

PORT HEDLAND PORT AUTHORITY.

No. 30 of 1970.

AN ACT to establish the Port Hedland Port Authority and to provide for the Control and Management of the Port of Port Hedland and for incidental and other purposes.

[Assented to 20th May, 1970.]

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.

Citation.

1. This Act may be cited as the *Port Hedland Port Authority Act, 1970.*

Commence-
ment.

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

3. This Act is divided into Parts as follows—

Arrangement
of Act.

PART I.—PRELIMINARY. Ss. 1-4.

PART II.—ESTABLISHMENT OF PORT AUTHORITY.
Ss. 5-30.

Division 1.—Constitution. Ss. 5-16.

*Division 2.—Officers and other employees. Ss.
17-18.*

Division 3.—Vesting of Property. Ss. 19-21.

*Division 4.—Powers and Duties of the Port
Authority. Ss. 22-30.*

PART III.—PILOTAGE. S. 31.

PART IV.—WRECKS, OBSTRUCTIONS AND DAMAGE.
Ss. 32-35.

PART V.—PORT DUES AND WHARFAGE CHARGES.
Ss. 36-40.

PART VI.—LIABILITY FOR DUES. Ss. 41-48.

PART VII.—FINANCE. Ss. 49-65.

PART VIII.—MISCELLANEOUS. Ss. 66-81.

PART IX.—REGULATIONS. Ss. 82-83.

FIRST SCHEDULE.

SECOND SCHEDULE.

4. (1) In this Act, unless the contrary intention appears—

Interpreta-
tion.

“buoys and beacons” include all marks and signs within the port in aid of navigation;

“Chairman” means the member appointed Chairman of the Port Authority;

“goods” includes wares and merchandise of every description and all chattels, livestock, minerals and mineral products and other articles;

“harbour master” includes assistant harbour master;

“master” includes every person, not being a pilot appointed by the Port Authority, having for the time being the command, charge, or management of a vessel;

“member” means a person appointed to be a member of the Port Authority;

“owner” includes any person who is owner jointly or in common with another person; and when used in relation to goods includes a consignor, consignee, shipper or agent for sale or custody, loading or unloading of the goods as well as the owner thereof;

“Port Authority” means the Port Hedland Port Authority established under this Act;

“ship” includes every description of vessel used in navigation, and not propelled exclusively by oars;

“the Account” means the Port Hedland Port Authority Account;

“the Port” means so much of the port of Port Hedland as is contained within the boundaries described in the First Schedule to this Act;

“vessel” means any ship, lighter, barge, boat, raft or craft of whatever description and howsoever navigated.

(2) Nothing in this Act—

(a) shall be construed so as to prejudice any right of the persons entitled thereto to receive the payments referred to in sub-clause (1) of clause 20 of the agreement a copy of which is set forth in the Schedule to the Leslie Solar Salt Industry Agreement Act, 1966;

(b) shall be construed so as to prejudice or in any way affect any right or obligation of a party to the agreement a copy of which is set forth in the Schedule to the Iron Ore (Mount Goldsworthy) Agreement Act, 1964;

- (c) shall be construed so as to prejudice or in any way affect any right or obligation of a party to the agreement a copy of which is set forth in the Schedule to the Iron Ore (Mount Newman) Agreement Act, 1964 as that agreement is amended or altered by the variation agreement a copy of which is set forth in the Second Schedule to the Iron Ore (Mount Newman) Agreement Act, 1964-1967.

PART II.—ESTABLISHMENT OF PORT AUTHORITY.

Division 1.—Constitution.

5. (1) For the purposes of this Act, there is hereby established a body by the name of the Port Hedland Port Authority.

Port Hedland
Port
Authority.

(2) The Port Authority—

- (a) is a body corporate, with perpetual succession;
- (b) shall have a common seal;
- (c) may acquire, hold and dispose of real and personal property; and
- (d) may sue and be sued in its corporate name.

(3) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Port Authority affixed to a document and shall presume that it was duly affixed.

6. (1) The Port Authority shall consist of five members.

Membership
of Port
Authority.

(2) Subject to subsections (3) and (4) of this section, the members shall be appointed by the Governor.

(3) One of the members shall be appointed by the Governor on the written nomination of the registered lessee or registered lessees, for the time being, of the land the subject of lease number 3116/3445 or any lease in substitution therefor issued under the Land Act, 1933, and the Iron Ore (Mt. Goldsworthy) Agreement Act, 1964.

(4) One of the members shall be appointed by the Governor on the written nomination of the registered lessee or the registered lessees, for the time being, of the land the subject of lease number 3116/3692 or any lease in substitution therefor issued under the Land Act, 1933, and the Iron Ore (Mt. Newman) Agreement Act, 1964.

(5) One of the members, not being a member referred to in subsection (3) or (4) of this section, shall be appointed Chairman of the Port Authority by the Governor.

(6) If at any time the appropriate registered lessee does not or the appropriate registered lessees do not, nominate a person for appointment as member under subsection (3) or (4) of this section or under section 8 of this Act or as a deputy member under section 9 of this Act, within thirty days after being requested in writing by the Minister so to do, the Governor may, without such nomination of the registered lessee or registered lessees, appoint any person who is otherwise eligible to be the member or deputy member, to represent the interests of the registered lessee or registered lessees in default.

(7) A person appointed by the Governor under subsection (6) of this section shall, for all purposes, be deemed to be duly nominated and appointed as member or deputy member, as the case may require and to be the nominee and the representative of the respective lessee or lessees in default.

Term of
office of
member.

7. Subject to this Act, each member holds office for a period of three years but is eligible for re-appointment.

Vacancy.

8. (1) Subject to subsection (2) of this section, when and as often as a vacancy occurs in the office of any member, the Governor shall appoint a person to fill the vacancy for the unexpired term of office of the member in whose place he is appointed.

(2) If the vacancy occurs in the office of a member referred to in subsection (3) or (4) of section 6 of this Act, a person appointed to fill the vacancy shall be first nominated in writing by the registered lessee or registered lessees referred to in either of those subsections who, at the time the person is so nominated, would be eligible to nominate for appointment as member, the member whose office is vacant.

9. (1) The Governor shall appoint a person to be the deputy of a member. Deputy members.

(2) A person appointed under this section shall be nominated for, appointed to and removed from the office of deputy in like manner and for like cause as the member for whom he is deputy.

(3) A person shall be the deputy of one member only.

(4) The deputy of a member is entitled, in the event of the absence of a member from a meeting of the Port Authority, to attend that meeting, and when so attending, shall be deemed to be a member.

10. (1) A member who is directly or indirectly interested in a contract (not being a contract to which the registered lessee or the registered lessees, who nominated him for appointment as member, is or are a party or parties) made or proposed to be made by the Port Authority, otherwise than as a member, and in common with other members, of an incorporated company consisting of not less than twenty-five persons, shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Port Authority. Disclosure of interests in contracts.

(2) A disclosure under subsection (1) of this section shall be recorded in the records of the Port Authority.

Removal
from office.

11. (1) A member who is nominated and appointed under subsection (3) or (4) of section 6 of this Act or is appointed under subsection (6) of that section shall cease to be a member if the registered lessee or the registered lessees who so nominated him or who is or are deemed to have nominated him pursuant to subsection (7) of that section—

- (a) ceases or cease to be the registered lessee or the registered lessees of the land referred to in the subsection pursuant to which he was nominated and appointed; or
- (b) by instrument in writing served on the Minister requests or request that the member shall cease to be a member.

(2) The Governor may remove a member from office—

- (a) for misbehaviour or incapacity;
- (b) if he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of any moneys payable to him under this Act for the benefit of his creditors;
- (c) is absent, except on leave of absence granted by the Minister, from three consecutive meetings of the Port Authority; or
- (d) if he fails to comply with subsection (1) of section 10 of this Act.

Remunera-
tion and
allowances.

12. The Chairman and each other member shall be paid such remuneration and allowances as are prescribed.

13. The Minister may grant leave of absence to a member upon such terms and conditions as to remuneration or otherwise as the Minister determines.

Leave of absence.

14. A member may resign his office by instrument in writing under his hand addressed to and delivered to the Governor.

Resignation of member.

15. (1) (a) Subject to this section, the Port Authority shall meet at such times and places as the Chairman thinks necessary for the efficient conduct of the affairs of the Port Authority.

Meetings of the Port Authority.

(b) Due notice of all meetings convened under this section shall be given to each member by the person convening the meeting.

(2) The Chairman shall, upon the request in writing of not less than two members, convene a meeting of the Port Authority.

(3) The Minister may at any time convene a meeting of the Port Authority.

(4) The Chairman shall preside at all meetings of the Port Authority at which he is present, and, in the absence of the Chairman from any meeting or if after being present at a meeting he retires, the members present at that meeting shall elect one of their number to be acting Chairman for the meeting or for the remainder thereof.

(5) A member while acting as Chairman of a meeting has the powers and shall perform the functions of the Chairman.

(6) At a meeting of the Port Authority, three members constitute a quorum.

(7) Questions arising at a meeting of the Port Authority shall be decided by a majority of the votes of the members present and voting.

(8) The member presiding at a meeting of the Port Authority has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

(9) The exercise of a power or the performance of a function by the Port Authority is not invalidated by reason only of there being a vacancy or vacancies in the membership of the Port Authority.

Records to be kept and annual report to be furnished.

16. (1) The Port Authority—

- (a) shall keep a record of its proceedings; and
- (b) shall, as soon as practicable after each thirtieth day of June, furnish to the Minister a report of its operations during the year ended on that date, together with such financial statements in respect of that year in such form as the Treasurer approves.

(2) The Minister shall lay the report and financial statements of the Port Authority, before each House of Parliament within twelve sitting days of that House after their receipt by him.

Division 2.—Officers and other employees.

Appointment of officers and employees.

17. (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 the like approval, dismiss any of them; and
- (b) appoint such other officers and such employees as may be necessary for the administration of this Act, and at any time dismiss any of them.

(2) All officers and employees appointed under this section are subject to the control of the Port Authority.

(3) The appointment and dismissal of employees, at daily or weekly wages, is in the sole power of the Port Authority.

(4) The Port Authority may appoint and dismiss persons as special constables, who, within the limits of the Port have, and may exercise and enjoy such powers, authorities, and immunities, and are subject to such duties and obligations as a police officer appointed under the Police Act, 1892, now has or is subject to by law.

(5) A person appointed a special constable under this section is not a member of the Police Force of the State but is an employee of the Port Authority and under its direction and control.

18. 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—

Certain
officers to
give
security

(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.

Division 3.—Vesting of Property.

19. (1) Subject to this section, there shall be vested in the Port Authority for the purposes of this Act—

Property
vested in
Port
Authority.

(a) all lands of the Crown within the boundaries of the Port, including the bed and shores of the Port;

- (b) all harbour lights, signals, buoys and beacons within the boundaries of the Port or used in connection with navigation into or out of the Port, not being the property of the Crown in the right of the Commonwealth;
- (c) all wharves, docks, landing stages, piers, jetties, wharf sheds and railways belonging to the Crown in right of the State and all equipment and buildings thereon that are within the boundaries of the Port;
- (d) any improvements referred to in clause 3 (2) (a) of lease number 3116/3688 or referred to in clause 3 (8) (a) of lease number 3116/3689 or referred to in clause (3) (2) (a) of lease number 3116/4185 all of which leases are issued under the Land Act, 1933 that are acquired on the surrender of the demised premises referred to in those leases pursuant to those clauses or pursuant to any leases or clauses thereof in substitution therefor; and
- (e) subject to subsection (2) of section 4 of this Act, 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.

(2) For the purposes of vesting in the Port Authority any improvements referred to in paragraph (d) of subsection (1) of this section, the Port Authority is empowered to reimburse or enter into any agreements with the lessees referred to in the leases specified in that paragraph in accordance with the terms of such leases.

Disposal of land with Governor's approval.

20. The Port Authority shall not dispose of any land vested in it without the prior approval of the Governor.

Exemption from municipal rates.

21. (1) Subject to this section, all land vested in the Port Authority under this Act is exempt from any rate, tax or imposition that might, but for this section, be lawfully levied or imposed by or under any Act.

(2) Nothing in subsection (1) of this section precludes a municipal council under the Local Government Act, 1960, or other statutory authority from levying and collecting rates and other lawful charges in respect of land, houses and buildings of the Port Authority that are for the time being let or occupied for private purposes.

Division 4.—Powers and Duties of the Port Authority.

22. (1) The Port Authority has the exclusive control of the Port and is charged with the maintenance and preservation of all property vested in it under this Act.

Control of Port and maintenance of property by Port Authority.

(2) The Port Authority may do all such things as are necessary or convenient to be done for or in connection with the duties imposed on it under this section.

23. (1) The Port Authority may, with the prior approval of the Minister, construct, complete and extend any port works within the Port, for which purpose the Port Authority is a local authority within the meaning of the Public Works Act, 1902.

Construction of port works.

(2) In this section "port works" includes any pier, quay, wharf, jetty, bridge, viaduct, embankment or dam, or any reclamation of land from the sea or a river, or excavation, deepening, dredging or widening of any channel, basin or other part of the Port.

24. (1) The Port Authority—

(a) may make and maintain roads, railways and approaches to all wharves, docks, piers, jetties, landing stages, slips, platforms, depots, and sheds that are now or may hereafter be erected on any land vested in it;

Power of Port Authority to make roads, approaches etc.

- (b) shall cause those wharves, docks, piers, jetties, landing stages, slips, platforms, depots, and sheds, and the roads, railways and approaches thereto, to be kept in good repair; and
- (c) shall cause those wharves, docks, piers, jetties, landing stages, slips, platforms, depots, and sheds, and the roads, railways and approaches thereto, to be well and sufficiently lighted,

but a breach of a duty imposed by this subsection does not confer a right of action on any person who may suffer damage therefrom.

(2) The Port Authority 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 those wharves, docks, piers, jetties, landing stages, slips, or platforms as it may think expedient for the trade of the port, and may make reasonable charges for the use of any of those depots, sheds, engines, cranes, hoisting and weighing machines, and such other apparatus and conveniences.

(3) The Port Authority—

- (a) 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
- (b) 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.

25. The Governor may, upon the recommendation of the Port Authority, grant leases of any land vested in it by this Act, for any term not exceeding twenty-one years, as yards or sites for—

Power of Port Authority to lease certain land for certain purposes.

- (a) ship building, boat building, storing of timber, coal, merchandise or other property;
- (b) the erection of workshops or foundries;
- (c) other purposes connected with shipping,

but no lease for a period exceeding three years shall be so granted unless applications therefor have been first invited by advertisement published twice in the *Government Gazette* and twice in a newspaper published in Perth.

26. Subject to this Act, wherever any land is required for the purposes of this Act, that 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.

Power to acquire land compulsorily.

27. The Port Authority may enter into contracts with any person for the erection, construction or execution of any work permitted or authorised to be erected or constructed by it, or for furnishing materials or labour, or for the purchase or construction of machinery or appliances of any kind, and any other contracts necessary for the purpose of carrying out the objects for which the Port Authority has been established.

Power of Port Authority to make contracts.

28. (1) Goods shall not be allowed to remain upon any wharf or on the approaches thereto, or in any store or warehouse in which goods may be placed, for a longer period than is allowed by the regulations.

Goods not to remain on wharf etc. longer than prescribed time.

(2) If any goods so remain or if any goods within the Port are deemed by the Port Authority in its absolute discretion to be injurious to, or injuriously affect or be likely to injuriously affect, other goods, or any shed, store, or other premises or open yard or place within the Port, any person appointed by the Port Authority for the purpose may remove the goods to a convenient place within or without the Port, and keep the goods until payment to the Port Authority of the expenses of removal and of the keeping of the goods, including a reasonable charge for the storage thereof by the Port Authority after the expiration of the period allowed by the regulations.

(3) If those expenses are not paid within seven days after demand therefor made upon the owner, or if the owner is unknown or cannot be found, then after public notice by advertisement, at least once in each of two consecutive weeks, in a newspaper circulating at the Port, the Port Authority may sell the goods by public auction, except that if the goods are perishable they may be sold by the Port Authority without such demand and at any time after twenty-four hours of their being so removed.

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

Disputes
between Port
Authority
and
Government
Departments
to be
settled by
Minister.

29. Any dispute between the Port Authority and The Western Australian Government Railways Commission, or any other Government department, with respect to any land or other property vested in the Port Authority, shall be referred by the parties to the dispute to the Minister, whose decision is final and binding upon the parties.

30. The Port Authority may provide employees 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 any of those purposes.

Power of Port Authority to provide employees etc. for working cargo.

PART III.—PILOTAGE.

31. (1) Except as otherwise provided by the regulations, pilotage is compulsory within the Port.

Pilotage compulsory.

(2) Any person not being a duly qualified pilot, or lawfully exempted from pilotage as master of a ship, who acts as a pilot for any ship either entering or navigating in, or leaving, the Port is guilty of an offence against this Act and is liable for each offence to a fine of double the amount of the pilotage dues that could be demanded under this Act if the ship had entered, navigated in or left the Port in charge of a duly qualified pilot.

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

PART IV.—WRECKS, OBSTRUCTIONS AND DAMAGE.

32. (1) Where a vessel is sunk, stranded or abandoned within the Port in such way as in the opinion of the Port Authority to tend to the injury of navigation, the 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—

Removal of wrecks.

- (a) the Port Authority shall give notice in writing to the owner of the vessel, or to an agent of the owner, that he is required, within a time specified in the 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;

- (b) if 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 manner satisfactory to the Port Authority, or to enter into such undertaking as is mentioned in paragraph (a) of this subsection to remove the wreck, or having undertaken to remove it, fails to remove it in accordance with his undertaking, then the Port Authority may remove the wreck, and may recover from the owner, in a court of competent jurisdiction, the expenses incurred in removing it (in this section referred to as "the expenses of removal");
- (c) 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 wreck or any part of it, and may, out of the proceeds, if any, of the sale, without any reference to the part of the wreck from the sale of which those 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;
- (d) if the proceeds of the sale are insufficient to pay the whole expenses of removal, the Port Authority may recover the balance from the owner of the vessel, if the 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.

(2) For the purposes of this section, the term "owner" means not only the owner of the vessel at the time of the sinking, stranding or abandonment thereof, but also any person who, whilst the vessel remains sunk, stranded, or abandoned, purchases the wreck, or the materials of which it is or was composed.

33. (1) Where any damage is done by a vessel or any part of the equipment thereof, floating timber, or material, or by any person employed in or about any of them, to any part of the works or property of the Port Authority, the following persons, namely—

Responsi-
bility for
injury to
works.

- (a) whether the damage is caused through negligence or not, the owner of the vessel, floating timber or material; and
- (b) where the damage is caused through the wilful act or negligence of the master of the vessel, or of the person having charge of the timber or material, the master or person,

are each answerable in damages to the Port Authority for the whole of the damage, but neither the Port Authority nor any other person is entitled by virtue of this section to recover twice for the same cause of action.

(2) Where the owner of any vessel, floating timber, or material pays any money in respect of any damage done to any part of the works or property of the Port Authority by any master or other person, or pays any fine by reason of any act or omission of any master or other person, he is entitled to recover the money so paid, with costs, from that master or other person.

34. Where 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 thereof, the damage shall forthwith be made good by, and at the expense of, the master, owner or agent of the ship; and in default, the Port Authority may cause repairs to be effected to the submarine cable and may recover the expense thereof from the master or owner or agent in a court of competent jurisdiction.

Liability for
damage to
submarine
cables.

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

Port
Authority
not liable for
acts or
omissions of
pilot.

PART V.—PORT DUES AND WHARFAGE CHARGES.

Port dues
etc. fixed by
regulations.

36. (1) Port dues and wharfage and service charges shall be made and levied by the Port Authority and are payable in accordance with the regulations.

(2) Until the regulations are made, all port dues and wharfage charges or other charges now payable by law shall be continued to be levied and charged, and are payable to the Port Authority as if they had been made payable under this Act.

Power of
Port
Authority to
levy port
improvement
rates.

37. (1) The Port Authority may, with the approval of the Treasurer, make regulations providing for the levying of port improvement rates for all or any of the following purposes—

- (a) to raise funds to fulfil its obligations in respect of assets or improvements acquired by it for the purposes of this Act;
- (b) for carrying out improvements to the Port;
or
- (c) to make capital repayments of funds borrowed for any of the purposes of carrying out improvements to the Port and the repayment of interest payable on the funds so borrowed.

(2) Improvement rates levied under the regulations may be at such rate per ton by weight or measurement as expressed in the regulations and shall be levied upon all goods shipped from or through the Port or entering the Port for discharge.

(3) Those regulations may prescribe—

- (a) the manner of levying and collecting the rate; and
- (b) the persons by whom, and the manner in which, the rate shall be paid to any authorised officer of the Port Authority or to any other person authorised by the Port Authority in that behalf.

(4) Those regulations may be prescribed to be of general application or to apply in particular cases or circumstances having regard to the use of the Port improvements by the person shipping or discharging goods in respect of which the improvement rate is levied and the regulations may prescribe a rate per ton by weight or measurement which may differ in particular cases or circumstances.

38. (1) Where a ship has been registered at a port in the United Kingdom or in the Commonwealth, the amount of tonnage specified in the certificate of such registry shall, for the purposes of this Act, be deemed to be the tonnage of such ship.

Calculation of dues.

(2) Where a ship is registered at a port in a country that has adopted the provisions of the Merchant Shipping Act, 1894 of the United Kingdom Parliament, in respect of the measurement of tonnage the ship shall be deemed to be of the tonnage denoted in its certificate of registry or other national papers.

39. Where any question arises as to the tonnage of any ship not registered as mentioned in section 38 of this Act, any officer of the Port Authority authorised by it in that behalf, may measure the ship in accordance with the regulations for the measurement of shipping for the time being in force in the State; or the Port Authority may accept, as the measurement of the ship, the measurement of the ship appearing in the latest edition of Lloyds Register that is in the possession of the Port Authority.

Measurement of tonnage in other cases.

40. Where a difference arises between the officer authorised to collect any dues or charges payable under this Act to the Port Authority and the owner of goods respecting the weight or quantity of any goods liable to those dues or charges—

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

- (a) that officer may cause the goods to be weighed or measured;
- (b) 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 is recoverable as dues owing to the Port Authority;
- (c) if the weight or quantity does not exceed that alleged by the owner, the expenses of the weighing or measuring shall be paid by the Port Authority and are recoverable from it in a court of competent jurisdiction.

PART VI.—LIABILITY FOR DUES.

Liability for dues payable by ships.

41. The owner and master of a ship and any charterer thereof and any agent thereof as has paid, or made himself liable to pay, any other charge on account of the ship, is liable to pay the dues payable under this Act in respect of the ship.

Liability for dues payable for goods.

42. The following persons are liable to pay the dues payable under this Act in respect of any goods carried in a ship, namely—

- (a) the owner of the goods;
- (b) any consignor, consignee, shipper or agent for sale or custody of the goods;
- (c) any person entitled to the possession of the goods, either as owner or agent for the owner; and
- (d) the owner or occupier of the wharf from which such goods are shipped or on to which such goods are discharged.

Power of person other than master or owner of ship to retain certain moneys for payment of dues.

43. Every consignor, consignee, shipper, or agent (not being the owner or master of any ship or goods) by this Act made liable for the payment of any dues in respect of that ship or those goods, as the case may be, may, out of any moneys in his hands received on account of the ship or goods, or

belonging to the owner thereof, retain the amount of dues so paid by him, together with any reasonable expenses he may have incurred by reason of payment and liability.

44. All dues, charges and rates payable to the Port Authority may be recovered by the Port Authority as a debt in a court of competent jurisdiction.

Recovery of dues.

45. (1) Any person authorised to collect dues may distrain any ship and the tackle thereof, or any goods in respect of which dues are payable, and may keep the ship and tackle or goods respectively until the dues are paid; and if they are not paid within seven days after the distress, may cause the property distrained or any part thereof to be sold and out of the proceeds of the sale may pay the amount of the dues and the expenses of the distress, keeping and sale.

Power of persons authorised to collect dues, to distrain.

(2) The power conferred by this section is in addition to the other remedies provided by this Act for the recovery of dues.

46. (1) 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 Port Hedland, 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.

Settlement of dispute concerning dues or charges occasioned by distress.

(2) 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.

47. If any master, owner, charterer, consignee, shipper or agent evades or attempts to evade the payment of any dues or charges payable under this Act he is guilty of an offence against this Act and he is liable to a fine of two hundred dollars, in addition to the amount of the dues or charges.

Power of Governor to revise port duties.

48. (1) If in the opinion of the Governor, the Port Authority—

(a) has not, in any year, collected and received dues, charges, rents and other sources of revenue sufficient; or

(b) has, in any year, so collected and so received more than sufficient,

to provide for the lawful expenditure of the Port Authority, including interest and contributions to the sinking fund, in respect of the value of the property vested in and charged against it under sections 49 and 50 of this Act, or if for any other reason the Governor thinks fit so to do, the Governor may revise the port dues, wharfage charges and other dues, tolls, fees and charges prescribed by the regulations.

(2) The Port Authority shall impose and collect such dues, charges, tolls and fees as so revised by the Governor until the Governor otherwise orders.

PART VII.—FINANCE.

Determination of value of property vested in Port Authority.

49. The Minister shall, on the coming into operation of this Act, 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.

Value of subsequent works.

50. After the Minister determines the value under section 49 of this Act, the Minister shall, at the end of each financial year, cause a schedule to be made of the cost of all additional works and improve-

ments 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 against the Port Authority.

51. (1) The funds necessary for the effectual exercise by the Port Authority of the powers conferred by this Act shall be—

Funds of
Port
Authority.

- (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) of this section shall be paid into, and be placed to the credit of an account at the Treasury to be called "The Port Hedland Port Authority Account", and shall be applied to the purposes of this Act.

(3) The moneys from time to time in that account are 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 members;

- (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.

Power of
Port
Authority to
borrow
money from
Treasurer.

52. (1) The Port Authority in addition to the powers conferred on it by sections 53 and 54 of this Act may, with the approval of the Governor, borrow from the Treasurer, and in that case the Treasurer shall make advances to the Port Authority out of moneys appropriated by Parliament for that purpose to enable the Port Authority to defray expenditure incurred by it under this Act at any time when the moneys in the Account are not sufficient to meet that expenditure in full.

(2) The Port Authority shall pay to the Treasurer in respect of moneys borrowed pursuant to subsection (1) of this section interest at such rate and at such times as the Governor determines.

(3) The moneys so borrowed and the interest payable in respect thereof is a charge upon the moneys in the Account from time to time, and upon any works, undertakings and other assets vested in the Port Authority.

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

53. (1) Subject to subsection (2) of this section, the Port Authority 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 authorised 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 Port Hedland Port Authority Inscribed Stock”;
- (iii) partly as provided by subparagraph (i) and partly as provided by subparagraph (ii) of this paragraph; or
- (iv) in such other manner as the Governor may approve.

Power of
Port
Authority to
borrow to
repay loan.

54. 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 subsection (2) of section 53 of this Act, borrow the moneys necessary for that purpose before the loan or part of it becomes payable.

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

55. (1) Due payment of debentures and inscribed stock respectively issued or created under the provisions of section 53 of this Act 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) of this section “revenues of the Port Authority” means all dues, charges, rents and other levies authorised 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 53 of this Act 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 Public Account 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 Public Account.

56. (1) The provisions of Part I of the Second Schedule to this Act apply with respect to debentures and inscribed stock issued by the Port Authority under the provisions of section 53 of this Act.

Provisions of Second Schedule to apply to debentures and inscribed stock.

(2) The provisions of Part II of that Schedule apply with respect to debentures issued under the provisions of section 53 of this Act.

(3) The provisions of Part III of that Schedule apply with respect to inscribed stock issued in Perth in the State under the provisions of section 53 of this Act.

57. (1) Debentures and inscribed stock created and issued by the Port Authority under the provisions of section 53 of this Act—

Debentures and inscribed stock authorised trustee investments.

(a) are securities authorised 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 sub-section (1) of this section.

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

Contribution
of interest
and sinking
fund.

58. (1) There shall be entered and debited each year in the Account such amounts as are fixed by the Treasurer as the interest and sinking fund contributions payable for the year in respect of such portion of the General Loan Fund as 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) Those 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.

Interest on
daily balance

59. (1) Interest on the daily balance of money provided out of the Public Account 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 Public Account 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.

60. Any profit at the end of any financial year resulting from the activities carried on by the Port Authority under this Act that is available in cash after making full allowance for interest and sinking fund contributions, and depreciation, obsolescence and maintenance of plant, may be used by the Port Authority for any of the purposes of this Act, unless the Treasurer requires payment to be made to the credit of the Public Account.

Application
of profit.

61. The Port Authority shall cause books to be provided and kept, and true and regular accounts to be entered therein—

Accounts.

- (a) of all moneys received and paid by it, and of all moneys owing to and by it under this Act, and of the several purposes for which those moneys have been received and paid, and owing; and
- (b) of all the assets and liabilities of the Port Authority under this Act.

62. (1) The books of the Port Authority shall be open to the inspection of the Minister and Auditor General, and any person authorised by the Minister or Auditor General to inspect the books and any person inspecting the books under the authority of this section may take copies or extracts therefrom.

Power to
inspect
books.

(2) A clerk or other person having the custody of the books of the Port Authority who does not on demand by a person authorised under this section to inspect the books, permit that person to examine them and take copies or extracts therefrom is guilty of an offence against this Act.

Penalty: Twenty dollars.

63. The Port Authority shall in each year cause its accounts to be balanced to the thirtieth day of June in that year.

Accounts of
Port
Authority to
be balanced.

Accounts of
Port
Authority to
be audited.

64. (1) The Port Authority shall cause a full and true balance sheet of its assets and liabilities, together with a revenue account or profit and loss account for each year, and such other statements as may be necessary to be compiled from the books and submitted to the Auditor General for audit.

(2) The Auditor General shall certify, if such is the case, that—

- (a) he has found the accounts in order, or otherwise;
- (b) in his opinion, the accounts are properly drawn up so as to present a true and correct view of the transactions for the period under review as shown by the books;
- (c) all items of receipts and payments and all known liabilities and assets have been brought into account; and
- (d) the value of all assets has in all cases been fairly stated.

(3) The Auditor General may express an opinion upon the necessity of reserve or renewal funds of amounts set aside to meet depreciation and obsolescence of plant in addition to the statutory sinking fund, and of the adequacy of those amounts.

(4) The Auditor General has, in respect to the accounts of the Port Authority, all the powers conferred on him by the Audit Act, 1904.

Copies of
accounts of
Port
Authority as
audited to be
furnished.

65. (1) The Port Authority shall once at least in each year, furnish to the Minister a copy of its accounts as audited by the Auditor General pursuant to this Act.

(2) The Minister shall lay a copy of the accounts together with the Auditor General's report thereon before each House of Parliament within nine sitting days of that House after their receipt by the Minister.

PART VIII.—MISCELLANEOUS.

66. The master of a vessel who, after service on him of notice in writing signed by the harbour master, or any officer acting on behalf of the harbour master, fails to forthwith regulate the vessel within the Port in accordance with the directions contained in the notice is guilty of an offence against this Act.

Offence of not complying with directions of harbour master etc.

Penalty: Two hundred dollars.

67. (1) The master, owner or person in charge of any vessel within the Port shall moor, unmoor, place or remove the vessel according to the directions of the harbour master, and if there is no person on board the vessel to give effect to the directions, the harbour master may cause the vessel to be moored, placed or removed, as he thinks fit.

Power of harbour master to remove vessels.

(2) The harbour master in the exercise of his powers under subsection (1) of this section may unloose or cut any rope or unshackle or break any chain by which the vessel is moored or fastened, and may obtain such assistance and employ such persons as he thinks necessary to enable him to carry out any of those powers.

(3) All expenses attending the carrying out of any of the powers conferred on the harbour master by subsection (1) of this section shall be paid by the master, owner or agent of the vessel, and the Port Authority may recover in a court of competent jurisdiction the expenses from the master, owner or agent as a debt due to it.

(4) In addition to any liability for expenses under subsection (3) of this section, if the master of the vessel or any other person hinders the harbour master, or any person employed or authorised by him, in or from mooring, unmooring, placing or removing the vessel under the authority of this section, the master or other person is guilty of an offence against this Act.

Penalty: Two hundred dollars.

Power of
harbour
master to
slacken ropes
etc.

68. (1) If the master or any other person on board and in charge of 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 the vessel is moored or fastened he is guilty of an offence against this Act.

Penalty: Two hundred dollars.

(2) Where no such person is on board any vessel so moored or fastened, the harbour master or any person employed or authorised by him may unloose or slacken the rope or chain by which the vessel is so moored or fastened, and, if necessary, may cause a sufficient number of persons to be put on board for the protection of the vessel.

(3) All expenses incurred by the harbour master in the exercising of any power conferred on him by subsection (2) of this section shall be paid by the master, owner, or agent of the vessel and may be recovered in a court of competent jurisdiction by the Port Authority, as a debt due to it.

(4) In addition to any liability for expenses under subsection (3) of this section, if the master of the vessel or any other person hinders the harbour master, or any person employed or authorised by him, in or from unloosing or slackening a rope or chain as provided in subsection (2) of this section, the master or other person is guilty of an offence against this Act.

Penalty: Two hundred dollars.

Power of
harbour
master to
make fast to
another
vessel.

69. (1) The harbour master may, for the purpose of removing any vessel from one place to another in the Port, cause the vessel to be made fast to another vessel being at anchor or moored to any buoy, wharf or pile.

(2) A person who hinders the harbour master, or any person employed or authorised by him, in or for the exercise of the power conferred by this section, or who casts off or cuts off any rope or chain by which the vessel is so made fast to another vessel is guilty of an offence against this Act.

Penalty: Two hundred dollars.

(3) Nothing in this section disentitles the master or owner of any vessel to which another vessel is fastened pursuant to this section, by or by direction of the harbour master, from recovering from the master or owner of the lastmentioned vessel damages for injury sustained by reason of that vessel being so fastened.

70. (1) A person who commits any of the following offences, so as to be or tend to the injury of navigation, that is to say—

Offences of
depositing
ballast or
rubbish.

(a) 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 Port, or tidal water, or into the sea below low water-mark; or

(b) casts, or causes to be cast, or suffers to fall, any such substance or thing on land, in a position where it 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

(c) casts, or places or leaves, or causes to be cast, placed, or left, any vessel 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 Port or tidal water, or in the sea,

is guilty of an offence against this Act.

Penalty: One hundred dollars.

(2) In addition to any penalty for which the offender may be liable for committing an offence under subsection (1) of this section, he is also liable to pay to the Port Authority the expenses incurred by it in removing any substance or thing mentioned in that subsection to a proper position.

Offence of
damaging
lights, buoys,
beacons
etc.

71. (1) A person who wilfully or negligently—
- (a) injures any harbour light, or the lights exhibited therein, or any buoy or beacon;
 - (b) removes, alters, or destroys any harbour light, light-ship, buoy, or beacon;
 - (c) rides by, makes fast to, or runs foul of any harbour light, light-ship, buoy, or beacon;
or
 - (d) removes, alters, injures, or destroys any signal or signal staff used for purposes in aid of vessels navigating,

commits an offence against this Act.

(2) For each offence the offender is, in addition to the expenses of making good any damages so occasioned, liable to a fine not exceeding two hundred and fifty dollars or twelve months' imprisonment.

Offence of
cutting
moorings.

72. A person commits an offence against this Act who, not being the harbour master, or a person acting according to the authority of the harbour master, wilfully cuts, breaks or destroys the mooring or fastening of any vessel in the Port.

Penalty: Two hundred dollars or imprisonment for twelve months.

Penalty for
wilful
damage to
lights.

73. A person commits an offence against this Act who wilfully or knowingly breaks, throws down, damages or takes away any lamp, lamp post or other appliance used for the purpose of lighting any

wharf, quay, pier, or any road or dock or other place within the Port or wilfully extinguishes any light within the lamp.

Penalty: One hundred dollars and in addition the offender is liable to make good the amount of the injury or damage occasioned thereby.

74. A person commits an offence against this Act who— Other offences.

- (a) fails, refuses, or neglects to do, or in any manner obstructs, impedes or interferes with the doing of anything enjoined or authorised to be done under this Act;
- (b) wilfully does anything prohibited by this Act;
- (c) molests or makes use of any threatening language to any harbour master, pilot, engineer, surveyor, other officer or person while in the execution of his duty under this Act; or
- (d) in any other respect offends against the provisions of this Act or a regulation.

75. A person commits an offence against this Act, who gives or offers any money or thing by way of reward or bribe to any harbour master or other officer or employee of the Port Authority employed about the Port, 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. Offence of offering bribes to officers.

Penalty: Two hundred dollars or twelve months imprisonment.

76. A person who commits an offence against this Act for which no penalty is provided elsewhere than in this section is liable to a fine not exceeding one hundred dollars. General penalty.

Averment as
to Port.

77. In any proceedings for an offence against this Act the averment that the offence was committed within the limits of the Port is sufficient without proof of those limits, unless the contrary is proved.

Application
of penalties.

78. The amount of all fines and other amounts recovered for or in respect of offences against this Act or a regulation shall be paid to the Port Authority and are hereby appropriated for the purposes of this Act.

Police officer
to report
breaches of
the Act.

79. A police officer of the Police Force of the State who is aware or has reason to believe that any of the provisions of this Act are being contravened shall forthwith report the matter to the Secretary to the Port Authority.

Power of
Port
Authority to
give security.

80. The Port Authority may give such securities as the Customs may require and take pursuant to the provisions of the Customs Act, 1901, as amended from time to time, of the Parliament of the Commonwealth.

Power of
Governor to
ratify irregu-
larities etc.

81. Where, by misadventure or accident anything is at any time done after the time required by this Act, or is otherwise irregularly done in matter of form, the Governor may, from time to time, by Order in Council, 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 so irregularly done in the matter of form, so that the true intent and purpose of this Act may have effect.

PART IX.—REGULATIONS.

Power of
Port
Authority to
make
regulations.

82. The Port Authority may with the approval of the Governor make regulations under this Act for all or any of the following purposes, namely—

- (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.
- (3) The control, supervision and guidance of its officers and employees.
- (4) 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 any thing 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.
- (5) Regulating all matters relating to the protection of life and property, and the safe navigation of the Port.
- (6) The prevention of overloading or overcrowding of vessels.
- (7) Regulating the landing, shipping, transshipping, deposit, removal and keeping of gunpowder and other explosive substances and compounds, or other dangerous goods.
- (8) 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.
- (9) Enabling the harbour master to insure the observance of the regulations made pursuant to paragraph (8) of this section, 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.

- (10) 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.
- (11) Imposing, levying, and receiving all port dues, including tonnage dues, light dues, berthing dues, and other tolls, rates or charges.
- (12) The exemption of ships in the service of Her Majesty or of any country that is a member of the British Commonwealth of Nations or in the naval service of any foreign power and of other vessels from port dues.
- (13) 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.
- (14) Fixing scales of dues, tolls and charges to be paid for the use thereof.
- (15) Fixing scales of dues for the storage of goods and charges to be paid for taking into and delivering the goods from warehouses or buildings belonging to or in the occupation of the Port Authority.
- (16) 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.

- (17) Regulating the cleansing, repair and effectual preservation of docks and wharves and providing for the keeping and maintenance of the docks and wharves in a fit state for the convenience of persons walking upon or landing on or embarking from any wharf.
- (18) Regulating the duties and conduct of all persons, including the employees of the Port Authority not being officers of Customs, who are employed in the Port.
- (19) Providing for the control and management of steam or other ferry boats plying for hire at wharves or public thoroughfares.
- (20) The granting of licences for tugs to conduct vessels into or out of port, and the fees to be paid for the licences.
- (21) 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.
- (22) Providing for the inspection of all such boats or vessels as are referred to in paragraph (21) of this section and preventing the use of such of them as are unseaworthy or insufficient.
- (23) Providing for the name of each boat or vessel and the name of its owner being shown thereon.
- (24) Fixing the fees to be paid for licensing any boats or vessels referred to in paragraph (21) of this section, 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.

- (25) Regulating the conduct, and for the punishment of misconduct, of licensed boatmen when practising their calling.
- (26) The guidance of porters, carters, truck drivers and others carrying goods or driving horses, carriages, wagons, carts, drays, trucks or other vehicles for conveying passengers or goods, and other commodities on any wharf.
- (27) Prescribing pilotage rates and determining the nature of the services for which those rates respectively are payable.
- (28) The time of payment for pilotage services rendered to any vessel.
- (29) The amount to be paid for detention of pilots on board vessels under quarantine or otherwise.
- (30) The conditions of exemption from compulsory pilotage.
- (31) The granting of exemption certificates and providing that every exemption certificate is revocable in the absolute discretion of the Port Authority.
- (32) The government of pilots, and for ensuring the effectual performance of their duties.
- (33) 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.
- (34) Requiring the master of every ship to report his arrival within a specified time after his arrival.
- (35) Requiring the master of every ship to produce the certificate of registry to any officer on demand.

- (36) 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 the bill of lading, manifest, or other proper account.
- (37) Requiring the master of every ship to give notice of the intended time of unshipment.
- (38) Requiring the shippers of goods to furnish accounts of the goods intended to be shipped.
- (39) Regulating the time when dues on goods shipped or unshipped are to be payable.
- (40) 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 the goods from any cause whatever.
- (41) 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' manifest for goods, as to declarations of value.
- (42) 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 the goods.

- (43) Providing that the Port Authority shall in no case be liable for the contents of packages of goods that 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.
- (44) Exempting the Port Authority from liability for damage to goods caused or contributed to by insufficient protection or packing.
- (45) Exempting the Port Authority from liability for damage to or loss of goods that may have been delivered on its premises, but for which the Port Authority or its employees have not given a receipt.
- (46) Exempting the Port Authority from liability for damage suffered by any person in consequence of delay in or the wrongful delivery of goods.
- (47) Exempting the Port Authority from liability for damage to goods if landed or otherwise handled in wet weather, and authorising the wharf manager to decide in his absolute discretion when the weather is wet.
- (48) 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 the regulations.
- (49) Regulating the working and the provision of employees 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.

- (50) Regulating the charges to be made by licensed boatmen, porters and other carriers.
- (51) Prohibiting persons from acting as boatmen, plying for hire, porters, carters, truck drivers 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 the licences, and providing that the issue of any such licence and the cancellation thereof shall be at the absolute discretion of the Port Authority.
- (52) Authorising 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.
- (53) Regulating and limiting the speed of vessels within the Port.
- (54) Authorising 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 that the Port Authority or its wharf manager, in its or his absolute discretion, considers to be injurious to or that may injuriously affect other goods or any shed, store, or other premises or open yard or place within the Port.

Any regulation made pursuant to this paragraph—

- (a) may provide for and authorise 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 that shed,

store or place may be within or outside the limits of the Port as the Port Authority or its wharf manager thinks fit;

- (b) may provide that the cost of the removal and the keeping and storage of the goods, whether within or outside those 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 held at Port Hedland; and
 - (c) shall be read and construed as being in addition to and not in derogation of or in substitution for any of the powers conferred on the Port Authority by section 28 of this Act.
- (55) 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;
 - (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.
- (56) 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.

Penalties for
breach of
regulations.

83. Every regulation—

- (a) may impose a penalty not exceeding two hundred dollars for the breach thereof; and

- (b) may provide that, in addition to the penalty, any expense incurred by the Port Authority in consequence of the breach of a regulation shall be paid by the person committing the breach.

FIRST SCHEDULE.

Ss. 3 and 19.

All that area bounded by lines starting from a point on the High Water Mark of the Indian Ocean, west of the Hunt Point Beacon, being the intersection of that mark with an arc of 10 nautical miles radius from the Hunt Point Beacon and extending generally northerly and generally southerly along that arc to its intersection with the High Water Mark aforesaid, east of the Hunt Point Beacon; thence generally westerly along that mark to its intersection with the northernmost eastern boundary of the Port Hedland Port Area, as shown on Lands and Surveys Miscellaneous Plan 417; thence generally southerly, generally easterly, south-south-easterly and generally westerly along boundaries of that Port Area to its intersection with the north-eastern boundary of Port Hedland Lot 1410; thence north-westerly, south-westerly and south-easterly along boundaries of that lot to its southern corner; thence south-easterly and easterly along boundaries of Lot 1408 to the north-western corner of Forrest Location 42; thence southerly and easterly along boundaries of that location to its south-eastern corner; thence easterly along southern boundaries of Location 41 and Location 40 to a point situate in prolongation northerly of the western boundary of Location 38; thence southerly to and along that boundary to the south-western corner of Location 38 aforesaid; thence south-westerly to the northern corner of Port Hedland Lot 1790; thence south-westerly and south-south-westerly along boundaries of that lot and onwards to the intersection with the prolongation east of the northern boundary of Lot 1647; thence west to and along the northern boundary of that lot and Lots 1808, 1807, 1645, 1644 and 1643 to a point situate 2 chains west of the north-eastern corner of that last mentioned lot; thence north about 10 chains, west about 11 chains 50 links and south about 10 chains to the prolongation west of the northern boundary of Lot 1641; thence west along that prolongation to the intersection with an eastern boundary of Forrest Location 47; thence generally northerly along that boundary to the south-western boundary of Location 46; thence south-easterly, generally north-easterly and generally north-westerly along boundaries of that location to its north-western corner; thence north to a point situate on the High Water Mark aforesaid and thence generally westerly along that mark to the starting point. Excluding Wharf, Mooring Dolphins, Approach Structures and Conveying System within Forrest Locations 45 and 48.

SECOND SCHEDULE.

PART I.—DEBENTURES AND INSCRIBED STOCK.

The following provisions apply to debentures and inscribed stock issued by the Port Authority under the provisions of section 53 of this Act:—

1. All debentures and inscribed stock—

Interest.

(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

Debentures and stock payable before due date.

(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 is payable half-yearly on such days at such places as the Port Authority determines.

Debentures and stock inter-changeable.

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 53 of this Act.

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 them pursuant to section 53 of this Act 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) of this clause 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.

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 is not bound to see to the execution of the trust to which the debenture or inscribed stock may be subject.

Notice of trust not receivable.

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 is not bound to inquire into the application of the money advanced or is not in any way responsible for the non-application or misapplication thereof.

Owners of securities not responsible for application of moneys.

PART II.—DEBENTURES.

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

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

Form of debenture.

2. A debenture shall—

(a) be sealed with the common seal of the Port Authority in the manner prescribed by the regulations; and

Seal.

(b) be numbered consecutively beginning with the number one and proceeding in an arithmetical progression whereof the common difference is one.

Number.

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.

Pass by delivery.

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

Rights of bearer.

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.

Payment of interest.

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.

Register of debentures.

(2) The register of debentures—

Inspection.

(a) may be inspected at all reasonable times by a person on payment of ten cents for each inspection; and

Register to be evidence.

(b) shall be evidence of any matters required or authorised by or under this Act to be inserted therein.

Copies to be supplied.

(3) A person is 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 the register upon payment for each copy or extract of a fee of twenty-five cents and two cents for every folio of seventy-two words; and any copy or extract so certified is 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 it 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 six 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 it 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—

(a) shall be cancelled by the secretary to the Port Authority; and

(b) shall be burnt in the presence of the secretary and the Auditor General or one of his officers thereto authorised 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 particularising the debenture so burnt; and the secretary shall file that certificate in the office of the Port Authority.

PART III.—STOCK.

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

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. Establishment of registry and appointment of registrar.

2. Stock may be sold by the Port Authority for ready money in parcels or amounts of twenty dollars or some multiple of twenty dollars. Parcels of stock.

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". 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. Inscription of stock.
 - (3) In the case of joint purchasers of stock the names of not more than four of them shall be inscribed as the joint purchasers. Joint purchasers.
 - (4) The stock ledgers are evidence of any matters appearing therein and required or authorised by or under this Act to be inserted therein. Evidence.

4. (1) Stock or any share therein is transferable in the manner prescribed by the regulations from one person to another by instrument in the form so prescribed and not otherwise. Stock how transferable.
 - (2) A person is not entitled or allowed to transfer any fraction of a dollar or any smaller sum than twenty dollars unless that smaller sum is the full amount of the balance standing to his credit in the stock ledger. Restrictions on amount of stock which may be transferred.
 - (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. Execution of transfer.
 - (4) An instrument of transfer when executed shall be delivered to the registrar who shall register it 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. Registration of transfer.

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.

Verification
of
application
for
transmission.

(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.

Registration
of
transmission.

(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 two 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 is 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 trans-
fer 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 fourteen days or within such period (not exceeding twenty-one days) as is prescribed next before any of the days on which the interest thereon is payable.

(2) During the periods referred to in subclause (1) of this clause 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 twenty-one days immediately preceding the date of maturity of stock.

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 trusts 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 is not bound to see to the application of the money paid upon the receipt.

Receipt of registered stockholders to discharge without regard to trust.

(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.

Receipt where one of joint holders dies, etc.