

WESTERN AUSTRALIA

ACTS AMENDMENT (PORT AUTHORITIES) ACT

No. 98 of 1987

AN ACT to amend the *Albany Port Authority Act 1926*, the *Bunbury Port Authority Act 1909*, the *Esperance Port Authority Act 1968*, the *Fremantle Port Authority Act 1902*, the *Geraldton Port Authority Act 1968*, and the *Port Hedland Port Authority Act 1970*.

[Assented to 16 December 1987]

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

PART I—PRELIMINARY

Short title

1. This Act may be cited as the *Acts Amendment (Port Authorities) Act 1987*.

Commencement

2. (1) Subject to subsection (2), this Act shall come into operation on the day on which it receives the Royal Assent.

(2) Sections 8, 14, 20, 26, 32 and 38 shall come into operation on 1 July 1988.

PART II—ALBANY PORT AUTHORITY ACT 1926**Principal Act**

3. In this Part, the *Albany Port Authority Act 1926** is referred to as the principal Act.

[*Reprinted as approved 24 March 1971 and amended by Acts Nos. 12 of 1976, 78 of 1979, 98 of 1985 and 79 of 1986.]

Section 22 amended

4. Section 22 of the principal Act is amended by deleting “The” and substituting the following—

“ Subject to any direction given by the Minister under section 28A, the ”.

Section 26A inserted

5. After section 26 of the principal Act the following section is inserted—

Capital expenditure to be in financial interest
of Port Authority

“ 26A. 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

6. After section 28 of the principal Act the following section is inserted—

Minister may give directions to Port Authority

“ 28A. 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. ”.

Sections 53A, 53B and 53C inserted

7. After section 53 of the principal Act the following sections are inserted—

Annual financial targets

“ 53A. (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.

Payment of dividend to the State

53B. (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 53A (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.

Information to be provided to Minister

53C. 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 53A or 53B. ”.

Section 54I repealed and a section substituted

8. Section 54I of the principal Act is repealed and the following section is substituted—

Financial self sufficiency

“ 54I. (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 53B,

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. ”.

PART III—BUNBURY PORT AUTHORITY ACT 1909

Principal Act

9. In this Part, the *Bunbury Port Authority Act 1909** is referred to as the principal Act.

[*Reprinted as authorized 22 January 1970 and amended by Acts Nos. 12 of 1976, 78 of 1979, 98 of 1985, 79 of 1986 and 53 of 1987.]

Section 22 amended

10. Section 22 of the principal Act is amended by deleting “The” and substituting the following—

“ Subject to any direction given by the Minister under section 28A, the ”.

Section 26A inserted

11. After section 26 of the principal Act the following section is inserted—

Capital expenditure to be in financial interest of Port Authority

“ 26A. 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

12. After section 28 of the principal Act the following section is inserted—

Minister may give directions to Port Authority

“ 28A. 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. ”.

Sections 53A, 53B and 53C inserted

13. After section 53 of the principal Act the following sections are inserted—

Annual financial targets

“ 53A. (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.

Payment of dividend to the State

53B. (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 53A (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.

Information to be provided to Minister

53C. 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 53A or 53B. ”.

Section 54I repealed and a section substituted

14. Section 54I of the principal Act is repealed and the following section is substituted—

Financial self sufficiency

“ 54I. (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 53B,

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. ”.

PART IV—*ESPERANCE PORT AUTHORITY ACT 1968*

Principal Act

15. In this Part, the *Esperance Port Authority Act 1968** is referred to as the principal Act.

[*Act No. 11 of 1968 as amended by Acts Nos. 12 of 1976, 78 of 1979, 98 of 1985 and 79 of 1986.]

Section 23 amended

16. Section 23 of the principal Act is amended by deleting “The” and substituting the following—

“ Subject to any direction given by the Minister under section 30A, the ”.

Section 28 inserted

17. After section 27 of the principal Act the following section is inserted—

Capital expenditure to be in financial interest of Port Authority

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

Section 30A inserted

18. After section 30 of the principal Act the following section is inserted—

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. ”

Sections 51A, 51B and 51C inserted

19. After section 51 of the principal Act the following sections are inserted—

Annual financial targets

- “ 51A. (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.

Payment of dividend to the State

51B. (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 51A (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.

Information to be provided to Minister

51C. 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 51A or 51B. ”.

Section 61 repealed and a section substituted

20. Section 61 of the principal Act is repealed and the following section is substituted—

Financial self sufficiency

“ 61. (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 51B,

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. ”.

PART V—FREMANTLE PORT AUTHORITY ACT 1902

Principal Act

21. In this Part, the *Fremantle Port Authority Act 1902** is referred to as the principal Act.

[*Reprinted as approved 23 July 1973 and amended by Acts Nos. 12 and 22 of 1976, 78 of 1979, 78 of 1984, 98 of 1985 and 41 and 79 of 1986.]

Section 24 amended

22. Section 24 of the principal Act is amended by deleting “The” and substituting the following—

“ Subject to any direction given by the Minister under section 30A, the ”.

Section 28A inserted

23. After section 28 of the principal Act the following section is inserted—

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 30A inserted

24. After section 30 of the principal Act the following section is inserted—

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. ”.

Sections 57A, 57B and 57C inserted

25. After section 57 of the principal Act the following sections are inserted—

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.

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.

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 58K repealed and a section substituted

26. Section 58K of the principal Act is repealed and the following section is substituted—

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. ”.

PART VI—*GERALDTON PORT AUTHORITY ACT 1968*

Principal Act

27. In this Part, the *Geraldton Port Authority Act 1968** is referred to as the principal Act.

[*Act No. 10 of 1968 as amended by Acts Nos. 12 of 1976, 78 of 1979, 98 of 1985 and 79 of 1986.]

Section 23 amended

28. Section 23 of the principal Act is amended by deleting “The” and substituting the following—

“ Subject to any direction given by the Minister under section 30A, the ”.

Section 28 inserted

29. After section 27 of the principal Act the following section is inserted—

Capital expenditure to be in financial interest of Port Authority

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

Section 30A inserted

30. After section 30 of the principal Act the following section is inserted—

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. ”.

Sections 51A, 51B and 51C inserted

31. After section 51 of the principal Act the following sections are inserted—

Annual financial targets

“ 51A. (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.

Payment of dividend to the State

51B. (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 51A (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.

Information to be provided to Minister

51C. 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 51A or 51B. ”.

Section 61 repealed and a section substituted

32. Section 61 of the principal Act is repealed and the following section is substituted—

Financial self sufficiency

“ 61. (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 51B,

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. ”.

PART VII—PORT HEDLAND PORT AUTHORITY ACT 1970

Principal Act

33. In this Part, the *Port Hedland Port Authority Act 1970** is referred to as the principal Act.

[*Act No. 30 of 1970 as amended by Acts Nos. 94 of 1972 (as amended by No. 83 of 1973), 12 of 1976, 78 of 1979, 98 of 1985 and 36 and 79 of 1986.]

Section 22 amended

34. Section 22 (1) of the principal Act is amended by deleting “The” and substituting the following—

“ Subject to any direction given by the Minister under section 29A, the ”.

Section 27A inserted

35. After section 27 of the principal Act the following section is inserted—

Capital expenditure to be in financial
interest of Port Authority

“ 27A. Before incurring any capital expenditure the Port Authority shall consider whether the expenditure is in the financial interest of the Port Authority. ”.

Section 29A inserted

36. After section 29 of the principal Act the following section is inserted—

Minister may give directions to Port Authority

“ 29A. 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. ”.

Sections 50A, 50B and 50C inserted

37. After section 50 of the principal Act the following sections are inserted—

Annual financial targets

“ 50A. (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.

Payment of dividend to the State

50B. (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 50A (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.

Information to be provided to Minister

50C. 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 50A or 50B. ”.

Section 60 repealed and a section substituted

38. Section 60 of the principal Act is repealed and the following section is substituted—

Financial self sufficiency

“ 60. (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 50B,

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), any 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. ”.
