

WESTERN AUSTRALIA

FREMANTLE PORT AUTHORITY ACT 1902

ARRANGEMENT

Sec.

1. Short title and commencement
- 1A. Change of name of body corporate
2. Interpretation

Constitution of Port Authority

3. The Fremantle Port Authority
4. Appointment of commissioners
5. Seal of Port Authority and admissible evidence
6. Period of office of commissioner
8. Deputy commissioners
9. Tenure of office of commissioners
10. Remuneration of commissioners
13. Quorum
14. Acting chairman
15. Procedure on difference of opinion
16. Acts of Port Authority not invalidated by vacancy
17. Minutes of proceedings

Officers

19. Appointment of officers and servants
20. Certain officers to give security
21. Harbour master

Vesting of property

22. Property vested in Port Authority
23. Lands vested in Port Authority free from municipal rates

Powers and Duties of Port Authority

- Sec.
 24. Port Authority to control, maintain and preserve all property vested in it
 25. Construction of port works
 26. Roadways and approaches
 27. Power of Port Authority to lease certain lands
 27A. Power to acquire land compulsorily
 27B. Power of Port Authority to grant licences
 27C. Powers of Port Authority in relation to pipelines
 28. Port Authority may make contracts, etc.
 28A. Capital expenditure to be in financial interest of Port Authority
 29. Goods left on wharf etc., may be advertised and sold
 30. Disputes between departments to be settled by Minister
 30A. Minister may give directions to Port Authority
 31. Port Authority may provide labourers, etc., for working cargo
 31A. Casual work and casual worker

Pilotage

32. Pilotage

*Lights, Buoys and Signals**Wrecks, Obstructions, and Damage*

35. Removal of wreck
 36. Responsibility for injury to works of the Port Authority
 37. Recovery by owner from master of ship
 38. Damage to cables

Actions against Port Authority and Officers

39. Port Authority not liable for acts or omissions of pilots
 39A. No liability for ships navigated without pilotage
 39B. No liability for acts done in good faith in removing wrecks, etc.

Port Dues and Wharfage Charges

41. Port dues, etc., to be made by regulation
 43. Power to levy Port improvement rates
 44. Tonnage of ships
 47. In case of difference, power to weigh or measure goods
 48. Liability for dues payable by ship
 49. Liability for dues payable for goods
 50. Recoupment of dues and expenses
 51. Recovery of dues
 52. Persons authorized to collect dues may distrain
 53. Settlement of dispute concerning dues, charges or charges occasioned by distress
 54. Penalty on evasion
 55. Power to Governor to revise Port Authority dues

Finance

56. Minister to declare value of property vested in Port Authority
 57. Subsequent works
 57A. Annual financial targets
 57B. Payment of dividend to the State
 57C. Information to be provided to Minister
 58. Funds
 58A. Collection of service charges
 58B. Power of Port Authority to borrow
 58C. Power of Port Authority to borrow money on issue of debentures or inscribed stock

- Sec.
 58D. Power to borrow to repay loan
 58E. Moneys borrowed charged on revenues of Port Authority and guaranteed by the State
 58F. Provisions of Second Schedule to apply to debentures and inscribed stock
 58G. Debentures and Inscribed stock authorized trustee investments
 58GA. Validation
 58H. Contribution of interest and sinking fund
 58I. Interest on daily balance
 58J. Moneys may be temporarily invested
 58K. Financial self sufficiency
 58L. Application of *Financial Administration and Audit Act 1985*
 60A. Reserve accounts

Regulations

65. Power to make regulations
 66. Penalties for breach of regulations
 66A. Adoption of rules, codes, etc.
 66B. Infringement notices
 67. Regulations to be approved by the Governor and published in the *Government Gazette*.
 68. Municipal councils may make by-laws

Miscellaneous

69. Provision for Sundays and holidays
 70. Governor may rectify irregularities
 70A. Harbour master may control entry and departure
 71. Penalty for not complying with directions of harbour master
 72. Power of harbour master to remove vessels
 73. Penalty for obstructing harbour master and who is liable
 74. Harbour master may slacken ropes
 75. Restriction on deposit of ballast or rubbish
 76. Series of acts tending to the injury of navigation
 77. Penalties for damaging lights, buoys or beacons
 78. Penalty for wilfully cutting moorings
 79. Penalty for wilful damage to works
 80. Penalty for wilful damage to lights
 81. Offence incurring penalty
 82. Penalty for offering bribes to officers
 83. Summary procedure for breach of by-laws
 84. Sufficient averment
 85. Application of penalties
 86. Police officers to report breaches of Act
 87. Offenders may be prosecuted under other Acts
 88. Security to customs

FIRST SCHEDULE

Description of inner harbour and outer harbour

SECOND SCHEDULE

PART I—DEBENTURES AND INSCRIBED STOCK

1. Interest
2. When interest payable
3. Debentures and stock interchangeable
4. Brokerage
5. Sinking fund
6. Notice of trust not receivable
7. Owners of securities not responsible for application of moneys

PART II—DEBENTURES

Sec.

1. Form of debenture
2. Seal
3. Pass by delivery
4. Rights of bearer
5. Payment of interest
6. Register of debentures
7. Provision for lost debentures
8. Provision for defaced debentures
9. Discharged debentures to be destroyed

PART III—STOCK

1. Establishment of registry and appointment of registrar
2. Parcels of stock
3. Stock ledgers
4. How stock transferrable
5. Application for transmission (other than transfer) of stock
6. Power of attorney
7. When transfer books to be closed and ledgers balanced
8. Receipt of registered stock holders to discharge without regard to trust

NOTES

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WESTERN AUSTRALIA

FREMANTLE PORT AUTHORITY ACT 1902

AN ACT to constitute the Fremantle Port Authority; to regulate the appointment of Commissioners; to define the powers and authorities of the Fremantle Port Authority; and for other purposes incidental thereto.

[*Long title amended by No. 35 of 1964 s. 3.*]

Short title and commencement

1. This Act may be cited as the *Fremantle Port Authority Act 1902* and shall come into force on 1 January 1903.

[*Section 1 amended by No. 35 of 1964 s. 1.*]

Change of name of body corporate

1A. (1) On and after the commencement of this section¹ 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.

(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 section¹;
- (b) in any document or other instrument made, executed, entered into or done before the commencement of this section¹; and
- (c) made before the commencement of this section¹ 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).

[Section 1A inserted by No. 35 of 1964 s. 4.]

Interpretation

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

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

“Commissioner” means a commissioner of the Port Authority 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.

“Port Authority” means the Fremantle Port Authority constituted under this Act.

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

“The port.”—So much of the port of Fremantle as is contained within the boundaries described in the First Schedule, 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.

[Section 2 amended by No. 75 of 1960 s. 2; No. 35 of 1964 s. 5.]

Constitution of the Port Authority

[Heading amended by No. 35 of 1964 s. 6.]

Fremantle Port Authority

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 5 commissioners appointed as provided by this Act.

(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.

[Section 3 substituted by No. 35 of 1964 s. 7.]

Appointment of commissioners

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

(2) One of the commissioners shall be appointed by the Governor as the chairman of the Port Authority for such period not exceeding the remainder of the period of office of that commissioner as is specified in the instrument of his appointment as that chairman.

[Section 4 amended by No. 79 of 1986, s. 16.]

Seal of Port Authority and admissible evidence

5. Judicial notice shall be taken of the incorporation and common seal of the Port Authority, 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.

[Section 5 amended by No. 35 of 1964 s. 8.]

Period of office of commissioner

6. Subject to this Act, a commissioner—

- (a) holds office for such period not exceeding 3 years as is specified in the instrument of his appointment; and
- (b) is, on the expiry of his period of office, eligible for reappointment as a commissioner.

[Section 6²: Sections 6 and 7 repealed and section 6 substituted by No. 79 of 1986 s. 17.]

[7. Section 6 and 7 repealed and section 6 substituted by No. 79 of 1986 s. 17.]

Deputy commissioners

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.

(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.

Tenure of office of commissioners

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

- (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 3 consecutive meetings of the Port Authority (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 Port Authority, 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 20 members.

(2) The Minister shall cause to be laid before Parliament a full statement of the grounds of suspension within 7 days after such suspension, if Parliament is sitting, and, when Parliament is not sitting, within 7 days after the next sitting.

(3) A commissioner suspended under this section shall not be restored to office, unless both Houses of Parliament, within 30 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.

[Section 9 amended by No. 35 of 1964 s. 8.]

Remuneration of commissioners

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.

[Section 10 substituted by No. 35 of 1964 s. 9.]

[11. Section 11 repealed by No. 35 of 1964 s. 10.]

[12. Section 12 repealed by No. 17 of 1951 s. 5.]

Quorum

13. For the conduct of business, any 3 commissioners shall be a quorum, and shall have all the powers and authorities vested in the Port Authority.

[Section 13 amended by No. 35 of 1964 s. 11.]

Acting chairman

14. In the absence of the chairman from any meeting of the Port Authority, 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.

[Section 14 amended by No. 35 of 1964 s. 11.]

Procedure on difference of opinion

15. If, at any meeting at which 4 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 Port Authority not invalidated by vacancy

16. No act or proceeding of the Port Authority 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.

[Section 16 amended by No. 35 of 1964 s. 11.]

Minutes of proceedings

17. The Port Authority shall keep minutes of its proceedings in such manner and form as the Minister shall direct.

[Section 17 substituted by No. 98 of 1985 s. 3.]

[18. Section 18 repealed by No. 78 of 1984 s. 18.]

Officers

Appointment of officers and servants

19. (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.

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

(2a) Notwithstanding anything in subsections (1) and (2), to the extent that there is in the case of a person who is appointed under subsection (1) to be a general manager, assistant general manager, wharf manager, harbour master or secretary or other officer or servant and who is a member of the Senior Executive Service within the meaning of the *Public Service Act 1978* an inconsistency between this Act and that Act that Act shall prevail.

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

(4) The Port Authority may, from time to time, appoint and dismiss special constables, who, within the limits of the port, shall have, exercise, and enjoy such powers, authorities, and immunities, and be subject to such duties and responsibilities as any police officer duly appointed now has or is subject to by law.

Provided that such special constables shall not be members of the Police Force, but shall be servants of the Port Authority, and under its direction and control.

[*Section 19 amended by No. 25 of 1911 s. 2; No. 35 of 1964 s. 14; No. 22 of 1976 s. 3; No. 113 of 1987 s. 32.*]

Certain officers to give security

20. Before any officer entrusted by the Port Authority with the custody or control of money by virtue of his office enters upon his office, the Port Authority shall take sufficient security from him for the faithful execution thereof but instead of, or in addition to, taking security from an officer, the Port Authority may provide against any loss that may arise in the event of the dishonesty of the officer—

- (a) by taking out a guarantee policy and paying the premiums thereon; or
- (b) by creating a special fund for the purpose,

or partly by one such method and partly by the other.

[*Section 20 substituted by No. 22 of 1976 s. 4.*]

Harbour master

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

Vesting of Property

Property vested in Port Authority

22. There shall be vested in the Port Authority, for the purposes of this Act,—

- (1) all lands of the Crown within the boundaries of the port, as described in the First Schedule, including the bed and shores of the port;
- (2) all harbour lights and beacons within the boundaries of the port, except the lighthouses on Rottnest Island;
- (3) all wharves, wharf loading areas, docks, landing stages, piers, jetties, wharf sheds, and railways belonging to the Government and within the boundaries of the port;
- (4) all such other property as the Port Authority may acquire or the Governor may at any time think fit to vest in the Port Authority 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 port;
- (b) withdraw any land or other property of any kind from the Port Authority, and revest the same in Her Majesty.

[*Section 22 amended by No. 35 of 1964 s. 16.*]

Lands vested in Port Authority free from municipal rates

23. All lands vested in the Port Authority 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 Port Authority leased and occupied for private purposes, and by persons other than the commissioners, and officers and servants of the Port Authority.

[*Section 23 amended by No. 35 of 1964 s. 17.*]

Powers and Duties of the Port Authority

[*Heading amended by No. 35 of 1964 s. 18.*]

Port Authority to control, maintain and preserve all property vested in it

24. Subject to any direction given by the Minister under section 30A, the Port Authority shall have the exclusive control of the port, and shall be charged with the maintenance and preservation of all property vested in it under this Act.

[*Section 24 amended by No. 35 of 1964 s. 19; No. 98 of 1987 s. 22.*]

Construction of port works

25. (1) The construction, completion and extension within the port of port works or other works required for the purposes of this Act 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.

[*Section 25 substituted by No. 35 of 1964 s. 20; amended by No. 78 of 1979 s. 15.*]

Roadways and approaches

26. The Port Authority—

- (a) may make and maintain roads and approaches to all wharves, docks, piers, jetties, landing stages, slips, platforms, depots, and sheds that are now or may hereafter be erected on the lands vested in it; and
- (b) shall cause such wharves, docks, piers, jetties, landing stages, slips, platforms, depots, and sheds, and the roads and approaches thereto, to be kept in good repair; and
- (c) shall cause such wharves, docks, piers, jetties, landing stages, slips, platforms, depots, and sheds, and the roads and approaches thereto, to be well and sufficiently lighted; but a breach of the duty imposed by this subsection shall not confer a right of action on any person who may suffer damage therefrom; and
- (d) may provide such depots 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 wharves, docks, piers, jetties, landing stages, slips, or platforms as the Port Authority may think expedient for the trade of the port, and may make reasonable charges for the use of any such depots, sheds, engines, cranes, hoisting and weighing machines, and such other apparatus and conveniences; and
- (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.

[Section 26 substituted by No. 35 of 1906 s. 4; amended by No. 35 of 1964 s. 21.]

Power of Port Authority to lease certain lands

27. (1) The Port Authority may, with the approval of the Minister, grant leases of any of the lands vested in it by or under this Act, as yards or sites for shipbuilding, boat building, storage of timber, coal, merchandise or other property, or for the erection of workshops or foundaries or for any other purpose approved by the Minister.

(2) Subject to subsections (3) and (4), every lease granted pursuant to this section—

- (a) shall be granted on such terms and conditions as the Port Authority thinks fit; and
- (b) shall not be granted for a longer term than 21 years.

(3) When the Minister is of opinion that because of the special circumstances of the case the granting of a lease for a term exceeding 21 years is justified, the Minister may, by instrument in writing under his hand and containing such conditions, if any, as he thinks fit, authorize the Port Authority to grant the lease for such term exceeding 21 years but not exceeding 50 years as the Minister specifies in the instrument.

(4) No lease for a term exceeding 3 years shall be granted under this section unless applications therefor have first been advertised twice in the *Government Gazette* and twice in a daily newspaper circulating generally in the State.

[Section 27 substituted by No. 8 of 1969 s. 2.]

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*.

[Section 27A inserted by No. 75 of 1960 s. 3.]

Power of Port Authority to grant licences

27B. (1) The Port Authority may, with the approval of the Minister, grant a licence for the occupation or use of any of the lands vested in it by or under this Act for any purpose that it considers fit.

(2) Notwithstanding subsection (1) a licence granted under that subsection for a term not exceeding 60 days may be granted without the approval of the Minister.

[Section 27B inserted by No. 22 of 1976 s. 5.]

Powers of Port Authority in relation to pipelines

27C. (1) The Port Authority may, with the approval of the Minister, grant any lease, easement, licence or other authority necessary or expedient to enable—

- (a) the construction of a pipeline on, under or over any lands vested in the Port Authority; and
- (b) the operation, inspection, maintenance, repair and alteration of that pipeline.

(2) Nothing in this section affects the exercise by the Port Authority of any power conferred on it by or under any other Act.

[Section 27C inserted by No. 22 of 1976 s. 6.]

Port Authority may make contracts, etc.

28. The Port Authority may enter into contracts with any persons for the execution of any work it 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 it to carry the purposes of this Act into effect, in such manner, and upon such terms, and under such stipulations, regulations, and restrictions as it may think proper.

[Section 28 amended by No. 35 of 1964 s. 23.]

Capital expenditure to be in financial interest of Port Authority

28A. Before incurring any capital expenditure the Port Authority shall consider whether the expenditure is in the financial interest of the Port Authority.

[Section 28A inserted by No. 98 of 1987 s. 23.]

Goods left on wharf, etc., may be advertised and sold

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, or if any goods within the Port shall be deemed by the Port Authority in its absolute discretion to be injurious to, or to injuriously affect, or to be liable to injuriously affect, other goods, or any shed, store, or other premises or open yard or place within the port, any person authorized by the Port Authority may remove the goods to a convenient place, within or outside the limits of the port, and keep the same until payment of the expenses of such removal and keeping.

(2) If such expenses are not paid within 7 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 2 consecutive weeks, in a newspaper circulating at the port, the Port Authority may sell such goods by public auction; provided that goods, if perishable, may be sold without demand after 24 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.

[Section 29 amended by No. 25 of 1911 s. 3; No. 35 of 1964 s. 24.]

**Disputes between departments
to be settled by Minister**

30. Any dispute between the Port Authority and the Commissioner of the Western Australian Government Railways³, or any other department of the government, with respect to any land or other property vested in the Port Authority, shall be referred to the Minister, whose decision shall be final and binding upon the parties.

[Section 30 amended by No. 35 of 1964 s. 25.]

Minister may give directions to Port Authority

30A. The Minister may from time to time give directions to the Port Authority with respect to the performance of its functions, either generally or with respect to a particular matter, and the Port Authority shall give effect to those directions.

[Section 30A inserted by No. 98 of 1987 s. 24.]

**Port Authority may provide labourers, etc.,
for working cargo**

31. The Port Authority may provide servants and labourers for loading and unloading goods on the wharves vested in the Port Authority, and for working cranes, weighing machines, or other machines and conveniences erected or provided by the Port Authority for such purpose.

[Section 31⁴ inserted by No. 35 of 1906 ss. 5 and 21; No. 35 of 1964 s. 25.]

Casual work and casual worker

31A. (1) In this section,

“casual work” means—

- (a) work which is referred to in the constitution of The Federated Ship Painters and Dockers Union of Australia (West Australian Branch) Union of Workers, as registered pursuant to the provisions of the *Industrial Arbitration Act 1912*⁵; and
- (b) any other work which the Governor declares by proclamation to be casual work to which this section applies; and

“casual worker” means a person who carries out, or is willing to carry out casual work.

(2) Power is conferred on the Governor to declare by proclamation that work is casual work to which this section applies, and by subsequent proclamation to cancel, or, from time to time, vary any declaration so proclaimed.

(3) In order to render an additional service available, the Port Authority shall take all reasonable steps to arrange with casual workers or their employers, subject to the regulations, that sufficient casual workers attend at places, within the boundaries of the port, for which purpose the slipways at the western end of the Fremantle inner harbour, known respectively as the South Slipway and the Rous Head Slipway shall be deemed to be included within the boundaries of the port, so as to be available to carry out casual work if required to do so.

(4) In order to ensure attendance of casual workers so as to be available to carry out casual work, the Port Authority shall prescribe for the service mentioned in subsection (3), a service charge assessed at such rate per man hour worked as the Port Authority estimates to be necessary and to be paid by persons actually employing casual workers as defined in subsection (1)—

- (a) to pay attendance money required to be paid under any award or agreement duly made and effective under the *Industrial Arbitration Act 1912*⁵; and
- (b) to pay administrative expenses of giving effect to this section.

[Section 31A inserted by No. 42 of 1957 s. 3; amended by No. 35 of 1964 s. 26.]¹

Pilotage

Pilotage

32. (1) Except as otherwise provided by regulations, pilotage shall be compulsory within the boundaries of the port.

(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 or under the 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.

[Section 32⁴ amended by No. 35 of 1964 s. 27; No. 22 of 1976 s. 7.]

Lights, Buoys, and Signals

[33., 34. Sections 33 and 34 repealed by No. 35 of 1964 s. 28.]

*Wrecks, Obstructions, and Damage***Removal of wreck**

35. If any vessel is sunk, stranded, or abandoned within the limits of the port in such 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 Port Authority 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 Port Authority, or to undertake, under security satisfactory to the Port Authority, to remove the wreck in a manner satisfactory to and within a time to be fixed by the Port Authority.
- (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 Port Authority, or to enter into such undertaking as aforesaid to remove the same, or having undertaken to remove the wreck, fails to remove it in accordance with his undertaking, then the Port Authority 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 Port Authority 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 itself for the whole of the expenses of removal, and shall, after reimbursing itself, 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 Port Authority 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 or which the same may be or may have been composed, so long as the same shall be and remain sunk, stranded, or abandoned.

[Section 35⁴ amended by No. 35 of 1964 s. 29.]

Responsibility for injury to works of the Port Authority

36. 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 Port Authority—

- (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,

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

[Section 36⁴ amended by No. 35 of 1964 s. 30; No. 22 of 1976 s. 8.]

Recovery by owner from master of ship

37. 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 Port Authority by any master or other person, or pays any pecuniary penalty by reason of any act or 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.

[Section 37⁴ amended by No. 35 of 1964 s. 30.]

Damage to cables

38. If any damage is done to any submarine cable, the property of or vested in the Port Authority, within or partly within the port, by any ship, or any part of the equipment of any ship, such damage shall forthwith be made good by and at the expense of the master, owner, or agent of such ship; and in default, the Port Authority may cause such repairs to be effected, and may recover the expense thereof from the master or owner or agent in any court of competent jurisdiction.

[Section 38⁴ inserted by No. 35 of 1906 ss. 6 and 21; amended by No. 35 of 1964 s. 31.]

*Actions against Port Authority and Officers**[Heading amended by No. 35 of 1964 s. 32.]***Port Authority not liable for acts or omissions of pilots**

39. The Port Authority shall not be liable for any act or omission of any qualified pilot or of its harbour master in case he is a qualified pilot.

[Section 39^a amended by No. 35 of 1964 s. 32; No. 22 of 1976 s. 9.]

No liability for ships navigated without pilotage

39A. (1) An action shall not be brought against the Port Authority or any officer of the Port Authority in respect of—

- (a) any loss or damage caused by a ship that is being navigated in the port without pilotage; or
- (b) the loss of, or damage to, a ship or any goods in or on a ship if that ship is being navigated in the port without pilotage.

(2) Subsection (1) applies to and in relation to any ship that is being navigated without pilotage whether or not it is being so navigated pursuant to an exemption conferred by, or granted under, the regulations.

[Section 39A inserted by No. 22 of 1976 s. 10.]

No liability for acts done in good faith in removing wrecks, etc.

39B. (1) An action shall not be brought against the Port Authority or the harbour master, or any person acting under the authority of the Port Authority or the harbour master, for loss or damage occasioned by any act done in good faith pursuant to the powers conferred by this Act in relation to the removal, destruction and sale of any wreck or part of a wreck, or in relation to the removal of any unserviceable or other vessel.

(2) In this section the term “wreck” has a meaning co-relative to the meaning given to the term “the wreck” in and for the purposes of section 35.

[Section 39B inserted by No. 22 of 1976 s. 11.]

[40. *Section 40 repealed by No. 35 of 1935 s. 48A.]*

Port Dues and Wharfage Charges

[*Heading amended by No. 35 of 1964 s. 33.*]

**Port dues, etc., to be made
by regulation**

41. Port dues and wharfage and service charges shall be made and levied, and shall be payable in accordance with regulations under this Act.

Provided that service charges prescribed under section 31A shall be levied on and payable by only those persons who actually employ casual workers as defined by and provided under that section. Contributions shall be made as directed from time to time by such employers of casual workers after the employment of such workers.

[*Section 41^a amended by No. 42 of 1957 s. 4; No. 35 of 1964 s. 33.*]

[42. *Section 42 repealed by No. 35 of 1964 s. 34.*]

Power to levy port improvement rates

43. (1) The Port Authority may, from time to time, make regulations providing that port improvement rates, not exceeding in any case 10 cents per ton by weight or by measurement as shall be expressed in such regulations, shall be levied upon all goods discharged at or shipped from the port.

(2) In and by such regulations the Port Authority may provide for the manner of levying and collecting such rates, and by whom the same shall be paid, and in what manner the same shall be paid to any authorized officer of the Port Authority or other person authorized by it in that behalf.

[*Section 43^a inserted by No. 35 of 1906 ss. 8 and 21; amended by No. 35 of 1964 s. 35; No. 113 of 1965 s. 4 (1).*]

Tonnage of ships

44. (1) For the purposes of this Act the tonnage of any vessel shall be ascertained in accordance with the regulations.

(2) Regulations made for the purposes of this section—

- (a) may be of general application or may be limited in their application to a specified class or specified classes of vessels or to all vessels other than vessels of a specified class or specified classes;
- (b) may make different provision for different classes of vessels or for the same class of vessels in different circumstances;
- (c) may make the operation of any provision of the regulations dependent on compliance with such conditions, to be evidenced in such manner, as may be prescribed;

- (d) may authorize the determination or calculation of tonnage—
- (i) by measurement;
 - (ii) by estimation; or
 - (iii) by reference to information appearing in the certificate of registry or certificate of tonnage of a vessel or in any specified record or publication,
- or partly by one of those methods and partly by either or each of the other 2 methods;
- (e) may make provision concerning the spaces (whether covered or closed or not) to be included and the spaces to be excluded in the ascertainment of the tonnage of any vessel and may prescribe the method by which any space to be included or excluded is to be calculated;
- (f) may confer power on an authorized person to—
- (i) board, inspect, survey or measure the whole or any part of a vessel, or any goods therein or thereon;
 - (ii) detain a vessel;
 - (iii) require the unshipment of any goods in or on a vessel at the risk and expense of the owner of those goods,
- for the purpose of ascertaining the tonnage of the vessel or enabling that tonnage to be ascertained;
- (g) may exempt the Port Authority and any authorized person from liability for any loss or damage occasioned by any act done in good faith pursuant to powers conferred by regulations made for the purposes of this section;
- (h) may require the owner or master of a vessel to produce the certificate of registry of the vessel and any certificate of tonnage of the vessel if and when requested to do so by an authorized person;
- (i) may require the owner, agent or master of a vessel, upon request by an authorized person to afford all necessary facilities to enable the vessel or any goods therein or thereon or both the vessel and such goods, to be inspected, surveyed or measured for the purpose of ascertaining the tonnage of the vessel.

(3) In subsection (2)—

“authorized person” means an officer or person appointed by the Port Authority to ascertain the tonnage of vessels generally or to ascertain the tonnage of a particular vessel;

“specified” means specified in the regulations made for the purposes of this section.

[Section 44 substituted by No. 22 of 1976 s. 12.]

[45. Section 45 repealed by No. 22 of 1976 s. 13.]

[46. *Section 46 repealed by No. 35 of 1964 s. 37.*]

In case of difference, power to weigh or measure goods

47. Where a difference arises between any officer authorized to collect any such dues or charges and the owner of goods respecting the weight or quantity of any goods—

- (1) The officer authorized 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 Port Authority, 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 Port Authority in any court of competent jurisdiction.

[*Section 47^a amended by No. 35 of 1964 s. 38.*]

Liability for dues payable by ship

48.⁴ 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 for goods

49. 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 the owner of such ship, 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.

[*Section 49^a amended by No. 22 of 1976 s. 14.*]

Recoupment of dues and expenses

50. Where—

- (a) a person other than the owner or master of any ship is, by this Act, made liable for the payment of any dues in respect of that ship; or
- (b) a person other than the owner of goods is, by this Act, made liable for the payment of any dues in respect of those goods,

that person may, out of any moneys in his hands received on account of that ship or those goods, as the case may be, 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.

[Section 50^a substituted by No. 22 of 1976 s. 15.]

Recovery of dues

51. All dues may be recovered by the Port Authority in any court of competent jurisdiction as a debt due to it.

[Section 51^a amended by No. 35 of 1964 s. 38.]

Persons authorized to collect dues may distrain

52.⁴ Any officer authorized 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 7 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, charges or charges occasioned by distress

53.⁴ 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

54. 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 \$200, or in case the amount of the dues which he has evaded or has attempted to evade exceeds \$200, then not exceeding such amount, and such penalty shall be in addition to the dues payable by him.

[Section 54^a amended by No. 35 of 1964 s. 39; No. 113 of 1965 s. 4 (1).]

**Power to Governor to revise
Port Authority dues**

55. If in the opinion of the Governor the Port Authority shall not, in any year, have collected and received from dues, charges, rents, and other sources of revenue sufficient, or shall in any year have collected and received as aforesaid more than sufficient, to provide for the lawful expenditure of the Port Authority, including interest and contribution to the sinking fund, in respect of the value of the property vested in and charged against it under sections 56 and 57, or if for any other reason the Governor thinks fit so to do, the Governor may revise the port dues, port improvement rates, wharfage charges, and other dues, tolls, rates, fees, and charges prescribed by the regulations under this Act, and it shall be the duty of the Port Authority to impose and collect such dues and charges in accordance with such revision until the Governor shall otherwise order.

[Section 55^a inserted by No. 35 of 1906 ss.10 and 21; amended by No. 35 of 1964 s. 40.]

Finance

**Minister to declare value of property
vested in Port Authority**

56. The Minister shall, on the commencement of this Act¹, cause a schedule to be made of all property vested in the Port Authority, and shall determine the value thereof to be charged against the Port Authority.

[Section 56^a amended by No. 35 of 1964 s. 41.]

Subsequent works

57. 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 Port Authority during the preceding financial year, to be charged as aforesaid.

[Section 57^a amended by No. 35 of 1964 s. 41.]

Annual financial targets

57A. (1) The Minister shall, with the approval of the Treasurer, determine in writing delivered to the Port Authority by not later than 15 February in each year a financial target for the Port Authority for the

next financial year and the Port Authority shall pursue a policy aimed at attaining that target, or that target as varied under subsection (4), during that financial year.

(2) A financial target determined by the Minister under subsection (1) shall be expressed as a real rate of return after current cost depreciation but before interest on the written down current cost of the assets of the Port Authority as calculated in accordance with subsection (3).

(3) The procedure to be used for the purposes of this section to calculate—

- (a) the real return after current cost depreciation but before interest which the Port Authority has attained or is attaining; and
- (b) the written down current cost of the assets of the Port Authority,

in respect of any financial year shall be as approved by the Minister and shall include—

- (c) the method to be used to calculate the return referred to in paragraph (a);
- (d) the assets, or classes of assets, to be considered assets of the Port Authority for the purposes of this section;
- (e) the method to be used to calculate the written down current cost of the assets of the Port Authority; and
- (f) where relevant, any transaction, resource or liability, or classes of transactions, resources or liabilities, to be adjusted and any method to be used for any such adjustments.

(4) Where, during a financial year, economic conditions beyond the control of the Port Authority are such that it is—

- (a) unlikely that the Port Authority will attain the financial target;
or
- (b) likely that the Port Authority will exceed the financial target,

determined by the Minister under subsection (1), the Minister may, with the approval of the Treasurer vary, in writing delivered to the Port Authority, the financial target determined under subsection (1).

(5) The annual report submitted by the Port Authority in accordance with section 66 (1) of the *Financial Administration and Audit Act 1985* shall include—

- (a) a report; and
- (b) supplementary financial statements, based on the procedure approved by the Minister under subsection (3), which for the purposes of that Act shall be deemed to be part of the financial statements prepared in accordance with section 66 (1) (a) of that Act for that annual report,

on the extent to which the Port Authority attained its financial target determined by the Minister under this section for the financial year the subject of the annual report.

[Section 57A inserted by No. 98 of 1987 s. 25.]

Payment of dividend to the State

57B. (1) The Port Authority shall, not later than one month after receiving the opinion of the Auditor General under section 93 of the *Financial Administration and Audit Act 1985*, beginning with the opinion received for the financial year ending on 30 June 1989, make a recommendation to the Minister as to whether a dividend should apply to the Port Authority for that financial year and if a dividend should apply, what that dividend should be.

(2) Subject to this section, the Minister may, with the approval of the Treasurer, after receiving the recommendation of the Port Authority under subsection (1), determine the dividend that is to be paid by the Port Authority to the Treasurer for the credit of the Consolidated Revenue Fund for the relevant financial year.

(3) A dividend under this section shall be expressed as a proportion of the State's equity in the Port Authority for the relevant financial year.

(4) In making a determination under subsection (2) in respect of a financial year the Minister shall have regard to but shall not be bound by the recommendation of the Port Authority.

(5) The Port Authority shall pay the amount of a dividend payable under this section within one month after receiving the determination of the Minister under subsection (2) or such longer period as the Minister directs.

(6) In this section "State's equity in the Port Authority" in relation to a financial year means the amount calculated in accordance with the formula $(A-L)$ where—

- A means the written down current cost of the assets considered assets of the Port Authority under section 57A (3), as calculated under that section in respect of the financial year, which were acquired by the Port Authority for consideration or vested in the Port Authority by the State; and
- L means the liabilities of the Port Authority that are identified, using the method approved by the Minister, as relating to the assets referred to in this subsection.

[Section 57B inserted by No. 98 of 1987 s. 25.]

Information to be provided to Minister

57C. The Minister may request, and the Port Authority shall provide, information and documents, including lists of assets, valuations, accounts and calculations—

- (a) necessary to enable the Minister to make or vary a determination or give a direction; or
- (b) relating to any recommendation made by the Port Authority,

under sections 57A or 57B.

[Section 57C inserted by No. 98 of 1987 s. 25.]

Funds

58. (1) Except to the extent that section 58A provides otherwise, the funds necessary for the effectual exercise by the Port Authority 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 Port Authority from all dues, charges, rents and other levies under the authority of this Act; and
- (c) such moneys as the Port Authority may borrow under and subject to the provisions of this Act.

(2) All moneys referred to in subsection (1) shall be paid into, and be placed to the credit of an account at the Treasury, or at a bank carrying on business within the State approved by the Treasurer, to be called "The Fremantle Port Authority 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 Port Authority 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 Port Authority; and
- (d) all other expenditure lawfully incurred by the Port Authority in the exercise of its powers or the discharge of its duties or obligations under this Act.

[Section 58^a substituted by No. 75 of 1960 s. 4; amended by No. 35 of 1964 s. 42.]

Collection of service charges

58A. (1) Service charges collected by the Port Authority for attendance money and administration expenses under section 31A shall be paid by the Port Authority into the Treasury to the credit of an account to be called "Fremantle Port Authority Attendance Money Account", and shall be used for payment of attendance money payable under an award or agreement referred to in that section.

(2) Where there is, or is likely to be a deficiency in the Account referred to in subsection (1), the Port Authority may, in order to make good or to avoid the deficiency, borrow from the Treasurer such sums, on such terms and conditions as to repayment as the Treasurer specifies.

[Section 58A inserted by No. 75 of 1960 s. 5; amended by No. 35 of 1964 s. 43; No. 98 of 1985 s. 3.]

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.

(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.

[Section 58B substituted by No. 35 of 1964 s. 44; amended by No. 98 of 1985 s. 3.]

Power of Port Authority to borrow money on issue of debentures or inscribed stock

58C. (1) Subject to subsection (2), the Port Authority, in addition to the powers conferred on it by section 58B, 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 Port Authority for the effectual exercise by it 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 Port Authority, 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 Port Authority, 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 authorized 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 Port Authority 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 Port Authority to, and approved by, the Minister.

(3) Any moneys borrowed by the Port Authority 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 Port Authority Inscribed Stock";
 - (iii) partly as provided by subparagraph (i), and partly as provided by subparagraph (ii); or
 - (iv) in such other manner as the Governor may approve.

[Section 58C inserted by No. 75 of 1960 s. 5; amended by No. 35 of 1964 s. 45.]

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 Port Authority under the provisions of this Act, the Port Authority may with the consent of the Governor, and subject to section 58C (2), borrow the moneys necessary for that purpose before the loan or part of it becomes payable.

[Section 58D inserted by No. 75 of 1960 s. 5; amended by No. 35 of 1964 s. 46.]

Moneys borrowed charged on revenues of Port Authority and guaranteed by the State

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

(2) For the purposes of subsection (1) "revenues" of the Port Authority means all dues, charges, rents and other levies authorized to be collected and received by the Port Authority.

(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 Port Authority under the provisions of section 58C 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 Consolidated Revenue Fund which is hereby to the necessary extent appropriated accordingly, and any sums received or recovered by the Treasurer from the Port Authority or otherwise in respect of a sum so paid by the Treasurer shall be paid into the Consolidated Revenue Fund.

[Section 58E inserted by No. 75 of 1960 s. 5; amended by No. 35 of 1964 s. 46; No. 98 of 1985 s. 3.]

Provisions of Second Schedule to apply to debentures and inscribed stock

58F. (1) The provisions of Part I of the Second Schedule shall apply with respect to debentures and inscribed stock issued by the Port Authority under the provisions of section 58C.

(2) The provisions of Part II of that Schedule shall apply with respect to debentures issued under the provisions of section 58C.

(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 58C.

[Section 58F inserted by No. 75 of 1960 s. 5; amended by No. 35 of 1964 s. 46.]

Debentures and inscribed stock authorized trustee investments

58G. (1) Debentures and inscribed stock created and issued by the Port Authority under the provisions of section 58C shall—

- (a) be securities authorized 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).

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

[Section 58G inserted by No. 75 of 1960 s. 5; amended by No. 35 of 1964 s. 46.]

Validation

58GA. Notwithstanding that prior to the coming into operation of the *Acts Amendment (Port Authorities) Act 1979¹*, the Port Authority has—

- (a) borrowed moneys; or
- (b) used income derived by the Port Authority under this Act or moneys appropriated by Parliament,

for a purpose which would have been within the power of the Port Authority had that Act been in operation at the time but which was not then a purpose within the powers of the Port Authority, such borrowing and the use of such income or appropriated moneys, and the doing of any act, matter or thing with respect thereto, shall be deemed to be and to have been duly authorized and lawfully done and is hereby validated.

[Section 58GA inserted by No. 78 of 1979 s. 16.]

Contribution of interest and sinking fund

58H. (1) There shall be entered and debited each year in the accounts of the Port Authority 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 and Capital Works Fund as shall have been applied to the exercise by the Port Authority of any of the powers conferred upon it or the discharge of the duties imposed upon it 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 Port Authority in relation to the exercise by it of the powers conferred upon it by this Act.

[Section 58H inserted by No. 75 of 1960 s. 5; amended by No. 35 of 1964 s. 47; No. 98 of 1985 s. 3.]

Interest on daily balance

58I. (1) Interest on the daily balance of money provided out of the Consolidated Revenue Fund for the purposes of this Act shall be charged in the books of account of the Port Authority in relation to the exercise of its powers and the discharge of its duties under this Act, and the amount of that interest shall be paid to the credit of the Consolidated Revenue Fund 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.

[Section 58I inserted by No. 75 of 1960 s. 5; amended by No. 35 of 1964 s. 48; No. 98 of 1985 s. 3.]

Moneys may be temporarily invested

58J. All moneys standing to the credit of the Port Authority, whether at the Treasury or in any account of the Port Authority at any bank, may, until required by the Port Authority in connection with the exercise of its powers or the discharge of its 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.

[Section 58J inserted by No. 75 of 1960 s. 5; amended by No. 35 of 1964 s. 49.]

Financial self sufficiency

58K. (1) In managing its financial resources and performing its functions under this Act the Port Authority shall aim—

- (a) to make loan principal payments;
- (b) to make any deferred interest payments;
- (c) to meet all other liabilities; and
- (d) to pay any dividend determined by the Minister under section 57B,

as and when they fall due and to retain sufficient resources in the Port Authority to enable it to meet, in part, its future capital expenditure.

(2) Unless or until required by the Port Authority for any purpose referred to in subsection (1), all moneys available to the Port Authority may be used by it for any of the purposes of this Act and section 14 of the *Financial Administration and Audit Act 1985* has no application to those moneys.

[Section 58K substituted by No. 98 of 1987 s. 26.]

Application of *Financial Administration and Audit Act 1985*

58L. The provisions of the *Financial Administration and Audit Act 1985* regulating the financial administration, audit and reporting of statutory authorities apply to and in respect of the Port Authority and its operations.

[Section 58L substituted by No. 98 of 1985 s. 3.]

[59. Section 59 repealed by No. 17 of 1951 s. 5.]

[60. Section 60 repealed by No. 98 of 1985 s. 3.]

Reserve accounts

60A. The Port Authority may in respect of its works and undertakings establish in its books such reserve accounts as it thinks fit subject to the approval of the Treasurer, and may in every year credit to each reserve account so established such sums as it thinks fit.

[Section 60A inserted by No. 75 of 1960 s. 6; amended by No. 35 of 1964 s. 53.]

[61., 62., 63., 64. Sections 61, 62, 63 and 64 repealed by No. 98 of 1985 s. 3.]

Regulations

Power to make regulations

65. The Port Authority may make regulations under this Act for all or any of the following purposes:—

- (1) The general conduct of its business and proceedings.
- (2) Prescribing the days upon which the ordinary meetings of the Port Authority shall be held.

[(2a) repealed]

- (3) The control, supervision, and guidance of its officers and servants.
- (3a) Regulating, controlling, and prohibiting—
- (a) the entering, or remaining, within the boundaries of the port or any specified part or parts of the port by any person or class of persons, or any thing or class of thing;
 - (b) the doing or omission of anything or class of thing within the boundaries of the port or any specified part or parts of the port,

either at all times and on all occasions or at any time or times, or on any occasion or occasions, the intention being that the generality of the authority delegated by this paragraph is not affected by authority delegated by any other paragraph of this section.

- (4) Regulating all matters relating to the protection of life and property, and the safe navigation of the port.
- (5) The prevention of overloading or overcrowding of vessels.
- (6) Regulating the landing, shipping, trans-shipping, 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 port, and their unmooring and removal out of the port.
- (8) Enabling the harbour master to insure the observance of such regulations 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 port dues, including tonnage dues, light dues, berthing dues, and other tolls, rates, or charges.
- (10a) Providing for the ascertainment of the tonnage of vessels for the purposes of this Act.
- (11) The exemption of ships in the service of Her Majesty or of any British possession, or in the naval service of any foreign power, and of other vessels from port dues.

- (12) Regulating the use of wharves, wharf loading areas 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.
- (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 Port Authority.
- (15) Regulating the use of cranes, weighing and other machines, weights and measures, conveniences or appliances belonging to the Port Authority, and fixing charges to be paid for the use of the same.
- (16) Regulating the cleansing, repair, and effectual preservation of docks and wharves, 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 Port Authority as others not being officers of customs, who are employed in the port.
- (18) Providing for the control and management of steam or other ferry boats plying for hire at wharves or public thoroughfares.
- (19) The granting of licences for tugs to conduct vessels into or out of port, and the fees to be paid for such licences.
- (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 port, and for the registration and licensing of master boatmen and others, and to prevent unlicensed boatmen plying for hire.
- (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.
- (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.

- (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: Provided that every exemption certificate shall be revocable in the absolute discretion of the Port Authority.
- (31) The government of pilots, and for ensuring the effectual performance of their duties.
- (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 as many copies as may be required by the Port Authority 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, and as many copies as may be required by the Port Authority of all alterations in or additions to such bill of lading, manifest, or other proper account.
- (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.
- (39) Limiting the liability of the Port Authority for goods deposited, stored, in transit, warehoused, landed, lodged, or left on any part of the property of the Port Authority, including all wharves and sheds, in case of damage to or loss of such goods from any cause whatever.
- (40) Limiting the amount of liability on each package of goods coming into the custody of the Port Authority and enabling the Port Authority to rely upon, and the owner of goods to be bound by all statements, exceptions, and conditions indorsed on ships' receipts, bills of lading, or ships' manifests for goods, as to declarations of value.

- (41) Providing that in any case of discharge and landing of goods outside what may be fixed by the Port Authority as the ordinary working hours of the port, the Port Authority shall not be liable to any person for the condition of such goods.
- (42) Providing that the Port Authority shall in no case be liable for the contents of packages of goods which are so packed or secured that the contents are not plainly visible, or the character thereof not ascertainable on receipt of the goods without the goods being unpacked or opened.
- (43) Exempting the Port Authority from liability for damage to goods caused or contributed to by insufficient protection or packing.
- (44) Exempting the Port Authority from liability for damage to or loss of goods which may have been delivered on its premises, but for which the Port Authority or its servants have not given a receipt.
- (45) Exempting the Port Authority from liability for damage suffered by any person in consequence of delay in or the wrongful delivery of goods.
- (46) Exempting the Port Authority from liability for damage to goods if landed or otherwise handled in wet weather, and authorizing the wharf manager to decide in his absolute discretion when the weather is wet.
- (47) Limiting the time within which claims in respect of goods damaged or lost must be made against the Port Authority, and exempting the Port Authority from liability in case claims are not made in accordance with such regulations.
- (48) Regulating the working and the provision of servants and labourers for the working of cranes, weighing machines, and other machines and conveniences erected or provided by the Port Authority for use in the loading and unloading of goods on any of the wharves of the Port Authority, and prescribing the rates or charges for the same, and for the handling and storing of goods.
- (48a) Any purpose necessary or desirable for giving effect to section 31A, including without derogating from the generality of this paragraph—
 - (a) the registration of casual workers and their employers;
 - (b) the discipline of casual workers and their employers;
 - (c) the attendance, roster, quota, and direction of casual workers;
 - (d) the direction of employers of casual workers;
 - (e) the administration of all matters related or incidental to giving effect to that section;
 - (f) any matter related or incidental to a service charge mentioned in that section; and

- (g) any matter related or incidental to any of the matters referred to in subparagraphs (a) to (f) inclusive of this paragraph;

but so that any regulation made under this paragraph is not inconsistent with any award or agreement referred to in section 31A(4) and effective under the *Industrial Arbitration Act 1912*.

- (49) Regulating the charges to be made by licensed boatmen, porters, and other carriers.
- (50) Prohibiting persons from acting as boatmen, plying for hire, porters, cab-drivers, carters, carmen, or otherwise in the carriage of goods or passengers without previously obtaining and continuing to hold the licence of the Port Authority, and prescribing the duration of and the fees for such licences, and providing that the issue of any such licence and the cancellation thereof shall be at the absolute discretion of the Port Authority.
- (51) Authorizing and empowering the Port Authority, in its discretion, to adopt the weight or measurement of goods set forth in the bill of lading or manifest of the goods, for the purpose of levying, imposing, charging, and collecting port dues, wharfage, and handling and storage charges.
- (52) Regulating and limiting the speed of vessels within the port.
- (52a) Authorizing and empowering the Port Authority to cause the removal from the port to some other place or places within or outside the limits of the port of goods which the Port Authority or its wharf manager shall, in its or his absolute discretion, consider to be injurious to or which may injuriously affect other goods or any shed, store, or other premises or open yard or place within the port.

Any such regulation may provide for and authorize the storage of such goods in any shed or store, or in or on any exposed or open place, and in any and every case at the risk and expense of the owner of the goods; and such shed, store or place may be within or outside the limits of the port as the Port Authority or its wharf manager may think fit.

The cost of such removal and the keeping and storage of the goods, whether within or outside the said limits shall be chargeable against the owner of the goods, and may be recovered from him by the Port Authority in an action in the Local Court of Western Australia held at Fremantle.

Any such regulation shall be additional to the provisions contained in section 29, and shall not be deemed *ultra vires* of the Port Authority in consequence of the same being in excess of the powers therein contained.

- (52b) Limiting or exempting the Port Authority from liability for damage or loss suffered by any person in consequence of—
- (i) act of God;
 - (ii) act of war;
 - (iii) act of public enemies;
 - (iv) strikes, lock-outs or stoppage or restraint of labour from whatever cause, whether partial or general;
 - (v) riots and civil commotions;
 - (va) acts of sabotage or terrorism;
 - (vb) unlawful seizure of or control of persons, vessels, vehicles or property;
 - (vi) the use for purposes of war or defence or training or preparation for war or defence of any of the property vested in the Port Authority.
- (53) And for other purposes relating to the convenience of shipping, or of the public, within the port, and generally for duly administering and carrying out the powers vested in the Port Authority by this Act.

[Section 65⁴ amended by No. 35 of 1906 s. 15; No. 2 of 1911 s. 4; No. 54 of 1950 s. 3; No. 17 of 1951 s. 6; No. 39 of 1952 s. 2; No. 42 of 1957 s. 6; No. 35 of 1964 s. 56; No. 22 of 1976 s. 16; No. 41 of 1986 s. 4.]

Penalties for breach of regulations

66. Regulations made under this Act—

- (1) may impose a penalty not exceeding \$2 000 for the breach thereof;
- (2) may provide that, in addition to the penalty, any expense incurred by the Port Authority in consequence of the breach of such regulation shall be paid by the person committing such breach; and
- (3) may prescribe a modified penalty not exceeding \$500 for any offence, or class of offence, if dealt with under a section of this Act authorizing the service of an infringement notice and the payment of a modified penalty in relation to such an offence.

[Section 66⁴ amended by No. 35 of 1964 s. 57; No. 113 of 1965 s. 4(1); No. 41 of 1986 ss. 5 and 7.]

Adoption of rules, codes, etc.

66A. Any regulations made under this Act may—

- (a) adopt, either wholly or in part or with modifications and either specifically or by reference, any rules, regulations, codes, instructions or other subordinate legislation made, determined

or issued under any other Act or under any Act of the Parliament of the Commonwealth or the United Kingdom, or any of the standards, rules, codes or specifications of the bodies known as the Standards Association of Australia, the British Standards Institution, The Association of Australian Port and Marine Authorities, or other like body specified in the regulations; and

- (b) provide that where by reason of unavailability of materials or other reason that the Port Authority considers valid any requirement adopted by the regulations cannot be conformed to, the Port Authority may approve such use of materials or other matters as it considers to be consistent with the achievement of the objects of the regulations.

[Section 66A inserted by No. 12 of 1976 s. 9.]

Infringement notices

66B. (1) An authorized person who has reason to believe that a person has committed an offence against this Act in respect of which a modified penalty is prescribed, may serve, by personal delivery to the person or by posting to him at his address ascertained from him at or about the time that the offence is believed to have been committed, a notice in the prescribed form informing the person that if he does not wish to have a complaint of that offence heard and determined by a court he may pay to a designated officer, not being a designated officer who is the authorized person serving that notice, within a period of 21 days after the date of service of that notice, the amount of the modified penalty.

(2) An authorized person may—

- (a) if the identity of the alleged offender is not known and cannot immediately be ascertained, address the infringement notice concerned to, and serve it on, the owner of the vessel concerned within a period of 30 days after the date on which the alleged offence is believed to have been committed; or
- (b) if the identity of the alleged offender is not known and cannot immediately be ascertained and the identity of the owner of the vessel is not known and cannot be ascertained after reasonable inquiry, address the infringement notice concerned to the owner of that vessel, without naming him or stating his address, and serve that infringement notice by attaching it to that vessel or by leaving it in or on the vessel within the period referred to in paragraph (a).

(3) When, under subsection (2) an infringement notice is addressed to and served on the owner of a vessel within the period referred to in paragraph (a) of that subsection or addressed to the owner of a vessel and

served by attaching it to the vessel or leaving it in or on the vessel within that period, then, unless within a period of 21 days after the date of service of the infringement notice—

- (a) the modified penalty concerned is paid;
- or
- (b) the owner of the vessel—
 - (i) informs an authorized person of the identity and address of the person who was in charge of the vessel; or
 - (ii) satisfies an authorized person that the vessel had been stolen or unlawfully taken, or was being unlawfully used,
 at the time when the alleged offence is believed to have been committed,

the owner of the vessel is, in the absence of proof to the contrary, deemed to be the person who was in charge of the vessel at the time when the alleged offence is believed to have been committed.

(4) A person on whom an infringement notice is served—

- (a) may decline; or
- (b) if he fails to pay the modified penalty concerned within a period of 21 days after the date of that service, is deemed to have declined,

to be dealt with under the provisions of this section.

(5) An authorized person may, whether or not the modified penalty concerned has been paid, withdraw an infringement notice at any time within a period of 28 days after it is served by sending to the alleged offender a notice in the prescribed form signed by the authorized person and advising the alleged offender that the infringement notice has been withdrawn.

(6) The amount of any modified penalty paid pursuant to an infringement notice which has been withdrawn under subsection (5) shall be refunded.

(7) When a modified penalty has been paid pursuant to an infringement notice and the infringement notice has not been withdrawn under subsection (5), proceedings shall not be brought against any person in respect of the alleged offence specified in the infringement notice.

(8) A person, other than the owner or person in charge of a vessel in respect of which an alleged offence is believed to have been committed, shall not remove an infringement notice relating to the alleged offence attached to or left in or on that vessel by an authorized person.

Penalty: \$500.

(9) An infringement notice served under subsection (2) shall contain, *inter alia*, a short statement of the effect of subsection (3).

(10) The general manager may by notice published in the *Gazette* designate an officer or class of officer (not being an authorized person) of the Port Authority, to receive payment of the amounts of modified penalties.

(11) in this section, unless the context otherwise requires—

“alleged offence” means offence referred to in subsection (1);

“alleged offender” means person who is believed by the authorized person concerned to have committed an alleged offence;

“authorized person” means person authorized in writing for the purposes of this section by the general manager;

“designated officer” means person designated under subsection (10);

“general manager” means the person holding or acting in the office of general manager under section 19 (1) (a); and

“infringement notice” means the notice referred to in subsection (1).

(12) In subsection (3)—

“the person who was in charge of the vessel” includes the person who was the driver, master, possessor, skipper, owner or user of the vessel or the person causing, permitting or suffering the vessel to be navigated, as the case requires.

(13) Where an offence prescribed under subsection (1) is an offence connected with, related to, associated with, or committed by reference to, a vehicle the provisions of this section with such modifications as are necessary for that purpose apply to and in relation to the offence as though the term “vessel” includes a reference to a vehicle which in this context includes any object capable of being drawn or propelled on wheels or tracks.

[Section 66B inserted by No. 41 of 1986 s. 5.]

Regulations to be approved by the Governor and published in the *Government Gazette*

67.⁴ 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 14 days after such publication, if Parliament is then in session, and if not, then within 14 days after the commencement of the next ensuing session.

Municipal Councils may make by-laws

68. It shall be lawful for the Councils of the Municipalities, having boundaries contiguous to the port, with the approval of the Port Authority, to make by-laws under section 167 (35) of the *Municipal Institutions Act 1900*⁶, or the corresponding provision of any Act amending the same, having the force of law within the boundaries of the

port; and for such purpose the port shall be deemed to be within the respective municipal districts to such extent as may be prescribed by such by-laws:

Provided that such by-laws may from time to time be altered, amended, or repealed by the Governor.

[Section 68^a inserted by No. 35 of 1906 ss. 17 and 21; amended by 35 of 1964 s. 58.]

Miscellaneous

Provision for Sundays and holidays

69. When the day on which anything is by this Act or the regulations required to be done falls on a Sunday, Good Friday, Christmas Day, New Year's Day, or any public holiday, such thing shall be done on the day next following.

[Section 69^a inserted by No. 35 of 1906 ss. 18 and 21.]

Governor may rectify irregularities

70. Whenever by any misadventure or accident anything is at any time done after the time required by this Act or the regulations, or is otherwise irregularly done in matter of form, the Governor may, from time to time, make provision for any such case, or may extend the time within which anything is required to be done, or may validate anything so done after the time required, or irregularly done in the matter of form, so that the true intent and purpose of this Act and the regulations may have effect.

[Section 70^a inserted by No. 35 of 1906 ss. 19 and 21.]

Harbour master may control entry and departure

70A. The harbour master may control the entry and departure of vessels into and from the port and the movement of vessels in or about the port.

[Section 70A inserted by No. 22 of 1976 s. 17; amended by No. 41 of 1986 s. 6.]

Penalty for not complying with directions of harbour master

71. 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 \$10 000.

[Section 71^a amended by No. 113 of 1965 s. 4 (1); No. 41 of 1986 s. 7.]

Power of harbour master to remove vessels

72. If the master of any vessel within the port 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.

[Section 72^a amended by No. 35 of 1964 s. 59.]

Penalty for obstructing harbour master and who is liable

73. 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 \$10 000.

[Section 73^a amended by No. 113 of 1965 s. 4 (1); No. 41 of 1986 s. 7.]

Harbour master may slacken ropes

74. If any master or other person on board any vessel moored or fastened within the port 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.

[Section 74^a amended by No. 35 of 1964 s. 59.]

Restriction on deposit of ballast or rubbish

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

- (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 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 \$2 000, and to pay the expenses of the removal to a proper position of any such substance or thing.

[Section 75⁴ amended by No. 113 of 1965 s. 4 (1); No. 41 of 1986 s. 7.]

Series of acts tending to the injury of navigation

76.⁴ 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.

Penalties for damaging lights, buoys or beacons

77. 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 \$5 000, or imprisonment not exceeding 12 calendar months, with or without hard labour.

[Section 77⁴ amended by No. 113 of 1965 s. 4 (1); No. 41 of 1986 s. 7.]

Penalty for wilfully cutting moorings

78. 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 port shall, for every such offence, incur a penalty not exceeding \$10 000, or imprisonment not exceeding 12 calendar months, with or without hard labour.

[Section 78^a amended by No. 35 of 1964 s. 59; No. 113 of 1965 s. 4 (1); No. 41 of 1986 s. 7.]

Penalty for wilful damage to works

79. Any person who wilfully destroys or in any way damages or injures any wharf, shed, roadway, building, or other port work whatsoever, or any part thereof, constructed or in course of construction, shall be liable for every such offence to a fine not exceeding \$5 000, or to imprisonment not exceeding 12 calendar months, with or without hard labour.

[Section 79^a amended by No. 35 of 1964 s. 59; No. 113 of 1965 s. 4 (1); No. 41 of 1986 s. 7.]

Penalty for wilful damage to lights

80. 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 \$5 000.

[Section 80^a amended by No. 113 of 1965 s. 4 (1); No. 41 of 1986 s. 7.]

Offence incurring penalty

81. 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 authorized 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 Port Authority; or
- (d) in any other respect offends against any of the provisions of this Act or any regulation thereunder,

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 \$2 000.

[Section 81^a amended by No. 35 of 1964 s. 60; No. 113 of 1965 s. 4 (1); No. 41 of 1986 s. 7.]

Penalty for offering bribes to officers

82. Any person who gives or offers any reward or bribe to any officer or servant of the Port Authority 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 \$5 000, or to imprisonment not exceeding 12 calendar months, with or without hard labour.

[Section 82⁴ amended by No. 35 of 1964 s. 60; No. 113 of 1965 s. 4 (1); No. 41 of 1986 s. 7.]

Summary procedure for breach of by-laws

83.⁴ 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 2 or more Justices of the Peace in the manner provided by the *Justices Act 1902*.

Sufficient averment

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

[Section 84⁴ amended by No. 35 of 1964 s. 61.]

Application of penalties

85. All penalties recovered for offences against this Act, or against any regulation thereunder, shall be paid to the Port Authority, and the proceeds of such penalties are hereby appropriated for the purposes of this Act.

[Section 85⁴ amended by No. 35 of 1964 s. 62.]

Police officers to report breaches of Act

86. It shall be the duty of every police officer and constable who is aware or has reason to believe that any of the provisions of the Act or the regulations thereunder are being contravened, to forthwith report the matter to the secretary to the Port Authority.

[Section 86⁴ inserted by No. 35 of 1906 ss. 20 and 21; amended by No. 35 of 1964 s. 62.]

Offenders may be prosecuted under other Acts

87.⁴ 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.

Security to customs

88. The Port Authority may give, by bond or otherwise, such security as the Customs may require under the provisions of the *Customs Act 1901*.

[Section 88: Section 88 was formerly section 2 of Act No. 4 of 1913; Renumbered as section 88 pursuant to section 3 of Act No. 4 of 1913; amended by No. 35 of 1964 s. 62.]

FIRST SCHEDULE

Description of inner harbour and outer harbour

That portion of the said port, which shall be known as the Inner Harbour, shall be bounded as follows:—

By a line starting from the intersection of the North side of Lukin Road and the prolongation Northwards of the fence on the West side of the Railway Reserve, North Fremantle, and extending Southerly along the fence on the Western Boundary of the Railway Reserve and along the Railway Bridge; thence along the Railway fence to the Western abutment of the Overhead Bridge; thence following the North-Western foot of the embankment of the approach to the Overhead Bridge to a point opposite 92 feet North-Easterly from the South-East corner of "H" Shed; thence South-Easterly to the angle in the Railway fence; thence South-Westerly along the said fence to the Eastern side of Cliff Street; thence Southerly along the said side of Cliff Street for a distance of about 2 chains; thence Westerly crossing Cliff Street and following along the South-Eastern boundary fences of the Fremantle Port Authority offices and Harbour Works Depot to the South-Western corner of the said depot; thence South about 4 chains; thence on a bearing of 106 deg. 30 min. for about 11 chains; thence South to the sea-coast and generally 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 the said North Mole and the sea-coast to a point due West of a point on the Western boundary of the Vacuum Oil Company's lease, 7 chains from the South-West corner of the said lease; thence due East to the point aforesaid on the Western boundary of the Vacuum Oil Company's lease; thence South-Westerly along the said boundary to the South-West corner; thence South-Easterly along the Southern boundary of the Vacuum Oil Company's lease to the South-East corner; thence North-Easterly along the Eastern Boundary of the Vacuum Oil Company's lease to its intersection with a line parallel to and 50 links distant from the fence on the prolongation Easterly of the Southern boundary of the Vacuum Oil Company's lease; thence along the said line to its intersection with the North Fremantle Store site fence; thence North-Easterly along the said fence on the South-Easterly side to its intersection with the prolongation of the North side of Lukin Road; thence North-Easterly along the said prolongation and the North side of Lukin Road to the starting point; but there shall be excluded from the said Inner Harbour all that piece of land at Arthur's Head contained in a lease to the Fremantle and the North Fremantle Councils for the purpose of a Tramway Electric Power House, and known as Fremantle Town Lot Number 1524, and as described in the *Government Gazette* of 16 September 1904.

That portion of the said Port, which shall be called the Outer Harbour, shall be:—

Bounded by a line starting at a point on the sea-coast of the mainland in Lat. 31 deg. 56 min. 22 sec. S. and extending South of Westerly to Duck Rock Beacon; thence Southerly to Bathurst Point, Rottnest Island, and along the Eastern and Southern shores of Rottnest Island in a generally 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 the said island to South-West Head; thence Southerly to John Point on the Mainland; thence Easterly and Northerly along the sea-coast of the mainland to a point due Easterly of the Southern extremity of the Fishing Boat Harbour Mole; thence due Westerly to the Southern Extremity of the said Mole; thence Northerly along the Western side of the Fishing Boat Harbour Mole; thence Northerly and Westerly along the sea-coast of the mainland and the Southern side of the South Mole to the latter's Western extremity; thence West-North-Westerly to the Western extremity of the North Mole, and thence Easterly and North-Easterly along the Northern side of the said North Mole and Northerly along the sea-coast of the mainland to the starting point; but there shall be excluded from the said Outer Harbour any lands which have heretofore been and remain alienated from the Crown in fee simple.

And the said Port shall comprise the areas included in the said Inner and Outer Harbours.

[*First Schedule amended by No. 75 of 1960 s. 7; No. 35 of 1964 s. 63; also amended in Gazettes 6 May 1904 p. 1174; 3 March 1916 p. 383; 25 February 1921 p. 297; 8 April 1921 pp. 497-98; 5 December 1924 pp. 2231-32; 19 December 1924 pp. 2302-03; 30 January 1925 p. 151; 23 March 1928 p. 794; 26 August 1932 p. 1206; 26 August 1938 p. 1350; 24 January 1941 pp. 113-14; 2 October 1942 pp. 922-23; 7 January 1943 p. 7; 23 February 1945 p. 228; 8 March 1946 p. 231; 17 June 1949 pp. 1324-25; 20 March 1953 pp. 513-14; 27 August 1954 p. 1501; 25 November 1960 p. 3790; 12 May 1961 p. 1159; 29 June 1962 pp. 1673-74; 7 May 1965 p. 1435; 23 January 1970 pp. 165-66; 8 April 1971 p. 1133; 17 October 1975 p. 3892; 9 December 1977 p. 4556; 23 December 1977 p. 4709; 2 November 1979 p. 3466; 20 February 1981 p. 770; 4 March 1983 p. 779; 21 September 1984 p. 3096-97; 20 September 1985 p. 3755; 20 December 1985 p. 4835; 13 June 1986 p. 1979.*]

SECOND SCHEDULE

PART I—DEBENTURES AND INSCRIBED STOCK

The following provisions shall apply to debentures and inscribed stock issued by the Port Authority under the provisions of section 58C:—

Interest

1. All debentures and inscribed stock—

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

Debentures and stock interchangeable

3. The Port Authority 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 Port Authority 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 58C.

Sinking fund

5. (1) The Port Authority shall set aside half-yearly by way of a sinking fund for the purpose of redeeming any loans raised by it pursuant to section 58C 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) for the purpose of paying off either the whole or any part of any loan in respect of which the fund is provided, the Port Authority 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.

Notice of trust not receivable

6. No notice of any trust, express, implied or constructive, shall be received by the Port Authority or by an officer of the Port Authority in relation to a debenture or inscribed stock issued or created pursuant to this Act, and the Port Authority 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.

Owners of securities not responsible for application of moneys

7. A person advancing money to the Port Authority 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 misapplication thereof.

PART II—DEBENTURES

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

Form of debenture

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

Seal

2. A debenture shall—

- (a) be sealed with the common seal of the Port Authority in the manner prescribed by the regulations; and
- (b) be numbered consecutively beginning with the number one and proceeding in an arithmetical progression whereof the common difference is one.

Pass by delivery

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.

Rights of bearer

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

Payment of interest

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.

Register of debentures

6. (1) The Port Authority shall cause to be kept in one or more books a register of debentures, and within a reasonable time after the date of a debenture shall cause to be made an entry in the register specifying the number date and amount of the debenture.

(2) The register of debentures—

- (a) may be inspected at all reasonable times by a person on payment of 10 cents for each inspection; and
- (b) shall be evidence of any matters required or authorized by or under this Act to be inserted therein.

(3) A person shall be entitled to obtain from the Port Authority copies or extracts certified by the officer in whose custody the register is kept to be true copies of or extracts from such register upon payment for each copy or extract of a fee of 25 cents and 2 cents for every folio of 72 words; and any copy or extract so certified shall be admissible in evidence.

Provision for lost debentures

7. Upon proof being made before a judge in chambers by affidavit of any credible person that a debenture issued by the Port Authority under this Act and held by such person the number and sum whereof is specified by him has been lost or accidentally burnt or otherwise destroyed before the same has been paid off, and after the insertion of such advertisements as the judge directs and upon the judge certifying that he is satisfied with the proof, the Port Authority may after the expiration of 6 months cause a new debenture with interest coupons attached to be made having the like currency and bearing the same number date principal sum and rate of interest as the debenture so lost or destroyed and to be delivered to the person upon his giving sufficient security to the Port Authority to indemnify the Port Authority against any double payment.

Provision for defaced debentures

8. If a debenture is defaced by accident—

- (a) the Port Authority may cancel the same and cause a new debenture to be made in lieu thereof; and
- (b) the new debenture shall have the like currency and be in all respects subject to the same provisions and bear the same number date and principal sum and rate of interest as the cancelled debenture.

Discharged debentures to be destroyed

9. (1) A debenture paid off discharged exchanged or converted into stock shall—

- (a) be cancelled by the secretary; and
- (b) be burnt in the presence of the secretary and the Auditor General or one of his officers thereto authorized by him in writing.

(2) The Auditor General or such officer (as the case may be) before the debenture is burnt shall audit the same and allow the accounts thereof and furnish the Port Authority with a certificate particularizing the debenture so burnt; and the secretary shall file that certificate in the office of the Port Authority.

PART III—STOCK

The following provisions shall apply to The Fremantle Port Authority Inscribed Stock issued in Perth, Western Australia (in this part called "stock"):

Establishment of registry and appointment of registrar

1. The Port Authority may establish at the office of the Port Authority a registry for the inscription of stock created and issued under the authority of this Act and appoint an officer of the Port Authority to be registrar of stock.

Parcels of stock

2. Stock may be sold by the Port Authority for ready money in parcels or amounts of \$20 or some multiple of \$20.

Stock Ledgers

3. (1) The Port Authority shall cause to be provided and kept at the office of the Port Authority books to be called "stock ledgers."

(2) All stock issued shall be inscribed in the stock ledgers by entering the names of the purchasers of stock and the amount of stock purchased by them respectively.

(3) In the case of joint purchasers of stock the names of not more than 4 of them shall be inscribed as the joint purchasers.

(4) The stock ledgers shall be evidence of any matters appearing therein and required or authorized by or under this Act to be inserted therein.

How Stock transferable

4. (1) Stock or any share therein shall be transferable in the manner prescribed by the regulations from one person to another by instrument in the form so prescribed and not otherwise.

(2) A person shall not be entitled or allowed to transfer any fraction of \$1 or any smaller sum than \$20 unless that smaller sum is the full amount of the balance standing to his credit in the stock ledger.

(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.

(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.

(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.

(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.

Power of attorney

6. (1) A person may by power of attorney under his hand and seal and attested by 2 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).

(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.

**When transfer books to be closed
and ledgers balanced**

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 14 days or within such period (not exceeding 21 days) as is prescribed next before any of the days on which the interest thereon is payable.

(2) During the periods referred to in the last preceding subclause the Port Authority 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 21 days immediately preceding the date of maturity of stock.

Receipt of registered stock holders to discharge without regard to trust

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 Port Authority for any interest payable in respect of the stock, notwithstanding any trust to which the stock may then be subject and whether or not the Port Authority has had notice of the trusts, and the Port Authority shall not be bound to see to the application of the money paid upon such receipt.

(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 Port Authority for any interest payable in respect of the stock, notwithstanding that a transmission has not been registered as required by this Act.

[*Second Schedule inserted by No. 75 of 1960 s. 8; amended by No. 35 of 1964 s. 64; No. 113 of 1965 s. 4 (1).*]

NOTES

¹ This reprint is a compilation as at 23 January 1989 of the *Fremantle Port Authority Act 1902* and includes all amendments effected by the other Acts referred to in Part I of the following Table and the notices referred to in Part II of the following Table.

Table of Acts and Notices

PART I—ACTS

Act	Number and Year	Assent	Commencement	Miscellaneous
<i>Fremantle Harbour Trust Act 1902</i>	17 of 1902	11 December 1902	11 December 1902	Short title subsequently amended (see footnote to section 1)
<i>Fremantle Harbour Trust Amendment Act 1906</i>	35 of 1906	14 December 1906	14 December 1906	
<i>Fremantle Harbour Trust Amendment Act 1911</i>	25 of 1911	16 February 1911	16 February 1911	
<i>Fremantle Harbour Trust Amendment Act 1913</i>	4 of 1913	4 October 1913	4 October 1913	see note under section 88
<i>Fremantle Harbour Trust Act Amendment Act 1950</i>	54 of 1950	18 December 1950	18 December 1950	

Act	Number and Year	Assent	Commencement	Miscellaneous
<i>Fremantle Harbour Trust Act Amendment Act 1951</i>	17 of 1951	26 November 1951	26 November 1951	
<i>Fremantle Harbour Trust Act Amendment Act 1952</i>	39 of 1952	18 December 1952	18 December 1952	
<i>Limitation Act 1935, Section 48A</i>	35 of 1935	7 January 1936	The relevant amendment as set out in the Second Schedule took effect on 1 March 1955 (see <i>Gazette</i> 18 February 1955 p. 343)	
<i>Fremantle Harbour Trust Act Amendment Act 1957</i>	42 of 1957	22 November 1957	5 September 1958 (see <i>Gazette</i> 5 September 1958 p. 2319)	
<i>Fremantle Harbour Trust Act Amendment Act 1960</i>	75 of 1960	12 December 1960	12 December 1960	
<i>Fremantle Harbour Trust Act Amendment Act 1964</i>	35 of 1964	12 November 1964	27 November 1964 (see <i>Gazette</i> 27 November 1964 p. 3821)	
<i>Decimal Currency Act 1965</i>	113 of 1965	21 December 1965	Sections 4 to 9: 14 February 1966 (see section 2 (2)); balance on assent	
<i>Fremantle Port Authority Act Amendment Act 1969</i>	80 of 1969	7 November 1969	7 November 1969	
<i>Acts Amendment (Port and Marine Regulations) Act 1976, Part IV</i>	12 of 1976	27 May 1976	27 May 1976	
<i>Fremantle Port Authority Act Amendment Act 1976</i>	22 of 1976	9 June 1976	1 September 1977 (see <i>Gazette</i> 29 July 1977 p. 2423)	
<i>Acts Amendment (Port Authorities) Act 1979, Part IV</i>	78 of 1979	6 December 1979	6 December 1979	
<i>Acts Amendment and Repeal (Disqualification for Parliament) Act 1984, Part VIII</i>	78 of 1984	14 November 1984	1 July 1985 (see <i>Gazette</i> 17 May 1985 p. 1671)	
<i>Acts Amendment (Financial Administration and Audit) Act 1985 (as amended by Act No. 4 of 1986), Schedule 1</i>	98 of 1985	4 December 1985	1 July 1986 (see section 2 and <i>Gazette</i> 30 June 1986 p. 2255)	
<i>Fremantle Port Authority Amendment Act 1986</i>	41 of 1986	1 August 1986	1 August 1986	
<i>Acts Amendment (Port Authorities) Act 1986, Part V</i>	79 of 1986	4 December 1986	4 December 1986	Section 18 savings ²

Act	Number and Year	Assent	Commencement	Miscellaneous
<i>Acts Amendment (Port Authorities) Act 1987, Part V</i>	98 of 1987	16 December 1987	Sections 8, 14, 20, 26, 32 and 38: 1 July 1988 (see section 2 (2)); balance on assent	
<i>Acts Amendment (Public Service) Act 1987, Schedule 2</i>	113 of 1987	31 December 1987	16 March 1988 (see <i>Gazette</i> 16 March 1988 p. 813)	

PART II—NOTICES

Notice	Gazettal	Commencement	Miscellaneous
<i>Amendment notice</i>	6 May 1904 p. 1174	6 May 1904	
<i>Amendment notice</i>	3 March 1916 p. 383	3 March 1916	
<i>Amendment notice</i>	25 February 1921 p. 297	25 February 1921	
<i>Amendment notice</i>	8 April 1921 pp. 497-98	8 April 1921	
<i>Amendment notice</i>	5 December 1924 pp. 2231-32	5 December 1924	
<i>Amendment notice</i>	19 December 1924 pp. 2302-03	19 December 1924	
<i>Amendment notice</i>	30 January 1925 p. 151	30 January 1925	
<i>Amendment notice</i>	23 March 1928 p. 794	23 March 1928	
<i>Amendment notice</i>	26 August 1932 p. 1206	26 August 1932	
<i>Amendment notice</i>	26 August 1938 p. 1350	26 August 1938	
<i>Amendment notice</i>	24 January 1941 pp. 113-14	24 January 1941	
<i>Amendment notice</i>	2 October 1942 pp. 922-23	2 October 1942	
<i>Amendment notice</i>	7 January 1943 p. 7	7 January 1943	
<i>Amendment notice</i>	23 February 1945 p. 228	23 February 1945	
<i>Amendment notice</i>	8 March 1946 p. 231	8 March 1946	
<i>Amendment notice</i>	17 June 1949 pp. 1324-25	17 June 1949	
<i>Amendment notice</i>	20 March 1953 pp. 513-14	20 March 1953	
<i>Amendment notice</i>	27 August 1954 p. 1501	27 August 1954	
<i>Amendment notice</i>	25 November 1960 p. 3790	25 November 1960	
<i>Amendment notice</i>	12 May 1961 p. 1159	12 May 1961	
<i>Amendment notice</i>	29 June 1962 pp. 1673-74	29 June 1962	
<i>Amendment notice</i>	7 May 1965 p. 1435	7 May 1965	
<i>Amendment notice</i>	23 January 1970 pp. 165-66	23 January 1970	
<i>Amendment notice</i>	8 April 1971 p. 1133	8 April 1971	

Notice	Gazettal	Commencement	Miscellaneous
<i>Amendment notice</i>	17 October 1975 p. 3892	17 October 1975	
<i>Amendment notice</i>	9 December 1977 p. 4556	9 December 1977	
<i>Amendment notice</i>	23 December 1977 p. 4709	23 December 1977	
<i>Amendment notice</i>	2 November 1979 p. 3466	2 November 1979	
<i>Amendment notice</i>	20 February 1981 p. 770	20 February 1981	
<i>Amendment notice</i>	4 March 1983 p. 779	4 March 1983	
<i>Amendment notice</i>	21 September 1984 pp. 3096-97	21 September 1984	
<i>Fremantle Port Authority (Alteration of Boundaries) Notice 1985</i>	20 September 1985 p. 3755	20 September 1985	
<i>Fremantle Port Authority Notice 1985</i>	20 December 1985 p. 4835	20 December 1985	
<i>Fremantle Port Authority Notice 1986</i>	13 June 1986 p. 1979	13 June 1986	

NB. The *Fremantle Port Authority Act 1902* is affected by the *Harbours and Jetties Act 1928* (section 2); *Oil Refinery (Kwinana) Agreement Act 1952*; *Broken Hill Proprietary Steel Industry Agreement Act 1952*; *Alumina Refinery Agreement Act 1961*; *Public Authorities (Contributions) Act 1974*.

² Section 18 of Act No. 79 of 1986 reads as follows—

Saving

“ 18. (1) A person who was immediately before the coming into operation of this Act a commissioner of the Port Authority within the meaning of the principal Act shall, subject to the principal Act, continue to hold office as such a commissioner for the remainder of his period of office as if the principal Act had not been amended by this Act.

(2) A commissioner of the Port Authority within the meaning of the principal Act who was immediately before the coming into operation of this Act the chairman of that Port Authority shall, subject to the principal Act, continue to hold office as that chairman for the remainder of his period of office as—

(a) that chairman; or

(b) a commissioner of that Port Authority,

whichever is the shorter period, as if the principal Act had not been amended by this Act. ”

³ Under the *Reprints Act 1984* section 7 (3) (h) this title was substituted for “Commissioner of Railways” see Act No. 23 of 1904.

⁴ In this reprint the renumbering of sections effected in the 1906 reprint (in the appendix to the sessional volume of 1906) and in subsequent reprints has been retained.

⁵ Now see the *Industrial Relations Act 1979*.

6. Repealed by *Municipal Corporations Act 1906*, and corresponding provisions enacted by section 179 (30) of that Act. Section 179 (30), except (e) and (x) repealed by *Traffic Act 1919*. *Municipal Corporations Act 1906*, repealed by *Local Government Act 1960*.

7. Marginal notes in the *Fremantle Port Authority Act 1902* referring to legislation of other jurisdictions have been omitted from this reprint.

