



Western Australia

Shipping and Pilotage Act 1967

Compare between:

[20 May 2014, 04-f0-01] and [31 May 2014, 04-g0-03]

Shipping and Pilotage Act 1967

An Act relating to shipping and pilotage in and about the ports, fishing boat harbours and mooring control areas of the State; to repeal the *Shipping and Pilotage Act 1855* and the *Ports and Harbours Act 1917*; and for incidental and other purposes.

[Long title amended by No. 88 of 1978 s. 3.]

1. Short title

This Act may be cited as the *Shipping and Pilotage Act 1967*¹.

2. Repeal

- (1) The *Shipping and Pilotage Act 1855* is repealed.
- (2) The *Ports and Harbours Act 1917* is repealed.
- (3) Without affecting the application of the *Interpretation Act 1984* in relation to the repeal effected by subsection (1), the provisions of section 36 of that Act apply in relation to —
 - (a) all offices constituted and appointments of officers made;
 - (b) all proclamations, orders, regulations, by-laws, rules, certificates and documents made or issued; and
 - (c) all acts, matters and things done,

under the *Shipping and Pilotage Act 1855*, and in force, or in operation, or in existence, as the case may be, at the commencement of this Act¹.

3. Terms used

In this Act, unless the contrary intention appears —

CEO means the chief executive officer of the Department;

controlled area means an area of water outside a port that is declared under section 10(1c) to be an area in which pilotage services are to be used;

controlling authority, when used in relation to a fishing boat harbour or a mooring control area, means the body corporate or the Department, as the case may be, specified as the controlling authority of the fishing boat harbour or mooring control area pursuant to section 10(2);

Department means the department of the Public Service principally assisting the Minister in the administration of this Act;

fishing boat harbour means any place for the time being declared to be a fishing boat harbour pursuant to section 10(2);

harbour master of a port means —

- (a) a harbour master of the port appointed under section 4; or
- (b) an acting harbour master of the port appointed under the *Interpretation Act 1984* section 52(1)(b); or
- (c) a deputy harbour master of the port appointed under section 7A when performing a function of the harbour master as authorised by section 7A(2), (3) or (5);

marine safety plan has the meaning given to that term in section 7B(1);

mooring control area means any place for the time being declared to be a mooring control area pursuant to section 10(2);

pilotage area means a port or a controlled area;

port means an area of water, or land and water, for the time being declared to be a port under section 10(1).

[Section 3 amended by No. 88 of 1978 s. 4; No. 26 of 1984 s. 3; No. 46 of 1993 s. 42; No. 47 of 1993 s. 29; No. 5 of 1999 s. 21 and 24(2); No. 71 of 2006 s. 4.]

4. Appointment of harbour masters

The Minister may, in writing, appoint any person to be the harbour master of a port.

[Section 4 inserted by No. 71 of 2006 s. 5.]

5. Powers and duties of harbour masters

- (1) The harbour master of any port may —
- (a) control the entry and departure of vessels into and from the port;
 - (b) control the berthing, mooring and moving of vessels within the port;
 - (c) exercise such other powers relating to the control and the direction of vessels and persons within the port and the maintaining of good order within the port, as are prescribed;
 - (d) remove any wreckage that is within, or in or about the approaches to, the waters of the port and is obstructing or likely to obstruct the safe movement of vessels therein; and
 - (e) control the movement of vessels in a prescribed control area outside the port.
- (2) Where a harbour master has removed wreckage pursuant to subsection (1)(d), he may by notice served on the owner of the wreckage, demand payment of the cost of effecting the removal of the wreckage.
- (3) Where —
- (a) an owner fails within 28 days of the service on him of a notice under subsection (2) to pay the amount specified in the notice; or

- (b) the harbour master is unable, after making reasonable enquiries, to ascertain the owner of the wreckage,

the harbour master may cause the wreckage so removed to be sold and the proceeds of the sale shall be applied —

- (c) firstly, in payment of the costs of the sale;
- (d) secondly, in payment of the costs of the removal of the wreckage,

and the balance, if any, shall be paid to the owner of the wreckage or, if the owner is not known, credited to the Consolidated Account.

- (4A) If under subsection (3) any wreckage is sold in good faith to a person and the person takes the property in good faith, the person receives good title to the wreckage against every other person including its true owner.

- (4) In this section *wreckage* means any cargo, sunken hull or vessel, article or thing, other than a vessel that is afloat.

[Section 5 amended by No. 65 of 1988 s. 4; No. 6 of 1993 s. 11; No. 49 of 1996 s. 64; No. 77 of 2006 s. 4; No. 42 of 2011 s. 105.]

6. Removal of unseaworthy vessels

- (1) Where a vessel within a port is, in the opinion of the harbour master, not regularly used for sea service and either unfit for sea service or so situated as to constitute an obstruction to the safe movement of vessels within the port, the harbour master may —
 - (a) by notice served on the owner of the vessel; or
 - (b) if the identity or whereabouts of the owner cannot be ascertained after the making of reasonable enquiries, by notice affixed to the vessel,

require the removal of the vessel within the time specified in the notice to such place, subject to subsection (3), as is specified in the notice.

- (2) Where the terms of a notice given under subsection (1) are not complied with, the harbour master may cause the vessel to be removed to the place specified in the notice, and the cost of so doing is a debt due to the Crown and recoverable in a court of competent jurisdiction.
- (3) The harbour master of a port shall not order the removal of a vessel to a place outside the port unless he is satisfied that in the circumstances of the case, including the condition of the vessel, there is no place within the port where the vessel might lie without obstructing or prejudicing the safe movement of vessels within the port.

~~(4) An action shall not be brought against the Crown, the Minister, a harbour master or a person acting under the authority of a harbour master, for loss or damage occasioned by any act done in good faith pursuant to the powers conferred by this section or section 5(1)(d) or (3).~~

~~[(4) deleted]~~

~~[Section 6 amended by No. 71 of 2006 s. 66; No. 9 of 2014 s. 38.]~~

6A. Extended application of sections 5 and 6

(1) In this section —

declared area means a fishing boat harbour or mooring control area.

(2) If the Department is the controlling authority of a declared area the provisions of sections 5 and 6 apply in relation to the declared area as if —

(a) a reference to a port were a reference to the declared area; and

(b) a reference to a harbour master were a reference to the CEO.

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(3) If a body corporate is the controlling authority of a declared area the provisions of sections 5 and 6 apply in relation to the declared area as if —

(a) a reference to a port were a reference to the declared area; and

(b) a reference to a harbour master (other than a reference to which paragraph (c) or (e) applies) were a reference to the body corporate; and

(c) the reference in section 6(1) to the opinion of a harbour master were a reference to the opinion of a delegate of the body corporate; and

(d) the reference in section 6(2) to the Crown were a reference to the body corporate; and

(e) the reference in section 6(3) to the harbour master being satisfied were a reference to a delegate of the body corporate being satisfied.

[Section 6A inserted by No. 9 of 2014 s. 39.]

7. Special powers of harbour master in emergencies

(1) Where the harbour master of a port is satisfied that a dangerous situation exists in a port and that —

(a) the presence of a vessel within the port constitutes a danger to the safety of persons, or to another vessel or to valuable property within the port; and

(b) it is impossible to remove the vessel from the port or that the removal of the vessel from the port would itself create a danger to the safety of persons or to another vessel or to valuable property within the port,

the harbour master may order the master of the vessel, the presence of which constitutes such a danger, to forthwith scuttle the vessel and, if the master fails to comply forthwith with that order, the harbour master may by any means that he thinks fit, cause the vessel to be scuttled.

~~(2) An action shall not be brought against the Crown, the Minister, a harbour master or any person acting under the authority of a harbour master for loss or damage occasioned by any act done in good faith pursuant to the powers conferred by this section.~~

~~[(2) deleted]~~

~~[Section 7 amended by No. 9 of 2014 s. 40.]~~

7A. Deputy harbour masters: appointment and functions

- (1) The Minister may, in writing, appoint any person to be a deputy harbour master of any port.
- (2) If there is one deputy harbour master of a port, the deputy harbour master may perform the functions of the harbour master under this Act during any absence, illness or incapacity of the harbour master.
- (3) If there are 2 or more deputy harbour masters of a port, one of them may if —
 - (a) nominated to do so by the CEO; or
 - (b) authorised to do so under arrangements approved by the CEO,perform the functions of the harbour master under this Act during an absence, illness or incapacity of the harbour master.
- (4) Subsections (2) and (3) do not limit the Minister's power under the *Interpretation Act 1984* section 52(1)(b) to appoint an acting harbour master of the port.
- (5) Even if the harbour master of a port is able to perform a function under this Act, a deputy harbour master of the port may perform that function subject to the supervision of the harbour master.

[Section 7A inserted by No. 71 of 2006 s. 7.]

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8A. Protection from liability for wrongdoing

- (1) An action in tort does not lie against a person for anything the person has done, in good faith, in the performance or purported performance of a function under this Act.
- (2) The Minister and the Crown are also relieved of any liability that either of them might otherwise have had for another person having done anything as described in subsection (1).
- (3) The protection given by this section applies even though the thing done as described in subsection (1) or (2) may have been capable of being done whether or not this Act had been enacted.
- (4) The protection given by this section extends to anything done by a person in good faith —
 - (a) under the authority of a harbour master, to assist the harbour master to perform a function under this Act; or
 - (b) in compliance with an order, direction or requirement given or made by a harbour master.
- (5) In subsection (4), a reference to a harbour master includes a reference to a controlling authority or the CEO.
- (6) In this section, a reference to the doing of anything includes a reference to an omission to do anything.

[Section 8A inserted by No. 9 of 2014 s. 41.]

8. Conservancy dues

- (1) Subject to subsection (2), by and to section 12, there are payable upon the entry of every vessel into a port, in respect of the provision of lights, beacons and like navigational facilities at the port, fees, known as conservancy dues, at such rates as are prescribed.

- (2) The regulations may provide that vessels of a specified class, or of specified classes, are exempt from the payment of the fees referred to in subsection (1).

[Section 8 amended by No. 88 of 1978 s. 5; No. 46 of 1993 s. 43; No. 5 of 1999 s. 24(3) and (4).]

9. Pilotage and pilotage charges

- (1) Subject to subsection (2) and section 12, pilotage charges as prescribed are payable for the use of pilotage facilities by a vessel within a pilotage area.
- (2) The regulations may —
- (a) provide for the issue of a licence to a person to act as a pilot for a pilotage area specified in the licence (a ***pilot's licence***);
 - (aa) provide for the period for which a pilot's licence has effect;
 - (ab) provide for the imposition of conditions on a pilot's licence and for the revocation or amendment of conditions so imposed;
 - (ac) prescribe procedures and prerequisites for, and other matters relating to, the issue or renewal of a pilot's licence;
 - (ad) provide for the suspension or revocation of a pilot's licence;
 - (ae) provide for a person aggrieved by —
 - (i) a decision not to issue a pilot's licence to the person or not to renew the person's pilot's licence; or
 - (ii) a decision made in respect of that person under regulations made under paragraph (ab) or (ad),
to apply to the State Administrative Tribunal for a review of the decision;

- (af) prohibit a person from moving a vessel in a pilotage area without it being under the control of a person who holds a pilot's licence for the pilotage area unless under the regulations —
 - (i) that person is permitted to do so; or
 - (ii) the vessel does not have to be under the control of a person who has a pilot's licence;
- (ag) prohibit a person from acting as pilot in a pilotage area unless the person does so under and in accordance with a pilot's licence for the pilotage area;
- (ah) provide for persons appointed as pilots under section 4 before the coming into operation of the *Shipping and Pilotage Amendment Act 2006* to be regarded for a prescribed period as holding pilot's licences;
- (b) provide for the issue of pilotage exemption certificates to masters who hold the prescribed qualifications and —
 - (i) prescribe the privileges that, except as otherwise expressly provided therein, are conferred by, and the duration of, a pilotage exemption certificate;
 - (ii) make provision for a pilotage exemption certificate to be subject to such conditions as may be specified therein and such other conditions (if any) as may be prescribed;
 - (iii) provide for the renewal, surrender, cancellation, and suspension of a pilotage exemption certificate and the making thereon, at the time of its issue or renewal or at any other time, of an endorsement imposing conditions on or extending the privileges attaching to that certificate;
 - (iv) provide for the examination and testing of persons applying for the issue or renewal of a pilotage exemption certificate, or the making or

- variation of an endorsement thereon or the removal of an endorsement therefrom;
- (v) prescribe the matters in relation to which a fee shall be payable and the amount of any such fee;
 - (c) provide for exemptions from the requirement to pay pilotage charges and for any such exemption to be according to the class of vessel or circumstance;
 - (d) provide for the payment by the owner of the vessel concerned of prescribed charges in respect of the detention of a pilot in quarantine or otherwise and of such incidental expenses as are prescribed;
 - (e) provide for the payment —
 - (i) where a person fails to comply with a requirement of the regulations to use pilotage facilities; or
 - (ii) where a person who, not being required to use pilotage facilities by reason of his being the holder of a pilotage exemption certificate, fails to comply with a requirement of the regulations relating to the use of that certificate,of the pilotage charges that would have been payable had pilotage facilities been used for the movement in respect of which the failure occurred.

[Section 9 amended by No. 88 of 1978 s. 6; No. 26 of 1984 s. 4; No. 65 of 1988 s. 5; No. 71 of 2006 s. 9.]

9A. Fishing boat harbour dues and mooring charges

- (1) Subject to subsection (2), there are payable at such intervals as are prescribed to the controlling authority of —
 - (a) a fishing boat harbour in respect of each fishing boat using —
 - (i) the facilities of the fishing boat harbour fees, known as fishing boat harbour dues; and

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(ii) mooring pens within the fishing boat harbour fees, known as mooring charges;

or

(b) a mooring control area in respect of each boat using a mooring site within the mooring control area fees, known as mooring charges,

at such rates as are prescribed.

(2) The regulations may provide that fishing boats or boats of a specified class, or of specified classes, are exempt from the payment of the fees referred to in subsection (1).

[Section 9A inserted by No. 88 of 1978 s. 7.]

10. Declaration of ports and other areas

(1) The regulations may declare an area of water, or land and water, intended for use either wholly or partly in connection with the movement, loading, unloading, maintenance or provisioning of vessels to be a port for the purposes of this Act.

(1a) A port is to be —

(a) known by the name; and

(b) bounded by the limits,

specified in the regulations in relation to that port.

(1b) A port named in the *Port Authorities Act 1999* Schedule 1 is not a port for the purposes of this Act and a declaration under subsection (1) cannot relate to a port so named.

(1c) The regulations may declare an area of water outside a port to be an area in which pilotage services are to be used.

(2) The Governor may by proclamation —

(a) declare any place described in the proclamation to be a fishing boat harbour or mooring control area for the purposes of this Act; or

- (b) vary the boundaries of a place declared to be a fishing boat harbour or mooring control area under this subsection, or declare a fishing boat harbour or mooring control area to be no longer a fishing boat harbour or mooring control area, as the case may be, for the purposes of this Act; or
 - (ba) in relation to a fishing boat harbour or mooring control area, specify a body corporate or the Department as the controlling authority of the fishing boat harbour or mooring control area; or
 - (c) vary or revoke any proclamation made under this section.
- (3) In subsections (4) and (5) —
- existing port** means a port specified in the Schedule repealed by the *Shipping and Pilotage Amendment Act 2006* section 14;
- regulations** means regulations made for the purposes of subsection (1).
- (4) An area declared to be a port by the initial regulations is taken to be the same port as an existing port of the same name even if it is bounded by different limits.
- (5) If —
- (a) the initial regulations divide an existing port into 2 or more ports; or
 - (b) subsequent regulations divide a port into 2 or more ports,

the regulations may contain any transitional provisions that are necessary or convenient in relation to the division.

[Section 10 amended by No. 88 of 1978 s. 8; No. 38 of 1983 s. 3²; No. 26 of 1984 s. 5; No. 39 of 1985 s. 101; No. 46 of 1993 s. 44; No. 71 of 2006 s. 10.]

11. Offences

Any person who —

- (a) fails to comply with any order or direction of a harbour master given or made under the powers conferred by section 5, 6 or 7; or
- (ba) fails to comply with any order or direction of the CEO or a controlling authority given or made under the powers conferred by section 5 or 6 as applied by section 6A; or
- (b) unlawfully interferes with any mooring, beacon, buoy, light or other port, fishing boat harbour or mooring control area facility; or
- (c) deposits or removes earth or spoil within a port, fishing boat harbour or mooring control area beneath high water mark,

commits an offence.

Penalty: \$12 000.

[Section 11 amended by No. 88 of 1978 s. 9; No. 71 of 2006 s. ~~11~~; No. 9 of 2014 s. 42.]

11A. Delegation

- (1) The Minister may delegate to any officer of the Department any power or duty of the Minister under another provision of this Act.
- (2) The delegation must be in writing signed by the Minister.

(3A) The CEO may delegate to any officer of the Department or another person —

- (a) any power or duty of the CEO under another provision of this Act; or
- (b) if the Department is the controlling authority of a fishing boat harbour or mooring control area, any power or duty

of that controlling authority under a provision of this Act.

(3B) The delegation must be in writing signed by the CEO.

(3C) If the controlling authority of a fishing boat harbour or mooring control area is a body corporate, the controlling authority may delegate any power or duty of the controlling authority under another provision of this Act to any of its officers or employees.

(3D) The delegation must be in writing executed by the controlling authority.

- (3) A person to whom a power or duty is delegated under this section cannot delegate the power or duty.
- (4) A person exercising or performing a power or duty that has been delegated under this section, is to be taken to do so in accordance with the terms of the delegation unless the contrary is shown.
- (5) Nothing in this section limits the ability of the Minister, the CEO or a controlling authority to perform a function through an officer, employee or agent.

[Section 11A inserted by No. 71 of 2006 s. ~~12~~12; amended by No. 9 of 2014 s. 43.]

12. Regulations

- (1) The Governor may make regulations for any purpose necessary or convenient for the administration of this Act and in particular, but without limiting the generality of the foregoing —
 - (a) relating to special precautions and measures to be taken in relation to the movement, berthing, loading and unloading of vessels carrying flammable liquids, gunpowder and other explosive substances, or other dangerous goods and enabling the Minister to specify substances that, in addition to those identified in the

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

- (aa) relating to the movement, mooring, berthing, loading and unloading of vessels generally;
- (b) prescribing tide signals and other signals to be used in ports, fishing boat harbours or mooring control areas;
- (ba) relating to the ascertainment of the tonnage of any vessel;
- (bb) relating to the provision within a mooring control area of mooring sites and the hire, sale or free allocation thereof to the owners of boats, to the registration of mooring sites and of all or any of the boats using the same, to the supervision of mooring sites and to the maintenance and use thereof by the owners or users of boats, to the maintenance of safe and unimpeded navigation within a mooring control area, to the regulation or prohibition of the use by owners or users of boats of mooring sites hired, sold or allocated to other persons and to the control, with the approval of the Department and of any body corporate having an interest in or right over the whole or any part of the mooring control area concerned, of changes in, or the development of, mooring sites within that mooring control area;
- (c) requiring persons to comply with directions given or requirements made under the authority of those regulations and providing, where a person fails to comply with such a direction or requirement, for measures to be taken at the risk and expense of that person for achieving the purposes of the direction or requirement;
- (d) empowering persons authorised in that behalf in accordance with the regulations to board vessels and enter places for the purposes of enforcing this Act and take such other action as appears to them appropriate for the purposes of this Act;

- (e) providing for the period for which the appointment of a person as a harbour master or deputy harbour master has effect;
 - (f) providing for the imposition of conditions on the appointment of a harbour master or deputy harbour master and for the revocation or amendment of conditions so imposed;
 - (g) prescribing procedures and prerequisites for, and other matters relating to, the appointment of a person as a harbour master or deputy harbour master or the renewal of an appointment;
 - (h) providing for the revocation of the appointment of a harbour master or deputy harbour master;
 - (i) relating to the continuation for a prescribed period of appointments of harbour masters made under section 4 before the coming into operation of the *Shipping and Pilotage Amendment Act 2006*.
- (1a) Regulations referred to in subsection (1)(ba) —
- [(a)-(c) deleted]*
 - (d) may authorise the calculation or determination of tonnage —
 - (i) by measurement;
 - (ii) by estimation; or
 - (iii) by reference to information appearing in the certificate of registry or certificate of tonnage of a vessel or in any specified record or publication,or partly by one of the methods referred to in subparagraphs (i) to (iii) and partly by either or both of the other 2 methods;
 - (e) may make provision concerning the spaces, whether covered or closed or not, to be included and the spaces to be excluded in the ascertainment of the tonnage of

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any vessel and may prescribe the method by which any space to be included or excluded is to be calculated;

- (f) may confer power on an authorised person —
- (i) to board, inspect, measure or survey the whole or any part of a vessel, or any goods therein or thereon;
 - (ii) to detain a vessel;
 - (iii) to require the unshipment of any goods in or on a vessel at the expense and risk of the owner of those goods,

for the purpose of ascertaining the tonnage of the vessel or enabling that tonnage to be ascertained;

- (g) may exempt the responsible authority concerned and any authorised person from liability for any loss or damage occasioned by any act done in good faith pursuant to powers conferred by those regulations;
- (h) may require the owner or master of a vessel to produce the certificate of registry, and any certificate of tonnage, of the vessel if and when requested to do so by an authorised person;
- (i) may require the owner, master or agent of a vessel, upon request by an authorised person, to afford all necessary facilities to enable the vessel or any goods therein or thereon or both the vessel and those goods to be inspected, measured or surveyed for the purpose of ascertaining the tonnage of the vessel.

- (1b) In subsection (1a) —

authorised person means an officer or person appointed by the responsible authority concerned to ascertain the tonnage of vessels generally or to ascertain the tonnage of a particular vessel;

specified means specified in regulations referred to in subsection (1)(ba).

- (2) Regulations made under this Act may —
- (a) create offences and provide, in respect of an offence so created, for the imposition of a penalty consisting of a fine not exceeding \$12 000 with or without imprisonment for a term not exceeding 12 months;
 - (b) provide that a person committing an offence referred to in paragraph (a), in addition to suffering any penalty imposed under those regulations, is liable to pay to the Crown all expenses incurred by reason of the commission of that offence, and make provision for the recovery of those expenses from that person in a court of competent jurisdiction as a debt due to the Crown;
 - (ba) provide for fees or charges to be paid in respect of matters to which the regulations relate and prescribe or provide for those fees or charges;
 - (c) adopt, either wholly or in part or with modifications and either specifically or by reference, any rules, regulations, codes, instructions or other subordinate legislation made, determined or issued under any other Act or under any Act of the Parliament of the Commonwealth or the United Kingdom, or any of the standards, rules, codes or specifications of the bodies known as Standards Australia, the British Standards Institution, The Association of Australian Port and Marine Authorities or other body specified in those regulations;
 - (d) provide that if by reason of unavailability of materials or for any other reason that the responsible authority considers valid any requirement adopted by those regulations cannot be conformed to, the responsible authority may approve such use of materials or other matters as it considers to be consistent with the achievement of the objects of those regulations;

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- (e) be of general application or may be limited in their application according to time, place, or circumstance;
 - (f) make different provision for different classes of vessels or for the same class of vessels in different circumstances;
 - (g) make the application of any provision of the regulations dependent on compliance with specified conditions, to be evidenced in a specified manner;
 - (h) apply according to an approval or other administrative decision of a specified person or body notwithstanding that such approval or other decision may not have been, or may not have been primarily, given or made for the purposes of this Act;
 - (i) require a matter affected by them to be in accordance with a specified requirement, or as approved by, or to the satisfaction of, a specified person or body, or class of person or body, and delegate to or confer on a specified person or body, or class of person or body, a discretionary authority;
 - (j) exempt, or provide for the exemption of, persons or things from the provisions of those regulations, or any of them, and impose, or provide for the imposition of, conditions on any such exemption;
 - (k) require any matter or thing to be verified by statutory declaration.
- (3) In subsection (2) —

responsible authority means the Department;

specified means specified in the regulations.

[Section 12 amended by No. 12 of 1976 s. 19; No. 88 of 1978 s. 10; No. 26 of 1984 s. 6; No. 5 of 1999 s. 24(5); No. 74 of 2003 s. 110; No. 71 of 2006 s. 13.]

[Schedule deleted by No. 71 of 2006 s. 14(1).]

Notes

- ¹ This is a compilation of the *Shipping and Pilotage Act 1967* and includes the amendments made by the other written laws referred to in the following table ^{1a}. The table also contains information about any reprint.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Shipping and Pilotage Act 1967</i>	17 of 1967	20 Oct 1967	20 Oct 1967
<i>Acts Amendment (Port and Marine Regulations) Act 1976 Pt. VIII</i>	12 of 1976	27 May 1976	27 May 1976
<i>Shipping and Pilotage Act Amendment Act 1978</i>	88 of 1978	8 Nov 1978	Act other than s. 3, 4(a) and (c), 7-9, 10(a)(i) and (ii) insofar as it inserts a new paragraph in s. 12(1): 1 Sep 1981 (see s. 2 and <i>Gazette</i> 28 Aug 1981 p. 3553); s. 3, 4(a) and (c), 7-9, 10(a)(i) and (ii) insofar as it inserts a new paragraph in s. 12(1): 28 Nov 1983 (see s. 2 and <i>Gazette</i> 28 Nov 1983 p. 4707)
<i>Shipping and Pilotage Amendment Act 1983</i> ²	38 of 1983	22 Nov 1983	25 Nov 1983 (see s. 2 and <i>Gazette</i> 25 Nov 1983 p. 4706)
<i>Shipping and Pilotage Amendment Act 1984</i>	26 of 1984	31 May 1984	1 Nov 1984 (see s. 2 and <i>Gazette</i> 27 Aug 1984 p. 2632)
Reprint of the <i>Shipping and Pilotage Act 1967</i> approved 9 Nov 1984 (includes amendments listed above)			
<i>Dampier Port Authority Act 1985 s. 101</i>	39 of 1985	20 May 1985	1 Mar 1989 (see s. 2 and <i>Gazette</i> 23 Oct 1987 p. 3937)
<i>Shipping and Pilotage Amendment Act 1988</i> ⁹	65 of 1988	14 Dec 1988	14 Dec 1988 (see s. 2)
<i>Financial Administration Legislation Amendment Act 1993 s. 11</i>	6 of 1993	27 Aug 1993	1 Jul 1993 (see s. 2(1))
<i>Ports (Functions) Act 1993 Pt. 4</i>	46 of 1993	20 Dec 1993	15 Jun 1994 (see s. 2 and <i>Gazette</i> 10 Jun 1994 p. 2373)

Shipping and Pilotage Act 1967

Short title	Number and year	Assent	Commencement
<i>Acts Amendment (Department of Transport) Act 1993 Pt. 12</i>	47 of 1993	20 Dec 1993	1 Jan 1994 (see s. 2 and <i>Gazette</i> 31 Dec 1993 p. 6861)
<i>Financial Legislation Amendment Act 1996 s. 64</i>	49 of 1996	25 Oct 1996	25 Oct 1996 (see s. 2(1))
<i>Port Authorities (Consequential Provisions) Act 1999 s. 21 (Sch. 1-8) and 24</i>	5 of 1999	13 Apr 1999	Sch. 1, 3-8 and s. 24: 14 Aug 1999 (see s. 2 and <i>Gazette</i> 13 Aug 1999 p. 3823); Sch. 2: 1 Jan 2000 (see s. 2(9) and <i>Gazette</i> 24 Dec 1999 p. 6871)
Reprint of the <i>Shipping and Pilotage Act 1967</i> as at 18 Jan 2002 (includes amendments listed above)			
Reprint 3: The <i>Shipping and Pilotage Act 1967</i> as at 21 Mar 2003			
<i>Statutes (Repeals and Minor Amendments) Act 2003 s. 110</i>	74 of 2003	15 Dec 2003	15 Dec 2003 (see s. 2)
<i>Shipping and Pilotage Amendment Act 2006</i>	71 of 2006	13 Dec 2006	s. 1 and 2: 13 Dec 2006 Act other than s. 1, 2, 8 and 13(1)(b): 5 Jun 2010 (see s. 2 and <i>Gazette</i> 4 Jun 2010 p. 2471)
<i>Financial Legislation Amendment and Repeal Act 2006 s. 4</i>	77 of 2006	21 Dec 2006	1 Feb 2007 (see s. 2(1) and <i>Gazette</i> 19 Jan 2007 p. 137)
Reprint 4: The <i>Shipping and Pilotage Act 1967</i> as at 22 May 2009 (includes amendments listed above except those in the <i>Shipping and Pilotage Amendment Act 2006</i>)			
<i>Personal Property Securities (Consequential Repeals and Amendments) Act 2011 Pt. 12 Div. 4</i>	42 of 2011	4 Oct 2011	30 Jan 2012 (see s. 2(c) and Cwlth Legislative Instrument No. F2011L02397 cl. 5 registered 21 Nov 2011)
<i>Ports Legislation Amendment Act 2014 Pt. 3</i>	9 of 2014	20 May 2014	31 May 2014 (see s. 2(1)(c) and <i>Gazette</i> 30 May 2014 p. 1680)

^{1a} On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.

Provisions that have not come into operation

Short title	Number and year	Assent	Commencement
<i>Shipping and Pilotage Amendment Act 2006</i> s. 8 and 13(1)(b) ¹⁰	71 of 2006	13 Dec 2006	To be proclaimed (see s. 2)
<i>Standardisation of Formatting Act 2010</i> s. 4 ¹¹	19 of 2010	28 Jun 2010	To be proclaimed (see s. 2(b))
<i>Ports Legislation Amendment Act 2014</i> Pt. 3⁺²	9 of 2014	20 May 2014	To be proclaimed (see s. 2(1)(e))

² The *Shipping and Pilotage Amendment Act 1983* s. 3(2) reads as follows:

(2) All proclamations made prior to the commencement of this section, under section 10(2) of the principal Act are hereby revoked.

³ The ports of Augusta, Balla Balla, Dongara and Point Cloates were declared by proclamation under s. 10(2) to no longer be ports. See *Gazette* 29 May 1998 p. 2981.

⁴ Lands and Surveys plans are now being held by the Western Australian Land Information Authority (see the *Land Information Authority Act 2006* s. 100).

⁵ For variation of Onslow port boundaries see proclamation in *Gazette* 24 Aug 1990 p. 4246-7.

⁶ For variation of Perth port boundaries see proclamation in *Gazette* 13 Jun 1986 p. 1969.

⁷ The port of Jurien was declared by proclamation under s. 10(2) to no longer be a port. See *Gazette* 23 Mar 1989 p. 811.

⁸ For variation of Port Walcott boundaries see proclamation in *Gazette* 17 Nov 1989 p. 4089.

⁹ The *Shipping and Pilotage Amendment Act 1988* s. 6 reads as follows:

6. Validation

Any act or other thing done before the day on which this Act comes into operation that would have been lawful had this Act been in force when that act or other thing was done shall be deemed to be and to have been lawfully done and is hereby validated.

¹⁰ On the date as at which this compilation was prepared, the *Shipping and Pilotage Amendment Act 2006* s. 8 and 13(1)(b) had not come into operation. They read as follows:

8. Section 7B inserted

Before section 8 the following section is inserted —

“

7B. Marine safety plans

(1) In this section —

marine department means the department of the Public Service principally assisting the Minister administering the *Marine and Harbours Act 1981* in the administration of that Act;

marine safety plan means a plan prepared by the safety operator for an MSP area and approved by the CEO setting out the arrangements for marine safety in the MSP area;

MSP area means an area of water, or land and water, declared to be an MSP area under this section;

safety operator has the meaning given to that term in subsection (4).

(2) For the purposes of this section, the CEO may, by notice published in the *Gazette*, declare an area of water, or land and water, to be an MSP area.

(3) An MSP area cannot include —

(a) any land or water that is outside a port or outside any controlled area outside a port; or

(b) any land that is controlled or managed by the marine department; or

(c) any part of a mooring control area or fishing boat harbour; or

(d) any land or water where the marine department controls and manages shipping movements and the use of facilities provided for shipping.

(4) If under subsection (2) the CEO declares an MSP area, the CEO must, by notice published in the *Gazette*, designate a person as the **safety operator** for the MSP area.

(5) In designating a person as the safety operator for an MSP area the CEO must take into account —

(a) the ability of the person to undertake the functions of a safety operator; and

- (b) the views of the person, or persons, who control or manage shipping movements, and the use of facilities provided for shipping, in the MSP area.
- (6) The *Interpretation Act 1984* section 52 applies to the designation of a person as the safety operator for an MSP area as if the designation were an appointment.
- (7) The CEO, by notice published in the *Gazette*, may at any time cancel or amend a declaration or designation made under this section.
- (8) The safety operator for an MSP area is to have, maintain and implement a marine safety plan for the MSP area.
- (9) The CEO is to monitor the maintenance and implementation of the marine safety plan and may give directions to the safety operator as to the maintenance and implementation of the plan.
- (10) The safety operator is to give effect to any direction given under subsection (9).
- (11) When required to do so under the regulations, and whenever else directed to do so by the CEO, the safety operator is to —
 - (a) review a marine safety plan; and
 - (b) submit modifications of the plan to the CEO for approval.
- (12) If the marine department controls and manages shipping movements and the use of facilities provided for shipping in an area that —
 - (a) is not, or is not part of, an MSP area; but
 - (b) is, or is a part of, a port or any controlled area outside a port,the chief executive officer of the marine department is to have, maintain and implement a plan setting out the arrangements for marine safety in the area.

”.

13. Section 12 amended

- (1) Section 12(1) is amended as follows:
 - (b) after paragraph (bb) by inserting —
 - “
 - (bc) in relation to marine safety plans, providing for —
 - (i) their form and the matters to be dealt with in them; and

- (ii) the procedures for submitting and obtaining approval of them; and
- (iii) their review and procedures for submitting and obtaining approval of modifications of them; and
- (iv) the powers that the CEO can exercise in order to monitor their maintenance and implementation;

”;

¹¹ On the date as at which this compilation was prepared, the *Standardisation of Formatting Act 2010* s. 4 had not come into operation. It reads as follows:

4. Schedule headings reformatted

- (1) This section amends the Acts listed in the Table.
- (2) In each Schedule listed in the Table:
 - (a) if there is a title set out in the Table for the Schedule — after the identifier for the Schedule insert that title;
 - (b) if there is a shoulder note set out in the Table for the Schedule — at the end of the heading to the Schedule insert that shoulder note;
 - (c) reformat the heading to the Schedule, as amended by paragraphs (a) and (b) if applicable, so that it is in the current format.

Table

Act	Identifier	Title	Shoulder note
<i>Shipping and Pilotage Act 1967</i>	Schedule		

¹² ~~On the date as at which this compilation was prepared, the *Ports Legislation Amendment Act 2014* Pt. 3 had not come into operation. It reads as follows:~~

~~**Part 3 — Shipping and Pilotage Act 1967 amended**~~

~~**37. Act amended**~~

~~— This Part amends the *Shipping and Pilotage Act 1967*.~~

~~**38. Section 6 amended**~~

~~— Delete section 6(4).~~

~~39. Section 6A inserted~~

~~After section 6 insert:~~

~~6A. Extended application of sections 5 and 6~~

~~(1) In this section—~~

~~—*declared area* means a fishing boat harbour or mooring control area.~~

~~(2) If the Department is the controlling authority of a declared area the provisions of sections 5 and 6 apply in relation to the declared area as if—~~

~~(a) a reference to a port were a reference to the declared area; and~~

~~(b) a reference to a harbour master were a reference to the CEO.~~

~~(3) If a body corporate is the controlling authority of a declared area the provisions of sections 5 and 6 apply in relation to the declared area as if—~~

~~(a) a reference to a port were a reference to the declared area; and~~

~~(b) a reference to a harbour master (other than a reference to which paragraph (c) or (e) applies) were a reference to the body corporate; and~~

~~(c) the reference in section 6(1) to the opinion of a harbour master were a reference to the opinion of a delegate of the body corporate; and~~

~~(d) the reference in section 6(2) to the Crown were a reference to the body corporate; and~~

~~(e) the reference in section 6(3) to the harbour master being satisfied were a reference to a delegate of the body corporate being satisfied.~~

~~40. Section 7 amended~~

~~Delete section 7(2).~~

~~41. Section 8A inserted~~

~~After section 7A insert:~~

~~8A. Protection from liability for wrongdoing~~

- ~~(1) An action in tort does not lie against a person for anything the person has done, in good faith, in the performance or purported performance of a function under this Act.~~
- ~~(2) The Minister and the Crown are also relieved of any liability that either of them might otherwise have had for another person having done anything as described in subsection (1).~~
- ~~(3) The protection given by this section applies even though the thing done as described in subsection (1) or (2) may have been capable of being done whether or not this Act had been enacted.~~
- ~~(4) The protection given by this section extends to anything done by a person in good faith—
 - ~~(a) under the authority of a harbour master, to assist the harbour master to perform a function under this Act; or~~
 - ~~(b) in compliance with an order, direction or requirement given or made by a harbour master.~~~~
- ~~(5) In subsection (4), a reference to a harbour master includes a reference to a controlling authority or the CEO.~~
- ~~(6) In this section, a reference to the doing of anything includes a reference to an omission to do anything.~~

~~42. Section 11 amended~~

- ~~(1) In section 11:
 - ~~(a) in paragraph (a) delete “5 or 7;” and insert:

5, 6 or 7; or~~
 - ~~(b) after paragraph (a) insert:

(ba) fails to comply with any order or direction of the CEO or a controlling authority given or made under the powers conferred by section 5 or 6 as applied by section 6A; or~~~~

~~43. Section 11A amended~~

- ~~(1) After section 11A(2) insert:~~

- ~~—(3A)— The CEO may delegate to any officer of the Department or another person —~~
 - ~~—(a)— any power or duty of the CEO under another provision of this Act; or~~
 - ~~—(b)— if the Department is the controlling authority of a fishing boat harbour or mooring control area, any power or duty of that controlling authority under a provision of this Act.~~
- ~~—(3B)— The delegation must be in writing signed by the CEO.~~
- ~~—(3C)— If the controlling authority of a fishing boat harbour or mooring control area is a body corporate, the controlling authority may delegate any power or duty of the controlling authority under another provision of this Act to any of its officers or employees.~~
- ~~—(3D)— The delegation must be in writing executed by the controlling authority.~~

- ~~—(2)— Delete section 11A(5) and insert:~~

- ~~—(5)— Nothing in this section limits the ability of the Minister, the CEO or a controlling authority to perform a function through an officer, employee or agent.~~

