

FREMANTLE PORT AUTHORITY.

No. 22 of 1976.

AN ACT to amend the Fremantle Port Authority
Act, 1902-1969.

[Assented to 9th June, 1976.]

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

1. (1) This Act may be cited as the *Fremantle Port Authority Act Amendment Act, 1976*.

Short title
and citation.

(2) In this Act the Fremantle Port Authority Act, 1902-1969 is referred to as the principal Act.

Reprinted as
approved for
reprint 23rd
July, 1973.

(3) The principal Act as amended by this Act may be cited as the Fremantle Port Authority Act, 1902-1976.

Commence-
ment.

2. The provisions of this Act shall come into operation on such date or dates as is or are, respectively, fixed by proclamation.

Section 19
amended.

3. Section 19 of the principal Act is amended by deleting the word "Harbour" in line three of subsection (4), and substituting the word "port".

Section 20
repealed and
re-enacted.

4. The principal Act is amended by repealing section 20 and re-enacting that section as follows—

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 27B
added.

5. The principal Act is amended by adding after section 27A a section as follows—

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) of this section a licence granted under that subsection for a term not exceeding sixty days may be granted without the approval of the Minister. .

6. The principal Act is amended by adding after section 27A a section as follows— Section 27C added.

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— Powers of Port Authority in relation to pipelines.

(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. Cf. No. 112 of 1969 ss. 4, 5 and 17.

7. Section 32 of the principal Act is amended by adding after the word “by” in line four of subsection (2) the words “or under the”. Section 32 amended.

8. Section 36 of the principal Act is amended by deleting the word “commissioners” in line thirteen, and substituting the words “Port Authority”. Section 36 amended.

9. Section 39 of the principal Act is amended by deleting the word “their” in line two, and substituting the word “its”. Section 39 amended.

10. The principal Act is amended by adding after section 39 a section as follows— Section 39A added.

39A. (1) An action shall not be brought against the Port Authority or any officer of the Port Authority in respect of— No liability for ships navigated without pilotage.

(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) of this section 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 39B added.

11. The principal Act is amended by adding after section 39 a section as follows—

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.

See No. 30 of 1918 s.4 "This Act".

(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 thirty-five of this Act. .

Section 44 repealed and re-enacted.

12. The principal Act is amended by repealing section 44 and re-enacting that section as follows—

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 authorise 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 two 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 authorised 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 authorised 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 authorised person;

(i) may require the owner, agent or master of a vessel, upon request by an authorised 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) of this section—

“authorised 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. .

13. The principal Act is amended by repealing section 45. Section 45
repealed.

14. Section 49 of the principal Act is amended by adding after the word “goods” in line three, the passage “, and also the owner of such ship”. Section 49
amended.

15. The principal Act is amended by repealing section 50 and re-enacting that section as follows— Section 50
repealed and
re-enacted.

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 Recoupment
of dues and
expenses.

Cf. s.48
ante.

(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, Cf. s.49
ante.

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. .

16. Section 65 of the principal Act is amended— Section 65
amended.

(a) by deleting the word “by-laws” in line two of paragraph (8), and substituting the word “regulations”;

(b) by adding after paragraph (10) a paragraph as follows—

(10a) Providing for the ascertainment of the tonnage of vessels for the purposes of this Act. ; and

(c) by adding after subparagraph (v) of paragraph (52b) a subparagraph as follows—

(va) acts of sabotage or terrorism; .

Section 70A
added.

17. The principal Act is amended by adding after section 70 a section as follows—

Harbour
master may
control entry
and
departure.

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