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WESTERN
AUSTRALIAN
GOVERNMENT

Gazette

7023



PERTH, FRIDAY, 23 DECEMBER 1994 No. 181

SPECIAL

PUBLISHED BY AUTHORITY G. L. DUFFIELD, GOVERNMENT PRINTER AT 10.00 A.M.

IRON ORE (ROBE RIVER) AGREEMENT ACT 1964

**IRON ORE (ROBE RIVER)
CAPE LAMBERT ORE AND
SERVICE WHARVES
BY-LAWS 1995**

WESTERN AUSTRALIA

**IRON ORE (ROBE RIVER) CAPE
LAMBERT ORE AND SERVICE
WHARVES BY-LAWS 1995**

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IRON ORE (ROBE RIVER) AGREEMENT ACT 1964
IRON ORE (ROBE RIVER) CAPE LAMBERT ORE AND SERVICE
WHARVES BY-LAWS 1995

Made by His Excellency the Governor in Executive Council on the recommendation of the Company.

PART 1 — PRELIMINARY

Citation

1. These by-laws may be cited as the *Iron Ore (Robe River) Cape Lambert Ore and Service Wharves By-laws 1995*.

Commencement

2. These by-laws come into operation on 1 January 1995.

Application

3. Unless otherwise stated or the context otherwise requires, these by-laws apply to the Company's Ore Wharf and Service Wharf at Cape Lambert and to all Berths, wharves, marine installations, structures, service facilities, buoys, dolphins, navigational aids on or adjacent to or associated with the area the subject of Crown Lease 306/1970 and the Jetty Licences issued to the Company in respect of the Ore Wharf and Service Wharf and the adjacent waters within the port together with all shore lines and facilities above the high water mark.

PART 2 — INTERPRETATION

Definitions

4. In these by-laws, unless the contrary intention appears —

“**approved contractor**” means a cartage contractor approved by the Company under by-law 17;

“**authorized entrant**” means a —

- (a) Company employee;
- (b) government officer; or
- (c) crew member of a vessel moored at a wharf,

who, enters upon a wharf in the course of his or her employment or who is required, at the request of the owner of a vessel or the Company, to enter upon a wharf to carry out work directly connected with any vessel at a wharf or with the wharf itself;

- “ballast”** includes water used for that purpose, together with any kind of earth, sand, gravel, stone or any other material used for ballasting a vessel;
- “Berth”** means any place at which a vessel can be moored, including a wharf, pier, jetty, landing place, landing stage, quay, dock, platform, dolphins, piles, breastwork, buoy or structure;
- “cargo”** means ores, minerals, metals, metal products, chattels, livestock, merchandise or wares which may be loaded or unloaded or intended so to be into or out of any vessel, except mails, passengers’ baggage and ship’s stores;
- “dues”** includes all dues, rates, fees, tolls, imposts and charges, payable to the Company under these by-laws;
- “explosives vessel”** means a vessel with explosives on board;
- “Harbour Master”** means any Harbour Master appointed under section 4 of the *Shipping and Pilotage Act 1967* for the port of Port Walcott, and includes any person authorized by such a Harbour Master to act on his or her behalf;
- “harbour works”** means works for the improvement, protection, management, maintenance, repair or use of any of the Marine facilities, whether above or below the high water mark and whether within the confines of the port or otherwise, and in particular without limiting the generality of the foregoing, includes any channel, basin, ship, dock, dockyard, jetty, wharf, Berth, building, bridge, viaduct, breakwater, wall, embankment, dam, or any reclamation of land from the sea or from the port or any excavation, deepening, dredging or widening of any channel, basin or other part of the Marine facilities;
- “Marine facilities”** means the Ore Wharf and Service Wharf constructed by the Company at Cape Lambert on the areas of Crown Lease 306/1970 and the Jetty Licences issued to the Company in respect of the Ore Wharf and Service Wharf and all Berths, wharves, marine installations, structures, service facilities, buoys, dolphins, navigational aids on the areas or adjacent to or associated with the areas and the adjacent waters within the port together with all shore lines and facilities above the high water mark;
- “marine manager”** means the officer appointed by the Company to manage the Marine facilities, or his or her deputy;
- “Master”** used in relation to a vessel means any person (except a pilot) having command or charge, for the time being, of the vessel;
- “Ore Wharf”** means the steel pile structure which extends 2554 metres 046°44’ true from the shore of Cape Lambert, having the pierhead in position latitude 20°34’43”S and longitude 117°12’01” E;
- “owner”**, in relation to any vessel, includes the owner, disponent or part owner of the vessel, and the agent for such owner and includes the Crown, in right of, and any instrumentality of the State;

“pilot” means any person appointed by the Governor to be a pilot at Port Walcott;

“port” means Port Walcott Western Australia the limits of which are laid down in accordance with section 10 (1) of the *Shipping and Pilotage Act 1967*;

“*Ports and Harbours Regulations*” means the *Ports and Harbours Regulations* made under the *Shipping and Pilotage Act 1967*;

“Service Wharf” means the steel pile structure which extends 457 metres 025° true from the shore of Cape Lambert and thence 183 metres 046°44’ true, having the pierhead in position latitude 20°35’20”S and longitude 117°11’00”E;

“tonnage” of a vessel or words of similar import means the gross registered tonnage as calculated or determined in accordance with regulation 18A of the *Ports and Harbours Regulations*;

“tug” means any vessel employed within the port or adjacent thereto for towing, moving or assisting any vessel to manoeuvre;

“vessel” includes every description of water craft used or designed for use for any purpose on the sea or in navigation and without limiting the generality of the foregoing, includes any dinghy, lighter, barge, punt, hulk, raft, pontoon, sea-plane, hovercraft or similar vessel;

“wharf” means the Ore Wharf or Service Wharf or either or both of them as the case requires.

PART 3 — CONDITIONS OF USE OF THE COMPANY'S BERTHS, WHARVES AND MARINE FACILITIES

Master responsible for safety of vessel

5. In all circumstances and notwithstanding any assistance, advice or instructions given in respect of any vessel or person, whether by way of towing or berthing services, pilotage, the provision of navigational facilities including buoys, dolphins, navigational marks, or otherwise, the Master of any vessel is solely responsible, on behalf of the owners of the vessel, for the safety and proper navigation of that vessel.

Liability for damage to Berths wharves etc. of the Company

6. (1) Subject to sub-by-law (2) if any Berth, wharf, Marine facility, property or works of the Company is damaged by —

- (a) a vessel or any part of the equipment, goods or cargo belonging to a vessel;
- (b) any floating object;
- (c) any other material; or

- (d) any person,

then, whether or not the damage is caused by the wilful or negligent act or omission of —

- (e) any person; or
- (f) the Master of the vessel or of the person in charge of the floating object or material,

the owner of the vessel, floating object or material, the Master and the person referred to in paragraph (e) are each of them answerable to the Company for the whole of the damage.

(2) Neither the Company nor any other person is entitled to recover more than once for the same cause of action under sub-bylaw (1).

(3) If the owner of any vessel, floating object or material pays any money under sub-bylaw (1) in respect of any damage done to any part of the Berths, wharfs, Marine facilities, property or works of the Company, or pays any fine by reason of any act or omission of any Master or other person referred to in sub-bylaw (1) (f) that owner may recover the money or fine so paid, with costs, from that Master or other person in a court of competent jurisdiction.

Liability for damage to pipelines, conveyer belts etc. of the Company

7. (1) If any pipeline, conveyer belt, cableway, submarine cable, road, railway, tunnel or other facility for the conveyance of persons, goods or other things which is —

- (a) the property of the Company; and
- (b) situated within or partly within the port,

is damaged by a vessel or any part of the equipment of a vessel, the Master, owner or agent of the vessel must, forthwith, make good the damage at his or her own expense.

(2) If the Master, owner or agent fails to comply with sub-bylaw (1) the Company may make good the damage and may recover the expense of so doing in a court of competent jurisdiction.

Limitation on liability for goods

8. (1) Subject to sub-bylaw (2), the liability of the Company for damage to or loss of goods deposited, stored, in transit, warehoused, landed, lodged or left on any Company property, from any cause, is not to exceed the cash value of those goods at Port Walcott, provided that value does not exceed the cash value (including any freight, insurance, duty and shipping charges) at the port of shipment on the day of shipment.

(2) The liability of the Company is not to exceed —

- (a) \$100 for gold, silver, bullion, specie, precious stones, precious metals, bank notes, bonds or securities for money, painting, sculpture or other works of art; or

- (b) \$1 000 for each package or parcel of any other kind of property, irrespective of the nature or value of the contents.

Limitation of liability to declared value

9. (1) Without limiting the operation of by-law 8 the liability of the Company for each package of goods coming into its custody is not to exceed the amount of any declaration of value made by a consignor or consignee of such goods.

(2) The Company may rely on, and the owner of the goods is bound by, all statements, exceptions and conditions enclosed on receipts, bills of lading or manifests of vessels as to declarations of value.

Pilotage

10. The owner or Master of a vessel moving under circumstances in which pilotage is compulsory under the *Ports and Harbours Regulations* is liable for any loss or damage caused by the vessel, or by a fault of the navigation of the vessel, in the same manner as he or she would be if pilotage were not compulsory.

No representation of safety, etc.

11. Neither the Company nor its servants or agents makes any representation that the Marine facilities, Berths, wharves, premises, property, gear, craft or equipment provided by the Company are safe or suitable for vessels permitted or invited to use them, and no guarantee of such safety or suitability is given.

No liability for strikes, lockouts, etc.

12. The Company is not liable for damage or loss suffered by any person in consequence of —

- (a) an act of God;
- (b) an act of war;
- (c) an act of public enemies;
- (d) strikes, lockouts or stoppages or restraints of labour (whether partial or general) from whatever cause;
- (e) riots and civil commotions; or
- (f) the use for the purposes of war or defence, or training or preparation for war or defence, of any of the Berths, wharves, Marine facilities, property or works of the Company.

Limitation on liability

13. The liability of the Company or any of its servants, agents, contractors or sub-contractors for any consequences which may flow from the Company owning or operating the Berths, wharves, Marine facilities or property or works of the Company or for any assistance advice or instructions given or tendered in respect of any vessel or person, whether by way of towing or berthing services, pilotage, the provision of navigational facilities including buoys, dolphins, navigational marks, or otherwise, is limited to \$2 000.

Company indemnified against loss

14. (1) If in connection with or by reason of the use by any vessel, of any Berth, wharf, or Marine facility, or of any part of the Company's premises or of any gear, equipment or services provided by the Company, its servants, agents, contractors or subcontractors, or of any craft, or of any other facility or property, of any sort, belonging to or provided by the Company, its servants, agents, contractors or subcontractors and damage is caused to any such Berth, wharf, Marine facility, premises, gear or equipment, craft or other facility or property, or death or any personal injury is caused to any person from whatever cause such damage, death or injury may arise, and irrespective of whether or not such damage, death or injury has been caused or contributed to by the negligence of the Company or of its servants, agents, contractors and subcontractors and irrespective of whether there has been any neglect or default on the part of the vessel or the owners in any such event, the owners shall hold the Company, its servants, agents, contractors and subcontractors harmless from and indemnified against all loss sustained by the Company and consequent thereon.

(2) The vessel and her owners shall hold the Company, its servants, agents, contractors and subcontractors harmless from and indemnified against all and any claims, damages, costs and expenses arising out of any loss, damage or delay caused to any third party by the vessel or by her Master or crew or by any other servant or agent of the owners.

(3) The provisions of this by-law are in addition to and not in derogation from any limitation, exclusion, condition, protection, immunity, right or privilege granted the Company by reason of the towage conditions contained in Schedule 1 Part 2 Division 4.

By-laws not to exclude contractual benefit

15. Where there is any limitation, inclusion, condition, protection, immunity, right or privilege conferred by these by-laws, or by any contract made pursuant to these by-laws where such contract affects or deals with any matters which are also dealt with in these by-laws, and such provision enures to the benefit of the Company or to the benefit of any servant or agent, contractor or subcontractor of the Company, then where there is any inconsistency between the provisions of such contract and these by-laws then these by-laws are not to exclude any benefit conferred by any such contract nor is such contract to be read so as to exclude any benefit conferred by these by-laws.

PART 4 — USE OF SERVICE WHARF BY THE STATE

Application of Part

16. Unless the context otherwise requires the provisions of this Part apply only to the use by the State of the Service Wharf.

Approved cartage contractors

17. (1) The Company is to select a cartage contractor from a list of the names of cartage contractors submitted to the Company by the Department of Marine and Harbours to be an approved cartage contractor for the purposes of clause 9 (f) of the Agreement.

(2) A cartage contractor must submit evidence in writing to the Company of any valid policy of insurance which, in the opinion of the Company is necessary or desirable, before the Company approves the engagement of a cartage contractor under sub-by-law (1).

Approved contractor must comply with any restrictions

18. (1) An approved contractor must comply with any restrictions imposed by the Company for the use of —

- (a) the Service Wharf access road;
- (b) the works access road; and
- (c) the temporary roadway between the Company's lease boundary and the Port Samson road,

including, but not limited to, restrictions as to speed and use of the roads.

(2) An approved cartage contractor who contravenes this by-law commits an offence.

Access ways are to be kept clear

19. The State is to ensure that any of its cargo left on the Service Wharf is stacked clear of access ways, tug and pilot boat Berths and that such cargo is removed as expeditiously as possible.

Company indemnified against loss

20. Notwithstanding the provisions of Clause 12 of the Agreement and of the provisions of the Jetty Licences issued to the Company in respect of the Service Wharf, the State hereby indemnifies and forever holds blameless the Company against all actions, claims, demands and costs in respect of any loss of or damage to the State's cargo howsoever arising whilst such cargo remains on the Service Wharf or within the stacking area adjacent to the Service Wharf.

State to pay wharfage charges, etc.

21. (1) The State is to pay to the Company wharfage charges on all the State's cargoes at rates prescribed in these by-laws and also pay to the Company all amounts payable in these by-laws by the State's vessels except pilotage and conservancy dues.

(2) The Department of Marine and Harbours is to act for the Company as a collecting agent in respect of such dues but is not responsible for bad debts.

State contribution to maintenance

22. The State is to contribute equitably to the maintenance of the temporary roadway between the Company's industrial lease boundary and the Point Samson road.

PART 5 — GENERAL

Marine Manager to give permission to berth or leave Berth

23. (1) The Master of a vessel must ensure that his or her vessel does not berth or leave a Berth without permission of the Marine Manager.

(2) A Master who contravenes this by-law commits an offence.

Master to obey directions of Marine Manager

24. (1) The Master of any vessel must forthwith comply with any direction with respect to his or her vessel which may be given by the Marine Manager for or in relation to —

- (a) the place time and manner of berthing or the time and manner in which a vessel leaves its Berth;
- (b) the securing or mooring of such vessel to any wharf (including directions in relation to cables, warps, hawsers, fenders or mooring ropes); and
- (c) the provision by a vessel occupying or about to occupy a Berth of gangways, manropes and similar appliances, lights, safety nets and save-alls.

(2) A vessel is not required to comply with any of the above provisions if to do so would constitute a failure to comply with any direction given by the Harbour Master.

(3) Subject to sub-by-law (2) a Master who contravenes sub-by-law (1) commits an offence.

Marine Manager not to be instructed in the course of his or her duties

25. (1) A person must not by word or deed impede or obstruct the Marine Manager or any other officer or servant of the Company in the execution of his or her duties and the Marine Manager or any such officer or servant may board any vessel at any time for the purposes of or if authorized by these by-laws.

(2) A person who contravenes this by-law commits an offence.

Conditions where vessel lying outside another vessel

26. (1) Where a vessel is lying outside another vessel berthed alongside a wharf —

- (a) a passenger must not embark onto or disembark from and cargo or ballast must not be loaded onto, or unloaded from, the outside vessel over or across the inside vessel without the permission of the Marine Manager; and
- (b) the Master of the inside vessel, if so directed by the Marine Manager, must allow passengers from the outside vessel to embark and disembark and cargo and ballast to be loaded or unloaded over and across his or her vessel.

(2) A person who contravenes sub-by-law (1) (a) and a Master who contravenes sub-by-law (1) (b) commits an offence.

Vessel to be ready to work cargo before berthing

27. The Master —

- (a) must prepare the vessel's cargo handling equipment including the opening or removal of hatches and hatch beams;
- (b) must have the vessel ready to work cargo before it comes to its Berth; and
- (c) is responsible for replacing hatches and beams.

Vessel at berth to have on board cargo or ballast to keep vessel safe

28. (1) The Master of every vessel occupying any Berth must have onboard at all times such quantity of cargo and/or ballast as may be necessary to keep his or her vessel safe.

(2) The Master must ensure that any additional cargo received or ballast taken onboard, is in such quantity and so distributed that the vessel remains at all times safely stressed, correctly trimmed, and not loaded beyond the applicable load line, specified in the Navigation Act 1912 of the Commonwealth.

(3) A Master who contravenes this by-law commits an offence.

Safety of persons boarding or leaving

29. (1) The Master of a vessel, whilst it is occupying any Berth, must at all times —

- (a) provide gangways, manropes and similar appliances; and
- (b) exhibit any lights,

as may be necessary for the convenience and safety of persons boarding or leaving the vessel.

(2) The Master of a vessel must ensure that —

- (a) every gangway fixed for the purpose of giving access to a vessel is, from sunset to sunrise while the gangway is in communication with the shore, brightly illuminated; and
- (b) a watch is continuously set upon the gangway.

(3) A Master who contravenes this by-law commits an offence.

Flare-up lamp or naked light not to be used

30. (1) A person must not in the hold of any vessel occupying any Berth use any flare-up lamp or naked light of any sort or design whatsoever, whether for the purpose of working cargo or for any other purpose.

(2) A person who contravenes this by-law commits an offence.

Protection of shipping aids

31. (1) A person must not trespass on, ride by, or make fast to, damage, injure, or otherwise interfere with any harbour light, dolphin, buoy or beacon.

(2) A person who contravenes this by-law commits an offence.

Master to supply proper gear to remove cargo

32. (1) The Master of every vessel must provide proper slings and other tackle for loading or unloading of all cargo onto or from his or her vessel.

(2) The Master, owner and agent of every vessel must compensate the Company for any damage that may be done to any wharf or any property of the Company, either from the breakage of slings or from cargo being imperfectly slung, or otherwise by the loading or unloading of cargo.

(3) A Master who contravenes sub-by-law (1) commits an offence.

Safety net

33. (1) The Master of every vessel occupying any Berth must cause a proper safety net to be suspended beneath the gangway.

(2) While a vessel is loading or unloading cargo at any wharf the Master must cause a safety net or save-all of such a size and character to be suspended at such place or places as will prevent cargo from falling into the water.

(3) A Master who contravenes this by-law commits an offence.

Restricted access to Marine facilities

34. (1) A person, other than an authorized entrant, must not enter the Marine facilities or any part of those facilities unless he or she holds a valid pass signed by the Marine Manager authorizing the person to enter the Marine facilities or that part of the Marine facilities.

(2) A person who contravenes this by-law commits an offence.

Restricted access to wharf

35. (1) A person must not, without permission of the Marine Manager clamber on or about the structure of any wharf below the deck level, or upon or about any shed, crane, conveyor, loading equipment, hoist or cargo on the wharf or any property of or under the control of the Company.

(2) A person who contravenes this by-law commits an offence.

Vessel's gear to be free and clear

36. (1) The Master of a vessel must ensure that the vessel, and all boats, rigging, ropes, hawsers, and other equipment or fittings on the vessel, and all gangways used or intended to be used in connection with his or her vessel are at all times free and clear of all cranes, running cranes, railway lines, engines, trucks, gear and plant or other things on any wharf, irrespective of whether the cranes, running cranes, engines, trucks, gear or plant are stationary or in use.

(2) A Master who contravenes this by-law commits an offence.

Watchman or person on board

37. (1) Between sunset and sunrise, whilst a vessel is occupying a Berth, the Master of the vessel must ensure that —

(a) if the vessel exceeds 150 tonnes gross, there is a watchman on board; and

(b) if the vessel does not exceed 150 tonnes, there is at least one person on board.

(2) A Master who contravenes this by-law commits an offence.

Openings to be screened

38. (1) The Master of every vessel must ensure that all openings out of which steam, water, fluids or rubbish are liable to be discharged are properly screened and protected so as to prevent discharge on to any wharf or Marine facility.

(2) A Master who contravenes this by-law commits an offence.

Discharge of rubbish prohibited

39. (1) The Master of a vessel must ensure that whilst the vessel occupies a Berth ashes, rubbish or other material are not discharged overside from the vessel.

(2) A Master who contravenes this by-law commits an offence.

Discharge of oil, grease etc. prohibited

40. (1) The Master of a vessel must ensure that oil, oily greasy material or other material or fluids likely to pollute the waters of the port are not discharged overside from any vessel in the port.

(2) A Master who contravenes this by-law commits an offence.

Costs of pollution clean-up

41. If a vessel moored at or in the approaches to any Berth, wharf or Marine facility causes oil, or oily or greasy or other materials to pollute the waters of the port, the Company may take action to minimize or eliminate the pollution and the costs of such action are recoverable from the vessel and the owners or agent or Master of the vessel.

Restricted access on foot

42. (1) A person alighting from or proceeding to a vessel moored in a Berth must not traverse on foot that part of the Service Wharf or the Ore Wharf which extends from the Berth area to the land.

(2) A person who contravenes this by-law commits an offence.

Liability of the Master, owner and agent

43. The Master, owner and agent of any vessel lying alongside the Service Wharf or the Ore Wharf are jointly and severally liable for all damage (whether the damage is due to the negligence or wilful act of any person or otherwise) caused to cargo or goods lying on the wharf or to electrical connections on or under the wharf by water used upon the vessel (whether for washing down or otherwise).

Crew or employees of the Company to unload cargo

44. (1) A person, other than a member of the crew of the vessel or an employee or contractor of the Company, must not, without the permission of the Marine Manager, load or unload any cargo in the port.

(2) A person must not engage any tally or delivery clerk other than a person who is employed or approved by the Company.

(3) A person who contravenes this by-law commits an offence.

Removal of vessel

45. (1) The Master of a vessel which for any reason becomes an obstruction or which in the opinion of the Marine Manager is likely to become an obstruction to any Berth or Marine facility must move the vessel without delay in accordance with the written directions of the Marine Manager.

(2) If the directions referred to in sub-by-law (1) are not complied with within the time specified by the Marine Manager the Company may cause the vessel to be removed.

(3) The Master, owner and agent of a vessel referred to in sub-by-law (1) are jointly and severally liable to pay to the Company all costs and expenses incurred by the Company under sub-by-law (2).

Written permission to deposit matter

46. (1) A person must not, without the written permission of the Marine Manager, deposit any ballast, rock, stone, slate, shingle, gravel, sand, earth, cinders, rubbish, filth or any other article or substance whatsoever on any wharf or port installation or other property of the Company.

(2) A person who contravenes this by-law commits an offence.

Restrictions on cleaning boiler tubes

47. (1) The Master of a vessel moored in any Berth or to any Marine facility or in the approaches to a Berth or Marine facility must not —

- (a) clean boiler tubes by ejecting material into the atmosphere; or
- (b) discharge excessive volumes of smoke from funnels or other outlets.

(2) A Master who contravenes this by-law commits an offence.

PART 6 — SAFETY

Securing of berthed vessel

48. (1) The Master of a vessel must not moor or fasten the vessel to any part of a Berth other than the bollards or other securing places provided for that purpose.

(2) The Master of a vessel must ensure that, whilst in Berth, his or her vessel is properly moored, fastened or anchored as the case requires and that the lines are kept tight and secure at all times.

(3) A Master who contravenes this by-law commits an offence.

Vessel to be prepared to sail at short notice

49. (1) When a vessel is moored or fastened to any Berth the Master must keep her main engines, personnel and all equipment in such a state of readiness that the vessel is able to proceed to sea at short notice.

(2) The Master must not, without the prior written consent of the Marine Manager carry out any repairs to engines or other essential equipment which is likely to immobilize the vessel.

(3) A Master who contravenes this by-law commits an offence.

Propellers of moored vessel not to be worked

50. (1) The Master of a vessel must ensure that the propellers of a vessel whilst it is moored or fastened to any Berth are not worked without the prior consent of the Marine Manager.

(2) A Master who contravenes this by-law commits an offence.

Places for movement of passengers and cargo

51. (1) The Master of a vessel must ensure that cargo is not loaded or discharged or passengers embarked or disembarked except at places directed or agreed by the Marine Manager.

(2) All cargo awaiting loading or which has been discharged must be stacked or stored as directed or approved by the Marine Manager.

(3) A Master who contravenes this by-law commits an offence.

Life-saving gear

52. (1) A person must not remove or interfere with any life-saving gear or appliance except for the purpose of saving life.

(2) A person who contravenes this by-law commits an offence.

Fire fighting gear

53. (1) A person must not remove or interfere with any fire fighting gear or appliance except for the purpose of fighting fires.

(2) A person who contravenes this by-law commits an offence.

Handling of explosives or inflammable goods

54. (1) The Master of a vessel must ensure that a member of the crew does not load or unload or assist in the loading or unloading of any explosives or inflammable goods at any Berth except —

- (a) with the prior written permission of the Marine Manager; and
- (b) at such place and time as directed by the Marine Manager.

(2) A request to load or unload explosives or inflammable goods must be made to the Marine Manager at least 48 hours before the intended time of loading or unloading the goods.

(3) A Master who contravenes this by-law commits an offence.

PART 7 — OIL VESSELS

Interpretation

55. In this Part, unless the contrary intention appears —

“oil vessel” means any vessel having on board, or having lately had on board any flammable liquid as bulk cargo or part cargo;

“flammable liquid” means petroleum or any other liquid whatsoever, having a true flash point of less than 61°C at normal atmospheric pressure.

Application of this Part

56. (1) This Part applies to any vessel carrying or having recently carried a cargo of petroleum products in bulk, having a true flashpoint of 61°C or greater as of it were an oil vessel except —

- (a) to the extent that the Marine Manager may otherwise direct; and
- (b) that smoking is permitted in spaces not opening on to weather decks and which have been approved for that purpose by the Master.

(2) A direction under sub-by-law (1) (a) must be in writing and —

- (a) placed at the foot of each gangway onto; and
- (b) attached to the principal mast of,

the vessel by the Marine Manager.

Flag and light to be shown by oil vessel

57. (1) The Master of an oil vessel must, at all times that the vessel is nearing or is in a Berth, display at the foremast head, or other conspicuous place clear of all obstructions so as to be clearly visible from any direction at a distance of at least 1.6 kilometres from the vessel —

- (a) by day, the International code flag “B”; and
- (b) during the hours of darkness a red light so positioned as to be clear of all other lights on the vessel.

(2) A Master of an oil vessel who contravenes this by-law commits an offence.

Requirements as to oil vessels

58. (1) The Master of an oil vessel having on board flammable liquids other than as deck cargo, and all other persons concerned, must comply with the following provisions —

- (a) after the vessel is made fast, all holds, tanks, and spaces containing flammable liquid must be kept securely closed and fastened down, except when opened for the purpose of discharging;
- (b) an oil vessel with its cargo in bulk must not be berthed until it is ready to load or discharge, and must at all times continue and complete the loading or discharging with all possible despatch;
- (c) a hold, tank, or space containing flammable liquid in containers must not be opened until all trucks or other vehicles into which such goods are to be loaded are placed alongside the vessel and all is in readiness to commence the work;
- (d) after the vessel is made fast in a Berth, vapours from all holds, tanks or spaces containing flammable liquid must be properly vented to the atmosphere to the satisfaction of the Marine Manager, so that dangerous vapour concentrations do not occur;
- (e) an oil vessel loading or unloading flammable liquid in casks, barrels, or other receptacles or containers must work its cargo or carry out any other work on board only as directed by the Marine Manager;
- (f) flammable liquid contained in casks, barrels or other receptacles must not be landed on any wharf from a vessel unless the casks, barrels or other receptacles are staunch and free from leakage and are of such strength and construction as to be not liable to break or leak;
- (g) where the Marine Manager so approves in writing, flammable liquid in bulk may be unloaded after sunset into shore tanks, and may, in special circumstances, be loaded into tank ships, and the

following conditions and such other conditions as the Marine Manager may in those circumstances impose, must be complied with —

- (i) unless circumstances render it unavoidable, pipelines and hoses must not be coupled, uncoupled, or otherwise interfered with, except in daylight; and
- (ii) sufficient electric flood lighting of approved type must be provided to give ample light for all operations;

and

- (h) general cargo, other than deck cargo, must not be unloaded after sunset on any day from any oil vessel without the approval in writing of the Marine Manager.

(2) A Master of an oil vessel who contravenes this by-law commits an offence.

Unauthorized persons not permitted on board

59. (1) The Master of an oil vessel must not permit or suffer any unauthorized person to be on board the vessel while loading or unloading of flammable liquid is in process, and must display and keep displayed at the main gangway while occupying any Berth at a wharf a conspicuous notice to the following effect —

NO ADMITTANCE
OIL SHIP
NO SMOKING ALLOWED

(2) A Master of an oil vessel who contravenes this by-law commits an offence.

Certain activities prohibited during loading or unloading

60. (1) During the loading or unloading of flammable liquid a person must not smoke or heat any combustible matter, rivet or chip iron, or clean boilers or boiler tubes, or carry out other work likely to cause ignition on board the oil vessel or any other vessel lying alongside, and a person engaged in that loading or unloading must not carry matches or other appliances for providing or capable of providing ignition.

(2) A person who contravenes this by-law commits an offence.

Restrictions on fires and lights when tanks opened

61. (1) From the time when tanks of an oil vessel are opened for the purpose of discharging or loading flammable liquid in bulk, a person must not use or permit or suffer to be used on the vessel, any fire, other than approved ship's boilers, or light other than a safety lamp, approved by the Marine Manager, either on board or within 30 metres of the oil vessel without the authority of the Marine Manager.

(2) Fires, lights, or electric apparatus, other than electric filament lamps or self contained lamps, heaters, cookers, or other types of safe apparatus so designed, constructed and maintained as to be incapable of igniting flammable vapour, must not be used on or near the wharf at which flammable liquid is being discharged or loaded, or upon which flammable liquid is lying.

(3) A person who contravenes this by-law commits an offence.

Requirements as to pumping operations

62. (1) Before any pumping operations of flammable liquids are commenced, and during the continuance of those operations, the Master of an oil vessel must cause —

- (a) a competent signalling staff to be in attendance both at the tank installation and on board the oil vessel; and
- (b) telephonic communication between the same points to be established and maintained.

(2) A responsible person must be detailed by the Master of an oil vessel for attendance on the wharf to superintend the opening and closing of valves and for patrol of the pipeline during the whole of the pumping operation and pumping operations must not be commenced before the correct position of all valves has been verified by the Marine Manager and the Marine Manager is satisfied that all precautions necessary have and will be taken to prevent leakages.

(3) A Master of an oil vessel who contravenes this by-law commits an offence.

Conditions relating to lids, etc. during pumping operations

63. (1) The Master of an oil vessel must ensure that while pumping is in progress the lids, screw caps, or other removable coverings of the tanks must be kept securely fastened or screwed down, except so far as may be necessary to enable discharge of flammable liquid to proceed, and where it is necessary to remove any lid, screw cap, or other coverings, safety wire gauzes must immediately be properly fitted, or other effective measures immediately taken, by the Master to prevent the ignition of the flammable liquid or vapours.

(2) If any leakage occurs while flammable liquid is being loaded onto or discharged from an oil vessel, the Master of the oil vessel must forthwith cause the loading or discharging to cease.

(3) A Master of an oil vessel who contravenes this by-law commits an offence.

Interruption of pumping operations

64. (1) Where permission has been granted by the Marine Manager for the pumping of flammable liquids into or out of an oil vessel to be carried out between sunset and sunrise and an interruption or stoppage of loading or

discharging takes place, the Master of an oil vessel must ensure that the pumping must not be recommenced until after sunrise, unless approved by the Marine Manager.

(2) A Master of an oil vessel who contravenes this by-law commits an offence.

When connections to shoreline to be broken

65. (1) The Master of an oil vessel which has completed discharging flammable liquid in bulk, must ensure that the connection or connections to the shore pipeline must not be broken until the pipeline for its whole length has been completely and satisfactorily cleared of all flammable liquid, and the Marine Manager approves the breaking of the pipeline.

(2) Immediately discharge of the flammable liquid is suspended or completed, the Master must ensure that all lids, screw caps, or other coverings must be replaced, securely fastened down and made gas tight.

(3) A Master of an oil vessel who contravenes this by-law commits an offence.

Restrictions on fires, furnaces, etc.

66. (1) The Master of an oil vessel must ensure that the boiler or galley fires (other than those required to produce steam for pumping of an oil vessel carrying flammable liquid in bulk), are not alight from the time when the holds or tanks are first opened for the purpose of discharge until they are closed, unless the prior written authority of the Marine Manager is obtained.

(2) The Master of an oil vessel must not allow any —

- (a) furnace (other than that required to produce steam for pumping);
- (b) galley; or
- (c) other fires,

to be alight on board an oil vessel while the running of water for ballast or other purposes into any tank, receptacle or enclosure on the oil vessel which has contained flammable liquids is being carried out.

(3) The Master of an oil vessel must ensure that ballasting is not carried out unless all tanks are sealed down as required by the Marine Manager.

(4) The Master of an oil vessel must reduce the rate of ballasting of any tank if required to do so by the Marine Manager and any directions given by the Marine Manager for other safety measures to be taken while ballasting must be strictly observed by the Master.

(5) The Master of an oil vessel must not carry out any ballasting without the prior written permission of the Marine Manager who may impose such further conditions under which ballasting may be carried out as he may in the circumstances consider necessary.

(6) A Master of an oil vessel who contravenes this by-law commits an offence.

Pipelines to be vapour, oil and flammable liquid tight

67. (1) The Master of an oil vessel must ensure that all pipelines and connections (whether flexible or otherwise), used between the oil vessel and the Berth, must at all times be kept in an oil and vapour tight condition and shall not leak.

(2) The Master of an oil vessel must ensure that flammable liquid is not be allowed to escape, either directly or indirectly from the vessel or anything attached to the vessel, into any waters.

(3) A Master of an oil vessel who contravenes this by-law commits an offence.

Wire hawsers to be placed when berthing

68. (1) The Master of an oil vessel must, immediately the vessel is berthed, have placed 2 steel wire hawsers, one forward and one aft, and of sufficient strength to be used in towing the vessel away from the Berth.

(2) The Master of an oil vessel must ensure that —

- (a) the inboard ends of the 2 steel wire hawsers are securely fastened on board; and
- (b) the outboard ends are extended to the surface of the water and placed as near as possible to the extremities of the oil vessel where they must remain throughout the period the oil vessel is in Berth.

(3) A Master of an oil vessel who contravenes this by-law commits an offence.

Due precautions to be taken

69. (1) The Master of an oil vessel must take all due precautions for the prevention of accidents by fire in the discharge of flammable liquids, and must remain, or cause a responsible officer of the vessel to remain, on board the vessel, together with a sufficient crew, during the whole time the vessel is in Berth.

(2) A Master of an oil vessel who contravenes this by-law commits an offence.

Inspection by Marine Manager

70. (1) The Master of an oil vessel must, when required so to do by the Marine Manager, do any act necessary to permit the Marine Manager to inspect and examine the flammable liquid on board the vessel and any appliances to be used on the vessel for the purpose of ascertaining whether the provisions of these by-laws are being observed and whether all other measures necessary for general safety are being taken.

(2) A Master of an oil vessel who contravenes this by-law commits an offence.

Conditions for loading or unloading

71. (1) The Master of an oil vessel must not commence the loading or unloading of flammable liquid into or from an oil vessel unless —

- (a) a barricade capable of preventing any unauthorized person having access to the vessel and pipeline hose connections has been erected on the wharf or jetty; and
- (b) satisfactory provision has been made for watchmen to be in attendance to prevent the entrance of any unauthorized person and to take possession of matches from all persons passing through the barricade towards the oil vessel and to assist generally in the enforcement of these by-laws.

(2) The Master of an oil vessel must erect and maintain the barricade and engage watchmen in accordance with the directions and to the satisfaction of the Marine Manager.

(3) A Master of an oil vessel who contravenes this by-law commits an offence.

PART 8 — MISCELLANEOUS

Interference to notice board

72. (1) A person must not remove, obliterate or otherwise interfere with any notice board erected on or in the vicinity of any wharf or Marine facility.

(2) A person who contravenes this by-law commits an offence.

Permission to erect notice board

73. (1) A person must not, without the permission of the Marine Manager write or paint or place any notice board, placard or other document on any wharf or other part of the Marine facilities.

(2) A person who contravenes this by-law commits an offence.

Restrictions on motor vehicles

74. (1) A person must not, without the written permission of the Marine Manager drive a motor vehicle on a wharf, or any approach to a wharf.

(2) A person who has obtained the written permission of the Marine Manager referred to in sub-by-law (1) must —

- (a) park only in an area set aside for that purpose;
- (b) in any place where a notice is maintained indicating that the standing or parking is limited or restricted, comply with the terms of such limitation or restriction;

- (c) not allow his or her vehicle to approach within 15 metres of any flammable goods or cargo;
- (d) comply with all directions as to the disposal of his or her vehicle given by the Marine Manager or any other officer of the Company authorized by the Marine Manager (whether generally or specially) for such purpose; and
- (e) not leave his or her vehicle unattended.

(3) The marine manager or any officer of the Company is at liberty to move any unattended motor vehicle or any motor vehicle the driver of which has failed to comply with a direction under this by-law, to any other place.

- (4) A person who contravenes this by-law commits an offence.

Power to deal with unauthorized persons

75. The Marine Manager and any other employee of the Company is at liberty to take such steps as are necessary to prevent any person entering upon any wharf or Marine facility and to remove any person who has so entered without permission or who is intoxicated, idle or is causing or, in the opinion of the Marine Manager, is likely to cause a disturbance.

Smoking, loitering or public speaking

76. (1) A person must not without the written permission of the Marine Manager smoke, loiter or address any assemblage of persons under or upon any wharf.

- (2) A person who contravenes this by-law commits an offence.

Nuisance

77. (1) A person must not commit any nuisance under or upon any wharf.

- (2) A person who contravenes this by-law commits an offence.

Wharf may be closed

78. (1) The Company may by notice placed on a wharf or part thereof close that wharf or that part and a person must not enter upon that wharf or that part without the consent of the Marine Manager.

- (2) A person who contravenes this by-law commits an offence.

Child under 12 to be accompanied by adult

79. A child under the age of 12 years is not allowed on any wharf unless accompanied by an adult person.

Fishing

80. (1) A person must not fish from any part of the substructure of any wharf nor from a pontoon or any landing steps or place for landing passengers.

- (2) Any person fishing from wharf deck level —
- (a) must use only rod and line;
 - (b) must not interfere with or obstruct the general wharf work or other users of the wharf;
 - (c) must forthwith comply with any direction given by the Marine Manager; and
 - (d) must not deposit or leave upon the wharf any fish, fish refuse or offensive matter.
- (3) A person who contravenes this by-law commits an offence.

Erection of building, staging or structure

81. (1) A person must not without permission of the Marine Manager erect any building, staging or structure on or in any wharf or Marine facility.

- (2) A person who contravenes this by-law commits an offence.

Valves etc. not to be turned on or off

82. (1) A person must not without the permission of the Marine Manager turn any valve or cock or open or shut any fire plug or hydrant on any port or Marine facility.

- (2) A person who contravenes this by-law commits an offence.

Tampering with electric lights, fittings etc.

83. (1) A person must not play, tamper or in any way interfere with any electric lights or fittings or any electric lights or power mains on any port or Marine facility.

- (2) A person who contravenes this by-law commits an offence.

PART 9 — DUES, RATES AND CHARGES LEVIED**Liability to pay dues, rates and charges**

84. (1) All dues, rates and charges levied under these by-laws by the Company must be paid to the Marine Manager or to another person nominated for that purpose by the Company.

(2) The Master, owner or agent of a vessel are jointly and severally liable for all dues, rates and charges.

Payment

85. (1) At any time between the vessel entering the port and leaving its Berth at the port, at the request of the Company or its agents, the Master of a vessel must deposit with the Company an amount estimated by the Company as being the berthage dues and towage and wharfage rates and miscellaneous charges which will be incurred by that vessel in entering and leaving the port and in lying alongside the Berth, but the Company in its absolute discretion may accept in lieu of such deposit a written guarantee from the agent for the vessel as set out in Schedule 1 Part 5.

(2) The Company must use any moneys deposited with it in accordance with sub-bylaw (1) towards payment of any dues, rates and charges incurred in respect of that vessel.

(3) All dues, rates and charges must be paid before the vessel, in respect of or in connection with which they are charged or payable leaves the Berth, except that where the Company has accepted a guarantee pursuant to sub-bylaw (1) the vessel may subject to the provisions of Part 5 leave the Berth prior to such payment being made.

(4) The Marine Manager may detain any vessel in respect of which —

- (a) the dues, rates and charges or a guarantee referred to in sub-bylaw (1) has not been paid or given; or
- (b) a guarantee has been given on a previous occasion, the terms and conditions of which have not been observed.

Berthage rates

86. The dues set out in Part 1 of Schedule 1 must be paid in respect of any vessel occupying a Berth.

Assessment of berthage dues

87. For the purpose of assessing berthage dues payable a vessel is deemed to occupy a Berth from the time the first line is made fast until the last line is let go.

Certificate of Registry to be produced if requested

88. The Master of a vessel occupying or about to occupy a Berth must when requested by the Marine Manager or any other officer of the Company produce to the Marine Manager or other officer as the case may be —

- (a) the Certificate of Registry of the vessel; and
- (b) the determination of an authorized person made under regulation 18A of the *Ports and Harbours Regulations*.

Towage rates

89. (1) The use of tug boats to assist vessels inwards and outwards is at the discretion of the Master.

(2) The rates set out in Schedule 1 Part 2 Division 1 are payable in respect of towage services and related matters available to all vessels berthing and unberthing into and out of any Berth at the Ore Wharf and any of the Company's Marine facilities associated with the Ore Wharf.

(3) The rates set out in Schedule 1 Part 2 Division 2 are payable in respect of towage services and related matters available to all vessels berthing or unberthing into and out of any Berth at the Service Wharf and any of the Company's Marine facilities associated with the Service Wharf.

(4) The towage rates referred to in sub-bylaws (2) and (3) are payable whether or not the services are used and whether or not the Company is able to provide towage services which would permit the Master or Owner to comply with the *Ports and Harbours Regulations*.

Application for and conditions of towage

90. (1) An application for the services of a tug at either the Ore Wharf or the Service Wharf must be made to the Marine Manager in Form 1 in Schedule 1 Part 2 Division 3.

(2) The conditions contained in Schedule 1 Part 2 Division 4 apply to all towage and to the use of tugs and bind and inure to the benefit of the Company, the Master and Owner of the vessel towed or to be towed and (without prejudice to the generality of the foregoing) any other person or Company bound by these by-laws.

(3) Where there is any inconsistency between these by-laws and any conditions referred to in sub-bylaw (2) these by-laws prevail to the extent of any inconsistency.

(4) For the avoidance of doubt, the application for towage services, the acceptance of the application and the conditions of towage including those referred to in sub-bylaw (2) do not give rise to any contractual relationship between the owner or Master or both and the Company or any of its servants, agents, contractors or subcontractors.

(5) The relationship between the owner or Master or both and the Company or any of its servants, agents, contractors or subcontractors referred to in sub-bylaw (4) is based in public law and is subject to these by-laws.

Restriction on use of tug

91. (1) A person must not use —
- (a) any tug for conducting any vessel within or into or out of the port which is destined to or from a Berth or Marine facility; and
 - (b) any tug plying for hire within the port if the vessel is destined to or from a Berth or Marine facility,

unless the Company has authorized the tug to carry out such work.

- (2) A person who contravenes this by-law commits an offence.

Conditions of towage not to apply to salvage

92. The conditions of towage do not apply to or affect any claim by the Company for salvage services or services in the nature of salvage.

Wharfage rates

93. (1) The rates set out in Schedule 1 Part 3 Division 1 are payable to the Company in respect of all cargo, except iron ore or iron ore concentrates, handled inwards or outwards at any Berth at the Ore Wharf.

(2) The rates set out in Schedule 1 Part 3 Division 2 are payable to the Company in respect of all cargo, except iron ore or iron ore concentrates, handled inwards or outwards at any Berth at the Service Wharf.

Computation of dues

94. (1) All dues on or in respect of cargo are except as otherwise provided, to be computed on the weights and measurements shown in a vessel's manifest, bill of lading or other shipping document for such cargo.

(2) All such dues are to be computed on a weight basis or on a measurement basis (whichever computation produces the greater result) and if computed on a weight basis are to be computed on a tonne of 1 000 kilograms, and if on a volume basis are to be computed on a tonne of 1 cubic metre.

(3) A fraction of a tonne (by weight or measurement) is to be charged for on a *pro rata* basis.

(4) Dues are to be calculated on the gross weight or measurement but the Marine Manager may at any time demand that cargo is to be reweighed or remeasured in the presence of an officer of the Company and at the expense of the owner of the cargo in which event the weights or measurements ascertained from such reweighing or remeasurement prevail.

Delivery of manifest before discharge of cargo

95. (1) The Master of every vessel desiring to discharge cargo at a Berth is to deliver at the office of the Company —

- (a) (prior to commencing to discharge cargo), 2 true, legible and complete copies in the English language of the manifest of the vessel, certified by the Master as being true and complete; and
- (b) (within 48 hours), 2 certified statements of all amendments (if any) which may be made in the manifest by reason of remeasurement of cargo or otherwise.

(2) The Company may refuse to accept delivery of those statements referred to in sub-by-law (1) (b) unless those statements are delivered to the office of the Company before the relevant cargo is removed from the premises of the Company.

Delivery of manifest of loaded cargo

96. The Master of every vessel which has loaded cargo from any wharf must deliver to the office of the Company prior to the departure of the vessel, a certified copy in the English language of the manifest, giving true, legible and complete particulars of the cargo, to enable the amount of outward wharfage and other dues to be readily computed.

Miscellaneous charges

97. (1) The charges set out in Schedule 1 Part 4 Division 1 are to be paid in respect of the services specified in that division and provided at the Ore Wharf.

(2) The charges set out in Schedule 1 Part 4 Division 2 are to be paid in respect of the services specified in that division and provided at the Service Wharf.

PART 10 — EXPLOSIVES

Permission of Marine Manager

98. (1) The Master of an explosives vessel must not permit the vessel to go alongside a wharf for any purpose except by permission of the Marine Manager.

(2) The Master of an explosives vessel who contravenes this by-law commits an offence.

Flag and red light to be shown

99. (1) The Master of an explosives vessel must ensure that —

- (a) by day — the International Code Flag “B”; and
- (b) by night — a red light visible all round the horizon at a distance of at least 1.6 kilometres,

are displayed so that they can be seen easily and are clear of all obstructions.

(2) The Master of an explosives vessel who contravenes this by-law commits an offence.

Explosives to be correctly marked

100. (1) Subject to sub-by-law (2) —

- (a) the Master of an explosives vessel must not permit the loading or unloading of any explosives from the vessel; and
- (b) a person must not load, unload or convey any explosives in the port or Marine facility.

(2) Sub-by-law (1) does not apply to explosives which are packed and marked in accordance with the *Explosives and Dangerous Goods Act 1961* and which are —

- (a) authorized to be imported and sold in Western Australia; or
- (b) approved under an entry permit issued by the Chief Inspector of Explosives.

(3) The Master of an explosives vessel who contravenes this by-law commits an offence.

Explosives to be unloaded only under authority

101. (1) A person must not unload any explosives unless the Marine Manager is satisfied that they are imported under authority of a licence or an entry permit issued by the Chief Inspector of Explosives.

(2) A person who contravenes this by-law commits an offence.

Hours for unloading explosives

102. (1) A person must not load explosives onto a vessel or unload explosives from a vessel except between the hours of sunrise and sunset unless special permission is given by an Inspector of Explosives.

(2) A person who contravenes this by-law commits an offence.

Where explosives exceed 2 kilograms

103. (1) The Master of a vessel carrying explosives which exceed 2 kilograms in weight must not convey passengers or ply for hire or reward without the written approval of an Inspector of Explosives.

(2) A Master who contravenes this by-law commits an offence.

Unloading etc. to conform to *Explosives and Dangerous Goods Act 1961*

104. (1) The Master of an explosives vessel must ensure that the loading, unloading and conveyance of explosives at the port is carried out in accordance with the general provisions of the *Explosives and Dangerous Goods Act 1961*.

(2) A Master of an explosives vessel who contravenes this by-law commits an offence.

Maximum amount of explosives to be unloaded

105. (1) The Master of an explosives vessel must not permit explosives in excess of the permitted amount to be unloaded from the vessel at any wharf.

(2) In sub-by-law (1) the permitted amount means the amount decided from time to time by the Chief Inspector of Explosives to be the amount permitted at the port.

(3) A Master of an explosives vessel who contravenes sub-by-law (1) commits an offence.

No other vessel to be alongside

106. (1) The Master of an explosives vessel must not permit his or her vessel to go alongside any Berth for the purpose of unloading explosives, if any other vessel (whether or not it is an explosives vessel) is alongside at the same time.

(2) The Master of a vessel (whether or not it is an explosives vessel) must not permit his or her vessel to go along side any Berth whilst unloading is in progress from an explosives vessel.

(3) A person must not carry out work of any kind on the wharf whilst the unloading of an explosives vessel is in progress unless such work is directly necessary for the unloading of explosives from the vessel.

(4) Any Master who contravenes sub-by-law (1) or (2), or any person who contravenes sub-by-law (3) commits an offence.

Rules to be observed

107. (1) Any person engaged in the loading and unloading of explosives must observe any rules made by the Chief Inspector of Explosives, except that when such work is done under direct supervision of an Inspector of Explosives, then all directions of the Inspector must be obeyed whether provided for in the rules or not.

(2) A person who contravenes this by-law commits an offence.

Matters not prescribed

108. The Chief Inspector of Explosives is to decide what action is to be taken in relation to any matter relative to the handling of explosives which is not provided for in these by-laws.

Classes and divisions of explosives

109. Classes and divisions of explosives used in this Part are those used in the classification of explosives contained in the Second Schedule to the *Explosives and Dangerous Goods Act 1961*.

Exceptions to this Part

110. Nothing in this Part applies to any vessel having on board exclusively explosives of the following kind or kinds or to the loading or unloading into or out of, or conveyance to or from any vessel of the same:

- (a) Explosives belonging to Classification 1.4 other than Classification 1.4B and including such explosives as —
 - Fuse Igniters
 - Percussion Caps
 - Safety Cartridges
 - Safety Fuses
 - Igniter Cord Connectors;
- (b) Explosives of class 7 division 3 including all fireworks of the shopgoods class;
- (c) Other explosives in such quantities as may from time to time be approved by the Chief Inspector of Explosives;
- (d) Explosives on vessels of war and such explosives as are exempt under section 63 (a) of the *Explosives and Dangerous Goods Act 1961*; and
- (e) Explosives carried for the vessel's own use in quantities necessary to meet statutory requirements for signalling purposes and provided that the explosives are kept in an approved type of magazine and that if 2 or more of the following explosives are in the same vessel they must be kept in separate and completely enclosed receptacles in the magazine —
 - Gunpowder
 - Rockets
 - Sound Signal Rockets
 - Blue Lights
 - Holmes Lights
 - Pyrotechnic signals of any other kind.

PART 11 — GENERAL PENALTY AND REPEALS

General penalty

111. A person who commits an offence against these by-laws is liable, if a penalty is not expressly provided for that offence, to a fine not exceeding \$100.

Repeals

112. The *Iron Ore (Robe River), Cape Lambert Ore Wharf By-laws* and the *Iron Ore (Robe River), Cape Lambert Service Wharf By-laws* are repealed.

SCHEDULE 1
RATES AND CHARGES
PART 1 — BERTHAGE

[By-law 86]

Berthage rates

1. (1) Subject to subclause (2) the berthage dues payable in respect of any vessel is 1.8 cents for each tonne of the gross registered tonnage of the vessel for each 6 hours or part thereof during which the vessel occupies a berth.

(2) The minimum charge for each vessel is as for 12 hours.

PART 2 — TOWAGE RATES, FORMS AND CONDITIONS OF TOWAGE*Division 1 — Ore Wharf*

[By-law 89 (2)]

Towage rates

2. The towage rates set out in the Table to this clause are payable in respect of towage services at the Ore Wharf.

TABLE

Summer DWT (Metric)	Towage Charge (In and Out inclusive) \$
Under 40 000	12 981
at least 40 000 and under 50 000	13 437
at least 50 000 and under 60 000	15 159
at least 60 000 and under 70 000	16 759
at least 70 000 and under 80 000	19 838
at least 80 000 and under 100 000	23 000
at least 100 000 and under 120 000	35 000
at least 120 000 and under 160 000	38 000
at least 160 000 and under 200 000	41 000
at least 200 000 and under 240 000	41 159
at least 240 000	42 589

Tug Hire

3. The rate per tug exclusive of towage is —

\$1 700 per hour or part thereof with a minimum charge as for 2 hours.

Cancellation fees

4. (1) When ordered for 0830-1600 hours, Monday-Friday (excluding Public Holidays) — \$2 700.

(2) All other times — \$5 500.

Division 2 — Service Wharf

[By-law 89 (3)]

Towage rates

5. The towage rates set out in the Table to this clause are payable in respect of towage services at the Service Wharf.

TABLE

Gross tonnage	Towage Charge per tug per hour (min. hire 2 hours)
	\$
Under 5 000	800
at least 5 000 and under 8 000	1 000
at least 8 000 and under 11 000	1 100
at least 11 000 and under 14 000	1 200
at least 14 000 and under 17 000	1 300
at least 17 000 and under 20 000	1 500
at least 20 000	1 700

Tug hire

6. The rate per tug exclusive of towage is \$1 700 per hour or part thereof with a minimum charge as for 2 hours.

Cancellation fees

7. (1) When ordered for 0830-1600 hours, Monday-Friday (excluding Public Holidays) — \$800.

(2) All other times — \$1 700.

Division 3 — Forms

Form 1

APPLICATION FOR SERVICES OF TUG

*IRON ORE (ROBE RIVER) CAPE LAMBERT ORE AND SERVICE
WHARVES BY-LAWS 1995*

[By-law 90 (1)]

Shipment No.

Progressive No.

I/We hereby apply for the services of the Company's tug(s)

..... for the purpose of towing the vessel

..... on..... 19 at a.m. p.m.

If this application is accepted by the Company I/We must pay its charges as set out in the current rate schedule, viz. \$ and be bound by all the conditions contained in the *Iron Ore (Robe River) Cape Lambert Ore and Service Wharves By-laws 1995*. Any agent signing this application is deemed authorized by the Master and the owner of the vessel to do so and any Master signing this application is deemed authorized by the owner of the vessel to do so.

MASTER, OWNER OR AGENT

NAME OF VESSEL

Division 4 — Conditions of towage

***IRON ORE (ROBE RIVER) CAPE LAMBERT ORE AND SERVICE
WHARVES BY-LAWS 1995***

[By-law 90 (2)]

TOWAGE CONDITIONS

Towage is undertaken only under the Towage Conditions (being the United Kingdom Standard Conditions for Towage and Other Services (Revised 1983)) printed hereunder and application for or use of a tug is deemed to constitute acceptance of the conditions as follows —

1. (a) The agreement between the Company and the Hirer is and shall at all times be subject to and include each and all of the conditions hereinafter set out;
- (b) For the purpose of these conditions —
 - (i) **“towing”** is any operation in connection with the holding, pushing, pulling, moving, escorting or guiding of or standing by the Hirer’s vessel, and the expressions **“to tow”**, **“being towed”** and **“towage”** shall be defined likewise;
 - (ii) **“vessel”** shall include any vessel, craft or object of whatsoever nature (whether or not coming within the usual meaning of the word **“vessel”**) which the Company agrees to tow or to which the Company agrees at the request, express or implied, of the Hirer, to render any service of whatsoever nature other than towing;
 - (iii) **“tender”** shall include any vessel, craft or object of whatsoever nature which is not a tug but which is provided by the Company for the performance of any towage or other service;
 - (iv) the expression **“whilst towing”** shall cover the period commencing when the tug or tender is in a position to receive orders direct from the Hirer’s vessel to commence

holding, pushing, pulling, moving, escorting, guiding or standing by the vessel or to pick up ropes, wires or lines, or when the towing line has been passed to or by the tug or tender, whichever is the sooner, and ending when the final orders from the Hirer's vessel to cease holding, pushing, pulling, moving, escorting, guiding or standing by the vessel or to cast off ropes, wires or lines has been carried out, or the towing line has been finally slipped, whichever is the later, and the tug or tender is safely clear of the vessel;

- (v) any service of whatsoever nature to be performed by the Company other than towing shall be deemed to cover the period commencing when the tug or tender is placed physically at the disposal of the Hirer at the place designated by the Hirer, or, if such be at a vessel, when the tug or tender is in a position to receive and forthwith carry out orders to come alongside and shall continue until the employment for which the tug or tender has been engaged is ended. If the service is to be ended at or off a vessel the period of service shall end when the tug or tender is safely clear of the vessel or, if it is to be ended elsewhere, then when any persons or property of whatsoever description have been landed or discharged from the tug or tender and/or the service for which the tug or tender has been required is ended;
- (vi) the word "tug" shall include "tugs", the word "tender" shall include "tenders", the word "vessel" shall include "vessels", the word "Company" shall include "Companies" and the word "Hirer" shall include "Hirers";
- (vii) the expression "Company" shall include any person or body (other than the Hirer or the owner of the vessel on whose behalf the Hirer contracts as provided in Clause 2) who is a party to this agreement whether or not he in fact owns any tug or tender, and the expression "other Company" contained in Clause 5 shall be construed likewise.

2. If at the time of making this agreement or of performing the towage or of rendering any service other than towing at the request, express or implied, of the Hirer, the Hirer is not the Owner of the vessel referred to herein as "the Hirer's vessel", the Hirer expressly represents that he is authorized to make and does make this agreement for and on behalf of the owner of the said vessel subject to each and all of these conditions and agrees that both the Hirer and the Owner are bound jointly and severally by these conditions.

3. Whilst towing or whilst at the request, express or implied, of the Hirer, rendering any service other than towing, the Master and crew of the tug or tender shall be deemed to be the servants of the Hirer and under the control of the Hirer and/or his servants and/or his agents, and anyone on board the Hirer's vessel who may be employed and/or paid by the Company shall likewise be deemed to be the servant of the Hirer and the Hirer shall accordingly be vicariously liable for any act or omission by any such person so deemed to be the servant of the Hirer.

4. Whilst towing, or whilst at the request, either expressed or implied, of the Hirer rendering any service of whatsoever nature other than towing —

- (a) the Company shall not (except as provided in Clause 4 (c) and (e)) be responsible for or be liable for;
 - (i) damage of any description done by or to the tug or tender, or done by or to the Hirer's vessel or done by or to any cargo or other thing on board or being loaded on board or intended to be loaded on board the Hirer's vessel or the tug or tender or to any other object or property; or
 - (ii) loss of the tug or tender or the Hirer's vessel or of any cargo or other thing on board or being loaded on board or intended to be loaded on board the Hirer's vessel or the tug or tender or any other object or property; or
 - (iii) any claim by a person not a party to this agreement for loss or damage of any description whatsoever,

arising from any cause whatsoever, including (without prejudice to the generality of the foregoing) negligence at any time of the Company, its servants or agents, unseaworthiness, unfitness or breakdown of the tug or tender, its machinery, boilers, towing gear, equipment, lines, ropes or wires, lack of fuel, stores, speed and otherwise; and

- (b) the Hirer shall (except as provided in Clauses 4 (c) and (e)) be responsible for, pay for and indemnify the Company against and in respect of any loss or damage and any claims of whatsoever nature or howsoever arising or caused, whether covered by the provisions of Clause 4 (a) or not, suffered by or made against the Company and which shall include, without prejudice to the generality of the foregoing, any loss of or damage to the tug or tender or any property of the Company even if the same arises from or is caused by the negligence of the Company or its servants or agents;
- (c) the provisions of Clauses 4 (a) and 4 (b) shall not be applicable in respect of any claims which arise in any of the following circumstances —
 - (i) all claims which the Hirer shall prove to have resulted directly and solely from the personal failure of the Company to exercise reasonable care to make the tug or tender seaworthy for navigation at the commencement of the towing or other service. For the purpose of this Clause the Company's personal responsibility for exercising reasonable care shall be construed as relating only to the person or persons having the ultimate control and chief management of the Company's business and to any servant (excluding the officers and crew of any tug or tender) to whom the Company has specifically delegated the particular duty of exercising reasonable care and shall not include any other servant of the Company or any agent or independent contractor employed by the Company;

- (ii) all claims which arise when the tug or tender, although towing or rendering some service other than towing, is not in a position of proximity or risk to or from the Hirer's vessel or any other craft attending the Hirer's vessel and is detached from and safely clear of any ropes, lines, wire cables or moorings associated with the Hirer's vessel.

Provided always that, notwithstanding the foregoing, the provisions of Clauses 4 (a) and 4 (b) shall be fully applicable in respect of all claims which arise at any time when the tug or tender is at the request, whether express or implied, of the Hirer, his servants or his agents, carrying persons or property of whatsoever description (in addition to the Officers and crew and usual equipment of the tug or tender) and which are wholly or partly caused by or arise out of the presence on board of such persons or property or which arise at any time when the tug or tender is proceeding to or from the Hirer's vessel in hazardous conditions or circumstances;

- (d) notwithstanding anything hereinbefore contained, the Company shall under no circumstances whatsoever be responsible for or be liable for any loss or damage caused by or contributed to or arising out of any delay or detention of the Hirer's vessel or of the cargo on board or being loaded on board or intended to be loaded on board the Hirer's vessel or of any other object or property or of any person, or any consequence thereof, whether or not the same shall be caused or arise whilst towing or whilst at the request, either express or implied, of the Hirer rendering any service of whatsoever nature other than towing or at any other time whether being during or after the making of this agreement;
- (e) notwithstanding anything contained in Clauses 4 (a) and (b) hereof the liability of the Company for death or personal injury resulting from negligence is not excluded or restricted thereby.

5. The Company shall at any time be entitled to substitute one or more tugs or tenders for any other tug or tender or tugs or tenders. The Company shall at any time (whether before or after the making of this agreement between the company and the Hirer) be entitled to contract with any other company (hereinafter referred to as "the other company") to hire the other company's tug or tender and in any such event it is hereby agreed that the Company is acting (or is deemed to have acted) as the agent for the Hirer, notwithstanding that the Company may in addition, if authorized whether expressly or impliedly by or on behalf of the other company, act as agent for the other company at any time and for any purpose including the making of any agreement with the Hirer, in any event should the Company as agent for the Hirer contract with the other company for any purpose as aforesaid it is hereby agreed that such contract is and shall at all times be subject to the provisions of these conditions so that the other company is bound by the same and may as a principal sue the Hirer thereon and shall have the full benefit of these conditions in every respect expressed or implied herein.

6. Nothing contained in these conditions shall limit, prejudice or preclude in any way any legal rights which the Company may have against the Hirer including, but not limited to, any rights which the Company or its servants or agents may have to claim salvage remuneration or special compensation for any extraordinary services rendered to vessels or any thing

aboard vessels by any tug or tender. Furthermore, nothing contained in these conditions shall limit, prejudice, or preclude in any way any right which the Company may have to limit its liability.

7. The Company will not in any event be responsible or liable for the consequences of war, riots, civil commotions, acts of terrorism or sabotage, strikes, lockouts, disputes, stoppages or labour disturbances (whether it be a party thereto or not) or anything done in contemplation or furtherance thereof or delays of any description howsoever caused or arising, including by the negligence of the Company or its servants or agents.

8. The Hirer of the tug or tender engaged subject to these conditions undertakes not to take or cause to be taken any proceedings against any servant or agent of the Company or other company (as referred to in clause 5), whether or not the tug or tender substituted or hired or the contract or any part thereof has been sublet to the owner of the tug or tender, in respect of any negligence or breach of duty or other wrongful act on the part of such servant or agent which, but for this present provision, it would be competent for the Hirer so to do and the owners of such tug or tender shall hold this undertaking for the benefit of their servants and agents.

PART 3 — WHARFAGE

Division 1 — Ore Wharf

[By-law 93 (1)]

Wharfage rates

8. (1) For petroleum products in bulk, inwards or outwards, wharfage is payable at the rate of \$2.65 per Metric Tonne (1 000 kg).

(2) For all other cargo, except iron ore, iron ore product or iron ore concentrate, wharfage is payable at the rate of \$2.00 per Metric Tonne, computed on a weight basis or on a measurement basis, whichever computation produces the greater result. (A tonne weight consisting of 1 000 kilograms, and a tonne measurement consisting of one cubic metre.)

Division 2 — Service Wharf

[By-law 93 (2)]

Wharfage rates

9. (1) Wharfage is payable at \$4.00 per tonne or per cubic metre, whichever is the greater, of cargo handled or shipped — minimum charge — \$100.00.

(2) For petroleum products in bulk wharfage is payable at \$4.00 per tonne — minimum charge — \$100.00.

PART 4 — MISCELLANEOUS CHARGES***Division 1 — Ore Wharf***

[By-law 97 (1)]

Miscellaneous charges payable at the Ore Wharf

10. The following charges are payable for the various services described below at the Ore Wharf —

- (a) mooring and unmooring labour — \$1 000 per vessel;
- (b) workboat —
 - (i) (lines, launch and crew) — \$1 200 per vessel;
 - (ii) for work other than berthing/unberthing — \$300 per hour or part thereof with a minimum charge as for 2 hours and with no provision for cancellation;
- (c) watchman as required under by-law 71 (1) (b) (or for any other reason) — \$31.31 per man-hour or part thereof; and
- (d) water at \$2.58 per kilolitre.

Division 2 — Service Wharf

[By-law 97 (2)]

Miscellaneous charges payable at the Service Wharf

11. The following charges are payable for the various services described below at the Service Wharf —

- (a) Service Wharf lighting — \$26.00 per night or part thereof;
- (b) water — \$2.58 per kilolitre;
- (c) gangway — \$26.00 per day or part thereof;
- (d) workboat —
 - (i) (lines launch and crew) — \$1 200 per vessel;
 - (ii) for work other than berthing/unberthing — \$300 per hour or part thereof with a minimum charge as for 2 hours and with no provision for cancellation;
- (e) watchman as required under by-law 71 (1) (b) (or for any other reason) — \$45.00 per hour or part thereof;
- (f) communication charge — \$45.00 (fee applicable to vessels at the Service Wharf which do not have local agents); and
- (g) mooring and unmooring labour — \$1 000 per vessel.



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