

SHIPPING AND PILOTAGE.

No. 26 of 1984.

AN ACT to amend the Shipping and Pilotage Act
1967-1983.

[Assented to 31 May 1984.]

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

1. (1) This Act may be cited as the *Shipping and Pilotage Amendment Act 1984*. Short title and citation.

(2) In this Act the Shipping and Pilotage Act 1967-1983 is referred to as the principal Act. Act No. 17 of 1967 as amended by Acts Nos. 12 of 1976, 88 of 1978 and 38 of 1983.

(3) The principal Act as amended by this Act may be cited as the Shipping and Pilotage Act 1967-1984.

Commence-
ment.

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

Section 3
amended.

3. Section 3 of the principal Act is amended—

(a) in the definition of “controlling authority”, by deleting “Harbour and Light Department of the State” and substituting the following—

“ Department ”;

(b) by inserting after the definition of “controlling authority” the following definition—

“ “Department” has the meaning given to that term by section 3 of the Marine and Harbours Act 1981; ”;

and

(c) in the definition of “port”, by deleting “pursuant to” and substituting the following—

“ by or under ”.

Section 9
amended.

4. Section 9 of the principal Act is amended by repealing subsection (2) and substituting the following subsection—

“ (2) The regulations may—

(a) provide that, except as otherwise provided by the regulations, the use of pilotage facilities at any port is compulsory;

- (b) provide for the issue of pilotage exemption certificates to masters who hold the prescribed qualifications and—
- (i) prescribe the privileges that, except as otherwise expressly provided therein, are conferred by, and the duration of, a pilotage exemption certificate;
 - (ii) make provision for a pilotage exemption certificate to be subject to such conditions as may be specified therein and such other conditions (if any) as may be prescribed;
 - (iii) provide for the renewal, surrender, cancellation, and suspension of a pilotage exemption certificate and the making thereon, at the time of its issue or renewal or at any other time, of an endorsement imposing conditions on or extending the privileges attaching to that certificate;
 - (iv) provide for the examination and testing of persons applying for the issue or renewal of a pilotage exemption certificate, or the making or variation of an endorsement thereon or the removal of an endorsement therefrom;
 - (v) prescribe the matters in relation to which a fee shall be payable and the amount of any such fee;
- (c) provide for exemptions from the requirement to pay pilotage charges

and for any such exemption to be according to the class of vessel or circumstance;

- (d) provide for the payment by the owner of the vessel concerned of prescribed charges in respect of the detention of a pilot in quarantine or otherwise and of such incidental expenses as are prescribed;
- (e) provide for the payment—
 - (i) where a person fails to comply with a requirement of the regulations to use pilotage facilities; or
 - (ii) where a person who, not being required to use pilotage facilities by reason of his being the holder of a pilotage exemption certificate, fails to comply with a requirement of the regulations relating to the use of that certificate,

of the pilotage charges that would have been payable had pilotage facilities been used for the entry, departure, or movement in respect of which the failure occurred. ”.

Section 10
amended.

5. Section 10 of the principal Act is amended in subsection (2) by deleting “Harbour and Light Department of the State” in paragraph (ba) and substituting the following—

“ Department ”.

Section 12
amended.

6. Section 12 of the principal Act is amended—

(a) in subsection (1)—

- (i) by inserting after “goods” in paragraph (a) the following—

“ and enabling the Minister to specify substances that, in addition to those identified in the

regulations, are dangerous goods for the purposes of the regulations ”; and

(ii) by deleting paragraph (c) and substituting the following paragraphs—

“ (c) requiring persons to comply with directions given or requirements made under the authority of those regulations and providing, where a person fails to comply with such a direction or requirement, for measures to be taken at the risk and expense of that person for achieving the purposes of the direction or requirement;

(d) empowering persons authorized in that behalf in accordance with the regulations to board vessels and enter places for the purposes of enforcing this Act and take such other action as appears to them appropriate for the purposes of this Act. ”;

(b) in subsection (1a), by deleting paragraphs (a), (b) and (c);

(c) by repealing subsections (2) and (3) and substituting the following subsections—

“ (2) Regulations made under this Act may—

(a) create offences and provide, in respect of an offence so created, for the imposition of a penalty consisting of a fine

not exceeding \$2 000 with or without imprisonment for a term not exceeding 12 months;

- (b) provide that a person committing an offence referred to in paragraph (a), in addition to suffering any penalty imposed under those regulations, is liable to pay to the Crown all expenses incurred by reason of the commission of that offence, and make provision for the recovery of those expenses from that person in a court of competent jurisdiction as a debt due to the Crown;
- (c) 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 body specified in those regulations;
- (d) provide that if by reason of unavailability of materials or for any other reason that the responsible authority considers valid any requirement

adopted by those regulations cannot be conformed to, the responsible authority may approve such use of materials or other matters as it considers to be consistent with the achievement of the objects of those regulations;

- (e) be of general application or may be limited in their application according to time, place, or circumstance;
- (f) make different provision for different classes of vessels or for the same class of vessels in different circumstances;
- (g) make the application of any provision of the regulations dependent on compliance with specified conditions, to be evidenced in a specified manner;
- (h) apply according to an approval or other administrative decision of a specified person or body notwithstanding that such approval or other decision may not have been, or may not have been primarily, given or made for the purposes of this Act;
- (i) require a matter affected by them to be in accordance with a specified requirement, or as approved by, or to the satisfaction of, a specified person or body, or class of person or body, and delegate to or

confer on a specified person or body, or class of person or body, a discretionary authority;

(j) exempt, or provide for the exemption of, persons or things from the provisions of those regulations, or any of them, and impose, or provide for the imposition of, conditions on any such exemption;

(k) require any matter or thing to be verified by statutory declaration.

(3) In subsection (2) of this section—

“responsible authority” means—

(a) in relation to a port under the control of a Port Authority constituted or established under an Act, that Port Authority;

(b) in relation to any other port, the Department;

“specified” means specified in the regulations. ”.
