; thence Southerly to Bathurst Point, Rottnest Island, and along the Eastern shore of Rottnest in a general Southerly direction to Parker Point; thence South-Easterly to Entrance Point, Garden Island; thence Easterly, Southerly, and Westerly, passing along the Northern, Eastern, and Southern shores of said Island to South-West Head; thence Southerly to John Point on mainland; thence Easterly and Northerly along the Sea Coast, and the Southern side of the South Mole to the latter's Western extremity, and thence West-North-Westerly to the last-mentioned starting point, but excluding therefrom any land already granted by the Crown in fee simple.