



Western Australia

Albany Port Authority Act 1926

Compare between:

[01 Jul 1999, 01-x0-03] and [14 Aug 1999, 01-y0-06]

Albany Port Authority Act 1926

An Act to constitute the Albany Port Authority; to regulate the appointment of the members of the Albany Port Authority; to define its powers and authorities; and for other purposes incidental thereto.

[Long title substituted by No. 4 of 1967 s.3.]

[Assented to 24 December 1926]

Be it enacted

1. Short title and commencement

This Act may be cited as the *Albany Port Authority Act 1926* and shall come into force on a day to be fixed by proclamation.¹

[Section 1 amended by No. 4 of 1967 s.1.]

1A. Change of name of Board to Albany Port Authority

- (1) The name of the body corporate constituted under section three of this Act is changed to the Albany Port Authority.
- (2) Notwithstanding the change of name effected by subsection (1) of this section, the body corporate constituted under this Act by the name of the Albany Harbour Board is preserved and continued in existence as a body corporate under and subject to the provisions of this Act, under the name of Albany Port Authority, but so that the corporate identity of the body corporate and its rights, powers, functions, duties and liabilities, subject to those provisions shall not be affected.
- (3) A reference —

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- (a) in a law of the State; and
- (b) in any document,

in force immediately before the date of the coming into operation of the *Albany Harbour Board Act Amendment Act 1967*, to the Albany Harbour Board shall be read as a reference to the Albany Port Authority.

[Section 1A inserted by No. 4 of 1967 s.4.]

2. Interpretation

In this Act, and any regulations thereunder, the following words shall have the meaning stated, unless the contrary intention appears: —

“Buoys and beacons” include all other marks and signs placed for the purpose of navigation.

“Chief Executive Officer” means the chief executive officer of the department of the Public Service principally assisting the Minister in the administration of the *Western Australian Marine Act 1982*;

“Goods”— All wares and merchandise, and all chattels, live stock, and other things of whatsoever description.

“Master” includes every person having the command, charge, or management of a vessel for the time being.

“Members” means the members of the Port Authority;

“Owner” includes any person who is owner jointly any other person, and any joint stock company; and when used in relation to good includes any consignor, consignee, chipper, or agent for the sale or custody, loading or unloading of goods.

“Ship”— Every description of vessel used in navigation and not propelled exclusively by oars.

“The Port Authority” means the Albany Port Authority constituted under this Act.

“The Port” - So much of the Port of Albany as is contained within the boundaries described in the First Schedule to this Act, or as altered from time to time by the Governor.

“Vessel”— Any ship, lighter, barge, boat, raft, or craft, of whatever description, and howsoever navigated.

[Section 2 amended by No. 9 of 1963 s.2; No. 4 of 1967 s.5; No. 47 of 1993 s.4 (1); No. 46 of 1993 s.46.]

Constitution of the Port Authority

[Heading substituted by No. 4 of 1967 s.6.]

3. Albany Port Authority

There shall be five persons for carrying this Act into execution, who shall be a body corporate by the name of the Albany Port Authority, with perpetual succession, a common seal, and power to hold land.

[Section 3 amended by No. 4 of 1967 s.7.]

4. Appointment of members

- (1) The members shall be appointed by the Governor.
- (2) One of the members shall be appointed by the Governor as the chairman of the Port Authority for such period not exceeding the remainder of the period of office of that member as is specified in the instrument of his appointment as that chairman.

[Section 4 amended by No. 79 of 1986 s.4.]

5. Seal of Port Authority

Judicial notice shall be taken of the incorporation and common seal of the Port Authority, and every deed, instrument, or writing, when sealed, shall be admissible in evidence on the mere production thereof, without any other or further proof of the making of such deed, instrument, or writing.

[Section 5 amended by No. 40 of 1967 s.8.]

6. Period of office of member

Subject to this Act, a member —

- (a) holds office for such period not exceeding 3 years as is specified in the instrument of his appointment; and
- (b) is, on the expiry of his period of office, eligible for reappointment as a member.

[Section 6 inserted by No. 79 of 1986 1986 s.5.]

[7. Repealed by No. 79 of 1986 s.5.]

8. Deputy members

- (1) In the case of illness, suspension, or absence of any member, the Governor may appoint some person to act as the deputy of such member during such illness, suspension or absence, and until such appointment is terminated by notice in the *Gazette*. Every person so appointed shall, while so acting, have all the powers and perform all the duties of such member.
- (2) If such member is the chairman, the Governor may temporarily appoint another member acting chairman, who while so acting shall have all the powers and perform all the duties of the chairman.

9. Tenure of office

The Governor may remove a member from his office —

- (a) for misbehaviour or incompetence; or
- (b) if he becomes bankrupt, or applies to take the benefit of any Act for the relief of bankrupt debtors; or
- (c) if he absents himself from three consecutive meetings of the Port Authority (except on leave granted by the Governor) or becomes incapable of performing his duties; or
- (d) if he fails to comply with section 10 of the *Ports (Functions) Act 1993*.

[Section 9 amended by No. 4 of 1967 s.9; No. 46 of 1993 s.46.]

10. Remuneration of members of the Port Authority

The chairman and the other members of the Port authority shall be paid such remuneration respectively as the Governor shall from time to time determine.

[Section 10 inserted by No. 10 of 1965 s.2; amended by No. 4 of 1967 s.10.]

[11. Repealed by No. 10 of 1965 s.3.]

[12. Repealed by No. 52 of 1955 s.2.]

13. Quorum

For the conduct of business, any three members shall be a quorum, and shall have all the powers and authorities vested in the Port Authority.

[Section 13 amended by No. 4 of 1967 s.11.]

14. Acting chairman

In the absence of the chairman from any meeting of the Port Authority, or if after being present the retires, the members present may elect one of their number to be acting chairman for that meeting or for the remainder of the meeting.

[Section 14 amended by No. 4 of 1967 s.12.]

15. Procedure on difference of opinion

If at any meeting the members are equally divided in opinion, the chairman or acting chairman shall have a casting as well as a deliberative vote.

16. Acts of Port Authority not invalidated by vacancy

No Act or proceeding of the Port Authority shall be invalidated or prejudiced by reason only of the fact that at the time when

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such proceeding or act was taken, done, or commenced, there was a vacancy in the office of any member.

[Section 16 amended by No. 4 of 1967 s.13.]

17. Minutes of proceedings

The Port Authority shall keep minutes of its proceedings in such manner and form as the Minister shall direct.

[Section 17 substituted by No. 98 of 1985 s.3.]

Officers

18. Appointment of officers and servant employees

- (1) The Governor, on the nomination of the Port Authority may appoint a general manager and on the recommendation of the Port Authority may dismiss the general manager.
- (2) The Port Authority may appoint such other officers and servants as may be necessary for the administration of this Act and may dismiss any of those officers or servants.
- (3) All persons appointed pursuant to subsection (1) or (2) of this section are subject to the control of the Port Authority.
- (4) Notwithstanding anything in this Act, to the extent that there is in the case of a person who is appointed under —
 - (a) subsection (1) to be a general manager; or
 - (b) subsection (2) to be any other officer or servant,

and who is a member of the Senior Executive Service within the meaning of the *Public Service Act 1978* an inconsistency between this Act and that Act that Act shall prevail.

[Section 18 substituted by No. 4 of 1967 s.15; amended by No. 113 of 1987 s.32; No. 46 of 1993 s.46.]

19. Certain officers to give security

Before any officer or servant, entrusted with the custody of money or other property, shall enter upon the duties of his office, the Port Authority shall take from him sufficient security for the faithful execution thereof.

[Section 19 amended by No. 4 of 1967 s.16.]

*Vesting of Property***20. Property vested in Port Authority**

There shall be vested in the Port Authority for the purposes of this Act, —

- (1) All lands of the Crown within the boundaries of the port, as described in the First Schedule to this Act, including the bed and shores of the port.
- (2) All wharves, docks, landing stages, piers, jetties, wharf sheds, and railways belonging to the Government and within the boundaries of the port.
- (3) All such other property as the Port Authority may acquire or the Governor may at any time think fit to vest in the Port Authority for the purposes of this Act.

Provided that the Governor may from time to time, by notification in the *Gazette*—

- (a) Alter the boundaries of the port.
- (b) Withdraw any land or other property of any kind from the Port Authority, and vest the same in Her Majesty, the Minister for Railways, or otherwise as to the Governors may seem fit.

[Section 20 amended by No. 9 of 1963 s.2; No. 4 of 1967 s.17.]

21. Lands vested in Port Authority free from Municipal rates

All lands vested in the Port Authority under this Act shall be exempt from any rate, tax, or imposition which any local

government might, but for this section, lawfully levy or impose; but nothing herein contained shall preclude a local government from levying and collecting rates and other lawful charges in respect of land, houses, and buildings of the Port Authority leased and occupied for private purposes, and by persons other than the Port Authority, its officers and servants.

[Section 21 amended by No. 4 of 1967 s.18; No. 14 of 1996 s.4.]

Powers and Duties of the Port Authority

[Heading inserted by No. 4 of 1967 s.19.]

22. Port Authority to control, maintain and preserve

Subject to any direction given by the Minister under section 6 of the *Ports (Functions) Act 1993*, the Port Authority shall have the exclusive control of the port, and shall be charged with the maintenance and preservation of all property vested in it under this Act.

[Section 22 amended by No. 4 of 1967 s.20; No. 98 of 1987 s.4; No. 46 of 1993 s.46.]

23. Port extension

- (1) The completion and extension within the port of all Port works and the construction therein of all new works shall be deemed Government work within the meaning of the *Public Works Act 1902*, and —
 - (a) for the purpose, the Port Authority is a local authority within the meaning of that expression as defined in that Act; and
 - (b) subject to this Act, when and as often as land is required for the purposes of this Act, the land may be entered upon, surveyed and taken under the powers contained in and in accordance with the procedure prescribed by Part 9 of the *Land Administration Act 1997*.

- (2) The Port Authority may, subject to the prior approval of the Minister, undertake the construction, completion and extension within the port of any port works or other works required for the purposes of this Act.
- (3) In this section the expression “**port works**” includes pier, quay, wharf, jetty, dock, landing stage, slip, bridge, viaduct, embankment or drain or the reclamation of land from the sea or a river, or excavation, deepening, dredging or widening of any channel, basin or other part of the port.

[Section 23 amended by No. 4 of 1967 s.21; No. 78 of 1979 s.3; No. 31 of 1997 s.8.]

[24, 25 and 26. Repealed by No. 46 of 1993 s.46.]

26A. Capital expenditure to be in financial interest of Port Authority

Before incurring any capital expenditure the Port Authority shall consider whether the expenditure is in the financial interest of the Port Authority.

[Section 26A inserted by No. 98 of 1987 s.5.]

27. Goods left on wharves, etc., may be advertised and sold

- (1) If any goods remain upon any wharf or the approaches thereto, or in any store or warehouse, for a longer time than allowed by the regulations, any person authorised by the Port Authority may remove the goods to a convenient place, and keep the same until payment of the expenses of such removal and keeping.
- (2) If such expenses are not paid within seven days after demand thereof made upon the owner, or if the owner is unknown or cannot be found, then after public notice by advertisement, at least once in each of two consecutive weeks, in a newspaper circulating in Albany (Town), the Port Authority may sell such goods by public auction; provided that goods if perishable, may be sold without demand after twenty-four hours.

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

[Section 27 amended by No. 4 of 1967 s.26; No. 14 of 1996 s.4.]

28. Disputes between departments to be settled by Minister

Any dispute between the Port Authority and the Commissioner of Railways with respect to any land or other property vested in the Port Authority, shall be referred to the Minister for Railways, and any such dispute between the Port Authority and any other department of the Government shall be referred to the Minister administering this Act. The decision of the Minister shall be final and binding upon the parties.

[Section 28 amended by No. 4 of 1967 s.27.]

[28A. Repealed by No. 46 of 1993 s.46.]

[Heading repealed by No. 46 of 1993 s.46.]

[29. Repealed by No. 46 of 1993 s.46.]

Lights, Buoys, and Signals

30. Harbour lights, etc., not to be erected or removed without sanction of Chief Executive Officer

The Port Authority shall not erect or place any harbour light, signal, buoy, or beacon within the boundaries of the Port, or alter or remove the position of any light, signal, buoy, or beacon without the sanction of the Chief Executive Officer.

[Section 30 amended by No. 4 of 1967 s.29; No. 47 of 1993 s.4 (2).]

31. Chief Executive Officer may erect and maintain harbour lights, etc.

The Chief Executive Officer may, with the approval of the Minister, erect, maintain, replace, remove, or discontinue any harbour lights, signals, buoys, or beacons, or make any variation in the character of any such lights or signals, or in the mode of exhibiting the same, as he may from time to time consider necessary.

[Section 31 amended by No. 47 of 1993 s.4(2).]

Damage

[Heading amended by No. 46 of 1993 s.46.]

[32. Repealed by No. 46 of 1993 s.46.]

33. Responsibility for injury to works of port

When any injury is done by a vessel, floating timber, or material, or by any person employed about the same, to any part of the works or property of the Port Authority —

- (1) the owner of such vessel, floating timber, and material; and
- (2) in case the injury is caused through the act or negligence of the master of such vessel, or of the person having charge of such timber or material, the owner and also such master or person,

shall be answerable in damages to the Port Authority for the injury, but the Port Authority shall not recover twice for the same cause of action.

[Section 33 amended by No. 4 of 1967 s.31.]

34. Recovery by owner from master of ship

When the owner of any vessel, floating timber, or material pays any money in respect of any injury done to any part of the works or property of the Port Authority by any master or other

person, or pays any pecuniary penalty by reason of any act or omission of any master or other person, he shall be entitled to recover the money so paid with costs from such master or other person.

[Section 34 amended by No. 4 of 1967 s.32.]

35. Damages to cables

If any damage is done to any submarine cable, the property of or vested in the Port Authority, within or partly within the port, by any ship, or any part of the equipment of an ship such damage shall, forthwith be made good by and at the expense of the master, owner, or agent of such ship; and in default, the Port Authority may cause such repairs be effected, and may recover the expense thereof from the master or owner or agent in any court of competent jurisdiction.

[Section 35 amended by No. 4 of 1967 s.33.]

[Heading repealed by No. 46 of 1993 s.46.]

[36. Repealed by No. 46 of 1993 s.46.]

[37. Repealed by No. 73 of 1954 s.8.]

Port Dues and Wharfage Charges

[Heading amended by No. 4 of 1967 s.36.]

38. Port dues, etc., to be made by regulation

Port dues and wharfage charges shall be made and levied, and shall be payable in accordance with regulations under this Act.

[Section 38 amended by No. 4 of 1967 s.36.]

[39. Repealed by No. 4 of 1967 s.37.]

40. Tonnage of British vessels — foreign vessels

- (1) Where any vessel has been registered at a port in the United Kingdom, or any British possession, the amount of tonnage

specified in the certificate of such registry shall, for the purposes of this Act, be deemed to be the tonnage of such vessel.

- (2) In the case of vessels belonging to any foreign country which has adopted the provisions of the *Merchant Shipping Act 1894*, in respect of tonnage, such vessels shall be deemed to be of the tonnage denoted in the certificate of registry or other national papers.

41. Ascertainment of tonnage of other foreign vessels

In order to ascertain the tonnage of any vessel not registered as aforesaid as to which any question arises, any officer appointed in that behalf by the Port Authority may measure such vessel according to the regulations for the measurement of shipping for the time being in force in the State; or the Port Authority may, in its discretion, accept as the measurement of the vessel the measurement appearing in the latest edition of Lloyd's Register in the possession of the Port Authority.

[Section 41 amended by No. 4 of 1967 s.38.]

42. List of dues to be exhibited

The Port Authority shall at all times keep exhibited in front of its principal office lists of all dues and charges payable for the time being.

[Section 42 amended by No. 4 of 1967 s.39.]

43. In case of difference, power to weight or measure goods

Where a difference arises between any officer authorised to collect any such dues or charges and the owner of goods respecting the weight or quantity of any goods —

- (1) The officer authorised to collect such dues or charges may cause the goods to be weighed or measured.
- (2) If the weight or quantity exceeds that alleged by the owner, the expenses of the weighing or measuring shall

be paid to the Port Authority and shall be recoverable as dues are recoverable.

- (3) If the weight or quantity does not exceed that alleged as aforesaid, the expenses of the weighing or measuring shall be paid by and shall be recoverable from the Port Authority in any court of competent jurisdiction.

[Section 43 amended by No. 4 of 1967 s.40.]

44. Liability for dues payable by ship

The owner and master to any ship, and such consignee or agent thereof as may have paid or made himself liable to pay any charge on account of the ship, shall be liable to pay the dues payable in respect of such ship.

45. Liability for dues payable for goods

The following persons shall be liable to pay the dues payable in respect of any goods carried in any ship, that is to say, the owner of such goods, and also any consignor, consignee, shipper, or agent for the sale of or custody of such goods, and also any person entitled, either as owner or agent for the owner, to the possession of such goods.

46. Persons other than master or owner of ship liable for dues may retain moneys received on account of master or owner of ship for such payments

Every consignor, consignee, shipper, or agent, not being the owner or master of any ship or goods, by this Act made liable for the payment of any dues in respect of any ship or goods, as the case may be, may, out of any moneys in his hands received on account of such ship or goods, or belonging to the owner thereof, retain the amount of dues so paid by him, together with any reasonable expenses he may have incurred by reason of payment and liability.

47. Recovery of dues

All dues may be recovered by the Port Authority in any court of competent jurisdiction as a debt due to it.

[Section 47 amended by No. 4 of 1967 s.41.]

48. Persons authorized to call dues may distrain

Any officer authorised to collect may distrain any ship and the tackle thereof, or any goods in respect of which dues are payable, and may keep such ship and tackle or goods respectively until such dues are paid, and if the same are not paid within seven days after the distress, may cause the property distrained or any part thereof to be sold, and out of the Proceeds of the sale may pay the amount of such dues and the expenses of the distress, keeping, and sale.

49. Settlement of dispute concerning dues or charges occasioned by distress

Where a difference arises concerning the amount of any dues payable, or of the charge occasioned by any distress, the person distraining may detain the ship, tackle, or goods distrained until such amount is ascertained by the local court at Albany, or until he is satisfied that sufficient security has been given for the payment of such amount when ascertained, and of the expenses arising from nonpayment thereof. The court shall, upon application made for that purpose, determine the amount, and award such costs to be paid by either party to the other as the court thinks reasonable.

50. Penalty on evasion

If any master, owner, consignor, consignee, shipper, or agent evades, or attempts to evade, the payment of any dues, he shall incur a penalty either not exceeding two hundred dollars, or in case the amount of the dues which he has evaded or has attempted to evade exceeds two hundred dollars, then not

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exceeding such amount, and the penalty is in addition to the dues payable by him.

[Section 50 amended by No. 113 of 1965 s.4; No. 4 of 1967 s.42.]

51. Power to Governor to revise port dues

If in the opinion of the Governor the Port Authority shall not, in any year, have collected and received from dues, charges, rents, and other sources of revenue sufficient, or shall in any year have collected and received as aforesaid more than sufficient, to provide for the lawful expenditure of the Port Authority, including interest and contribution to the sinking fund, in respect of the value of the property vested in and charged against it under sections fifty-two and fifty-three, or if for any other reason the Governor thinks fit so to do the Governor may revise the port dues, port improvement rates, wharfage charges, and other dues, tolls, rates, fees, and charges prescribed by the regulations under this Act, and it shall be the duty of the Port Authority to impose and collect such dues and charges in accordance with such revision until the Governor shall otherwise order.

[Section 51 amended by No. 4 of 1967 s.43.]

Finance

52. Minister to declare value of property vested in Port Authority

The Minister shall, on the commencement of this Act, cause a schedule to be made of all property vested in the Port Authority, and shall determine the value thereof to be charged against the Port Authority.

[Section 52 amended by No. 4 of 1967 s.44.]

53. Subsequent Works

After the determination of such value, the Minister shall, at the end of each financial year, cause a schedule to be made of the cost of all additional works and improvements constructed, and the proportionate costs of works in course of construction, and of all property acquired by the Port Authority during the preceding financial year, to be charged as aforesaid.

[Section 53 amended by No. 4 of 1967 s.45.]

53A. Annual financial targets

- (1) The Minister shall, with the approval of the Treasurer, determine in writing delivered to the Port Authority by not later than 15 February in each year a financial target for the Port Authority for the next financial year and the Port Authority shall pursue a policy aimed at attaining that target, or that target as varied under subsection (4), during that financial year.
- (2) A financial target determined by the Minister under subsection (1) shall be expressed as a real rate of return after current cost depreciation but before interest on the written down current cost of the assets of the Port Authority as calculated in accordance with subsection (3).
- (3) The procedure to be used for the purposes of this section to calculate —
 - (a) the real return after current cost depreciation but before interest which the Port Authority has attained or is attaining; and
 - (b) the written down current cost of the assets of the Port Authority,

in respect of any financial year shall be as approved by the Minister and shall include —

- (c) the method to be used to calculate the return referred to in paragraph (a);

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- (d) the assets, or classes of assets, to be considered assets of the Port Authority for the purposes of this section;
 - (e) the method to be used to calculate the written down current cost of the assets of the Port Authority; and
 - (f) where relevant, any transaction, resource or liability, or classes of transactions, resources or liabilities, to be adjusted and any method to be used for any such adjustments.
- (4) Where, during a financial year, economic conditions beyond the control of the Port Authority are such that it is —
- (a) unlikely that the Port Authority will attain the financial target; or
 - (b) likely that the Port Authority will exceed the financial target,

determined by the Minister under subsection (1), the Minister may, with the approval of the Treasurer vary, in writing delivered to the Port Authority, the financial target determined under subsection (1).

- (5) The annual report submitted by the Port Authority in accordance with section 66 (1) of the *Financial Administration and Audit Act 1985* shall include —
- (a) a report; and
 - (b) supplementary financial statements; based on the procedure approved by the Minister under subsection (3), which for the purposes of that Act shall be deemed to be part of the financial statements prepared in accordance with section 66 (1) (a) of that Act for that annual report,

on the extent to which the Port Authority attained its financial target determined by the Minister under this section for the financial year the subject of the annual report.

[Section 53A inserted by No. 98 of 1987 s.7.]

53B. Payment of dividend to the State

- (1) The Port Authority shall, not later than one month after receiving the opinion of the Auditor General under section 93 of the *Financial Administration and Audit Act 1985*, beginning with the opinion received for the financial year ending on 30 June 1989, make a recommendation to the Minister as to whether a dividend should apply to the Port Authority for that financial year and if a dividend should apply, what that dividend should be.
- (2) Subject to this section, the Minister may, with the approval of the Treasurer, after receiving the recommendation of the Port Authority under subsection (1), determine the dividend that is to be paid by the Port Authority to the Treasurer for the credit of the Consolidated Fund for the relevant financial year.
- (3) A dividend under this section shall be expressed as a proportion of the State's equity in the Port Authority for the relevant financial year.
- (4) In making a determination under subsection (2) in respect of a financial year the Minister shall have regard to but shall not be bound by the recommendation of the Port Authority.
- (5) The Port Authority shall pay the amount of a dividend payable under this section within one month after receiving the determination of the Minister under subsection (2) or such longer period as the Minister directs.
- (6) In this section **"State's equity in the Port Authority"** in relation to a financial year means the amount calculated in accordance with the formula (A-L) where —
 - A means the written down current cost of the assets considered assets of the Port Authority under section 53A (3), as calculated under that section in respect of the financial year, which were acquired by the Port Authority for consideration or vested in the Port Authority by the State; and

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- L means the liabilities of the Port Authority that are identified, using the method approved by the Minister, as relating to the assets referred to in this subsection.

[Section 53B inserted by No. 98 of 1987 s.7; amended by No. 6 of 1993 s.11.]

53C. Information to be provided to Minister

The Minister may request, and the Port Authority shall provide, information and documents, including lists of assets, valuations, accounts and calculations —

- (a) necessary to enable the Minister to make or vary a determination or give a direction; or
- (b) relating to any recommendation made by the Port Authority,

under sections 53A or 53B.

[Section 53C inserted by No. 98 of 1987 s.7.]

54. Funds of the Port Authority

- (1) The funds of the Port Authority consist of —
 - (a) moneys from time to time appropriated by Parliament;
 - (b) moneys received by the Port Authority in the performance of its functions;
 - (c) moneys borrowed by the Port Authority under this Act; and
 - (d) other moneys lawfully received by, or made available, given or payable to the Port Authority.
- (2) The funds referred to in subsection (1) are to be credited to one account called the “Albany Port Authority Account” at either —
 - (a) the Treasury and forming part of the Trust Fund constituted under section 9 of the *Financial Administration and Audit Act 1985*; or

- (b) with the approval of the Treasurer, a bank (as defined in section 3 of that Act).
- (3) The Account is to be charged with —
 - (a) the remuneration and allowances payable to members;
 - (b) the salaries and wages of the Port Authority's officers and employees;
 - (c) all capital expenditure incurred by the Port Authority under its Act in connection with the acquisition (whether by purchase or compulsory taking) of land, buildings or other property;
 - (d) all expenditure lawfully incurred by the Port Authority in the performance of its functions; and
 - (e) repayment of, and interest on, moneys borrowed by the Port Authority under this Act.

[Section 54 inserted by No. 46 of 1993 s.37; amended by No. 57 of 1997 s.19.]

54A. Power of Port Authority to borrow money from Treasurer

- (1) The Port Authority in addition to the powers conferred on it by sections fifty-four B and fifty-four C of this Act may borrow from the Treasurer to enable the Port Authority to defray expenditure incurred by it under this Act at any time when the moneys standing to the credit of the Albany Port Authority Account are not sufficient to meet that expenditure in full.
- (2) The Port Authority shall pay to the Treasurer in respect of moneys borrowed pursuant to subsection (1) of this section interest at such rate and at such times as the Treasurer shall determine.
- (3) The moneys borrowed and the interest payable in respect thereof shall be a charge upon the moneys standing to the credit of the Albany Port Authority Account from time to time, and upon any works, undertakings and other assets vested in the Port Authority.

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[Section 54A inserted by No. 9 of 1963 s.5; amended by No. 4 of 1967 s.47; No. 98 of 1985 s.3; No. 49 of 1996 s.64.]

54B. Power of Port Authority to borrow money on issue of debentures or inscribed stock

- (1) Subject to subsection (2) of this section, the Port Authority may at any time, and from time to time, with the approval of the Governor —
 - (a) borrow and reborrow moneys by the issue and creation and sale of debentures and of inscribed stock for the purpose of raising the funds of the Port Authority for the effectual exercise by it of the powers conferred by this Act;
 - (b) issue and create debentures and inscribed stock in exchange for any debentures and inscribed stock respectively issued in respect of moneys previously borrowed by the Port Authority, and not repaid;
 - (c) issued create and sell debentures and inscribed stock for the purpose of borrowing money for redeeming any loans owing by the Port Authority, and for paying the expenses incurred in the issue and creation of the debentures and inscribed stock and otherwise carrying out the provisions of this, Act;
 - (d) effect any conversion authorised by this section either by arrangement with the holders of the existing debentures or registered owners of inscribed stock, or by the purchase of the debentures or inscribed stock out of moneys raised by the sale of debentures and inscribed stock, or partly in the one way and partly in the other.
- (2) The Governor shall not approve of the borrowing by the Port Authority of moneys under the provisions of this section, unless a proposal in writing showing —
 - (a) the term and particulars of the proposed loan;
 - (b) the rate of interest to be paid on the loan;

- (c) the purposes to which the money proposed to be borrow is to be applied; and
 - (d) the manner in which the loan is to be repaid,
- is first submitted by the Port Authority to, and approved by, the Minister.
- (3) Any moneys borrowed by the Port Authority under the provisions of this section —
- (a) may be raised a one loan or as several loans; and
 - (b) may be raised —
 - (i) by the issue of debentures with or without interest coupons attached;
 - (ii) by the creation and issue of inscribed stock to be called “The Albany Port Authority Incribed Stock”;
 - (iii) partly as provided by subparagraph (i), and partly as provided by subparagraph (ii) of this paragraph; or
 - (iv) in such other manner as the Governor may approve.

[Section 54B inserted by No. 9 of 1963 s.5; amended by No. 4 of 1967 s.48.]

54C. Power to borrow to repay loan

For the purpose of making provision to repay either the whole or any part of any loan raised by the Port Authority under the provisions of this Act, the Port Authority may with the consent of the Governor, and subject to subsection (2) of section fifty-four B of this Act, borrow the moneys necessary for that purpose before the loan or part of it becomes payable.

[Section 54C inserted by No. 9 of 1963 s.5; amended by No. 4 of 1967 s.49.]

s. 54D

54D. Moneys borrowed charged on revenues of Port Authority and guaranteed by the State

- (1) Due payment of debentures and inscribed stock respectively issued or created under the provisions of section fifty-four B of this Act and sold by the Port Authority with all interest thereon, shall be charged on and secured upon the revenues of the Port Authority.
- (2) For the purposes of subsection (1) of is section “**revenues**” of the Port Authority means all dues, charges, rents and other levies authorised to be collected and received by the Port Authority.
- (3) The due repayment of the principal moneys and the payment of all interest secured by debentures or inscribed stock issued or created by the Port Authority under the provisions of section fifty-four B of this Act is hereby guaranteed by the Government of the State.
- (4) Any sums required by the Treasurer for fulfilling any guarantee given by this Act shall be charged to the Consolidated Fund which is hereby to the necessary extent appropriated accordingly, and any sums received or recovered by the Treasurer from the Port Authority or otherwise in respect of a sum so charged by the Treasurer shall be credited to the Consolidated Fund.

[Section 54D inserted by No. 9 of 1963 s.5; amended by No. 4 of 1967 s.50; No. 98 of 1985 s.3; No. 6 of 1993 s.11; No. 49 of 1996 s.64.]

54E. Provisions of Second Schedule to apply to debentures and inscribed stock

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

- (2) The provisions of Part II of that Schedule shall apply with respect to debentures issued under the provisions of section fifty-four B of this Act.
- (3) The provisions of Part III of that Schedule shall apply with respect to inscribed stock issued in Albany (Town) in the State under the provisions of section fifty-four B this Act.

[Section 54E inserted by No. 9 of 1963 s.5; amended by No. 4 of 1967 s.51; No. 14 of 1996 s.4.]

54F. Debentures and inscribed stock authorized trustee investments

- (1) Debentures and inscribed stock issued and created by the Port Authority under section 54B shall have the status of Government securities of the State of Western Australia.

[(2) repealed]

- (3) The debentures and inscribed stock shall be a lawful investment for moneys which a body corporate is authorised or directed to invest, in addition to any other investment expressly authorised for the investment of the moneys.
- (4) A trustee or body corporate may pursuant to this Act convert the debentures in his or its hands into inscribed stock.

[Section 54F inserted by No. 9 of 1963 s.5; amended by No. 4 of 1967 s.52; No. 1 of 1997 s.18; No. 26 of 1999 s.60.]

54FA. Validation

Notwithstanding that prior to the coming into operation of the *Acts Amendment, (Port Authorities) Act 1979*, the Port Authority has —

- (a) borrowed moneys; or
- (b) used income derived by the Port Authority under this Act or moneys appropriated by Parliament,

s. 54G

for a purpose which would have been within the power of the Port Authority had that Act been in operation at the time but which was not then a purpose within the powers of the Port Authority, such borrowing and the use of such income or appropriated moneys, and the doing of any act, matter or thing with respect thereto, shall be deemed to be and to have been duly authorised and lawfully done and is hereby validated.

[Section 54FA inserted by No. 78 of 1979 s.5.]

54G. Contribution of interest and sinking fund

- (1) There shall be entered and debited each year in the Albany Port Authority Account such amounts as shall be fixed by the Treasurer as the interest and sinking fund contributions payable for the year in respect of such portion of the Consolidated Fund as shall have been applied to the exercise by the Port Authority of any of the powers conferred upon it or the discharge of the duties imposed upon it by this Act.
- (2) Such contribution shall be paid to the Treasurer.
- (3) The accrued interest in the sinking fund contributions as certified by the Under Treasurer shall be incorporated in the accounts of the Port Authority in relation to the exercise by it of the powers conferred upon it by this Act.

[Section 54G inserted by No. 9 of 1963 s.5; amended by No. 4 of 1967 s.53; No. 98 of 1985 s.3; No. 6 of 1993 s.15.]

54H. Interest on daily balance

- (1) Interest on the daily balance of money provided out of the Consolidated Fund for the purposes of this Act shall be charged in relation to exercise of its powers and the discharge of its duties under this Act, and the amount of that interest shall be credited to the Consolidated Fund half-yearly or at such other times as the Treasurer may direct.
- (2) The rate of interest shall be fixed from time to time by the Treasurer.

[Section 54H inserted by No. 9 of 1963 s.5; amended by No. 4 of 1967 s.54; No. 98 of 1985 s.3; No. 6 of 1993 s.11; No. 49 of 1996 s.64.]

54I. Financial self sufficiency

- (1) In managing its financial resources and performing its functions under this Act the Port Authority shall act in accordance with prudent commercial principles and shall aim —
- (a) to make loan principal payments;
 - (b) to make any deferred interest payments;
 - (c) to meet all other liabilities; and
 - (d) to pay any dividend determined by the Minister under section 53B,

as and when they fall due and to retain sufficient resources in the Port Authority to enable it to meet, in part, its future capital expenditure.

[(2) *Repealed*]

[Section 54I substituted by No. 98 of 1987 s.8; amended by No. 46 of 1993 s.46.]

54J. Application of Financial Administration and Audit Act 1985

The provisions of the *Financial Administration and Audit Act 1985* regulating the financial administration, audit and reporting of statutory authorities apply to and in respect of the Port Authority and its operations.

[Section 54J substituted by No. 98 of 1985 s.3.]

[55. *Repealed by No. 46 of 1993 s.46.*]

[56. *Repealed by No. 98 of 1985 s.3.*]

s. 56A

56A. Reserve Accounts

The Port Authority may in respect of its works and undertakings establish in its books such reserve accounts as the Port Authority thinks fit subject to the approval of the Treasurer, and may in every year credit to each reserve account so established such sums as the Port Authority thinks fit.

[Section 56A inserted by No. 9 of 1963 s.6; amended by No. 4 of 1967 s.59.]

[57-60. Repealed by No. 98 of 1985 s.3.]

Regulations

61. Power to make regulations

The Port Authority may make regulations under this Act for all or any of the following purposes: —

- (1) The general conduct of its business and proceedings.
- (2) Prescribing the days upon which the ordinary meetings of the Port Authority shall be held.

[(2a) deleted by No. 10 of 1965 s.4]

- (3) The control, supervision, and guidance of its officers and servants.
- (4) Regulating all matters relating to the protection of life and property.
- (5) Regulating the landing, shipping, transshipping, deposit, removal, and keeping of gunpowder and other explosive substances and compounds, or other dangerous goods; subject to the provisions of the *Explosives Act 1895*³, and the regulations thereunder.
- (6) Regulating the times, places, order, and mode of the shipping, unshipping, landing, warehousing, stowing, and depositing of goods (with special regulations and restrictions in the case of dangerous goods), and the

landing and embarking of passengers, and the taking in and discharge of ballast.

- (7) Imposing, levying, and receiving all berthing dues, wharfage dues, and other tolls, rates, or charges.
- (8) The exemption of ships in the service of Her Majesty or of any British possession, or in the naval service of any foreign power, and of other vessels from port dues.
- (9) Regulating the use of wharves or docks, quays, landing stages, and other landing places, and generally regulating the traffic on the same.
- (10) Fixing scales of dues, tolls, and charges to be paid for the use thereof.
- [(11) Deleted]
- [(12) Deleted]
- (13) Regulating the cleansing, repair, and effectual preservation of docks and wharves, and providing for the keeping and maintenance of the same in a fit state for the convenience of persons walking upon or landing on or embarking from any such wharf.
- (14) Regulating the duties and conduct of all persons, as well the servants of the Port Authority as others not being officers of customs, who are employed or engaged in the port.
- (15) The guidance of porters, cab drivers, carters, carmen, and others carrying goods or driving horses, cabs, carriages, wagons, carts, drays, trucks, or other vehicles for conveying passengers or goods, and other commodities on any wharf.
- (16) Empowering a collector of dues, either alone or with other persons, to enter a ship in order to ascertain the dues payable in respect of the ship or of the goods therein.
- (17) Requiring the master of every ship to report his arrival within a specified time after his arrival.

- (18) Requiring the master of every ship to produce the certificate of registry to any officer on demand.
- (19) Requiring the master of every ship to give as many copies as may be required by the Port Authority of the bill of lading or manifest of the cargo, or other proper account of goods intended to be unshipped, and the name of the consignee or other person to whom they are intended to be delivered, and as many copies as may be required by the Port Authority of all alterations in or additions to such bill of lading, manifest, or other proper account.
- (20) Requiring the master of every ship to obtain permission to discharge cargo before doing so.
- (21) Requiring the shippers of goods to furnish accounts of the goods intended to be shipped.
- (22) Regulating the time when dues on goods shipped or unshipped are to be payable.
- [(23) *Deleted*]
- (24) Prohibiting persons from acting as porters, cab drivers, carters, carmen, or otherwise in the carriage of goods or passengers without previously obtaining and continuing to hold the license of the Port Authority, and prescribing the duration of and the fees for such licenses, and providing that the issue of any such license and the cancellation thereof shall be at the absolute discretion of the Port Authority.
- (25) Authorising and empowering the Port Authority in its discretion, to adopt the weight or measurement of goods set forth in the bill of lading or manifest of the goods, for the purpose of levying, imposing, charging, and collecting dues and charges under this Act.
- (26) Regulating and limiting the speed of vessels within the port.
- (26a) Prescribing all matters and things which are required to be prescribed or which it may be necessary or

convenient to prescribe with respect to debentures and inscribed stock issued and created by the Port Authority under this Act.

- (27) And for other purposes relating to the convenience of shipping, or of the public within the port, and generally for duly administering and carrying out the powers vested in the Port Authority by this Act.

[Section 61 amended by No. 52 of 1955 s.3; No. 9 of 1963 s.7; No. 10 of 1965 s.4; No. 4 of 1967 s.64; No. 46 of 1993 s.46.]

62. Penalties for breach of regulations

Every regulation —

- (1) May impose a penalty not exceeding two hundred dollars for the breach thereof; and
- (2) May provide that, in addition to the penalty, any expense incurred by the Port Authority in consequence of the breach of such regulation shall be paid by the person committing such breach.

[Section 62 amended by No. 113 of 1965 s.4(1); No. 4 of 1967 s.65.]

62A. Adoption of rules, codes, etc

Any regulations made under this Act may —

- (a) adopt, either wholly or in part or with modifications and either specifically or by reference, any rules, regulations, codes, instructions or other subordinate legislation made, determined or issued under any other Act or under any Act of the Parliament of the Commonwealth or the United Kingdom, or any of the standards, rules, codes or specifications of the bodies known as the Standards Association of Australia, the British Standards Institution, The Association of Australian Port and Marine Authorities, or other like body specified in the regulations; and

- (b) provide that where by reason of unavailability of materials or other reason that the Port Authority considers valid any requirement adopted by the regulations cannot be conformed to, the Port Authority may approve such use of materials or other matters as it considers to be consistent with the achievement of the objects of the regulations.

[Section 62A inserted by No. 12 of 1976 s.3.]

[63. Repealed by No. 4 of 1967 s.66.]

Miscellaneous

[64. Repealed by No. 4 of 1967 s.67.]

65. Governor may rectify irregularities

Whenever by any misadventure or accident anything is at a time done after the time required by this Act or the regulations, or is otherwise irregularly done in matter of form, the Governor may, from time to time, make provision for any such case, or may extend the time within which anything is required to be done, or may validate anything so done after the time required or irregularly done in the matter of form, so that the true intent and purpose of this Act and the regulations may have effect.

[66. Repealed by No. 46 of 1993 s.46.]

67. Restriction on deposit of ballast or rubbish

If any person commits any of the following offences, so as to be or tend to the injury of navigation, that is to say: —

- (1) casts, or causes to be cast, or suffers to fall, either from on board ship or from land, any ballast, rock, stone, slate, shingle, gravel, sand, earth, cinders, rubbish or other substance or thing, on any tidal land, or into the port, or tidal water, or into the sea below low water-mark; or

- (2) casts, or causes to be cast, or suffers to fall, any such substance or thing on land, in a position where the same may be liable to fall or descend, or be carried or washed down by ordinary or high tides, or by any stream or flow of water, or by any storm or flood, or otherwise, into the port or tidal water, or into the sea; or
- (3) casts, or places or leaves, or causes to be cast, placed, or left, any ship or boat laid by or neglected as unfit for sea service, any floating or other timber, or any other thing on any tidal lands, or in the port or tidal water, or in the sea,

he shall be guilty of an offence, and for each offence shall be liable to a penalty not exceeding one hundred dollars, and to pay the expenses of the removal to a proper position of any such substance or thing.

[Section 67 amended by No. 113 of 1965 s.4(1); No. 4 of 1967 s.69.]

68. Series of acts tending to the injury of navigation

Any Act shall be deemed to tend to the injury of navigation, within the meaning of this Act, in any case where a series of like acts has produced or would produce injury to navigation.

69. Penalty for wilful damage to works

Any person who wilfully destroys or in any way damages or injures any wharf, shed, roadway, building, or other port work whatsoever, or any part thereof, constructed or in course of construction, shall be liable for every such offence to a fine not exceeding three hundred dollars, or to imprisonment not exceeding twelve calendar months.

[Section 69 amended by No. 113 of 1965 s.4(1); No. 4 of 1967 s.70; No. 51 of 1992 s.16(1).]

70. Penalty for wilful damage to lights

If any person wilfully or negligently breaks or damages or takes away any lamp or other appliance used for the purpose of lighting any wharf, quay, pier, or any road or dock, or other place, or wilfully extinguishes any light, every person so offending shall be liable to a penalty not exceeding one hundred dollars.

[Section 70 amended by No. 113 of 1965 s.4 (1); No. 4 of 1967 s.71.]

71. Offence incurring penalty

If any person —

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

every such person in any such case so offending shall, where no other penalty is in that behalf specifically provided, be liable to a penalty not exceeding one hundred dollars.

[Section 71 amended by No. 113 of 1965 s.4 (1); No. 4 of 1967 s.72; No. 46 of 1993 s.46.]

72. Penalty for offering bribes to officers

Any person who gives or offers any reward or bribe to any officer or servant of the Port Authority for the purpose of gaining an undue preference in the execution of his office, or for

the purpose of inducing him to do or omit to do anything relating to his office, shall, for every such offence, be liable to a penalty not exceeding three hundred dollars, or to imprisonment not exceeding twelve calendar months.

[Section 72 amended by No. 113 of 1965 s.4 (1); No. 4 of 1967 s.73; No. 51 of 1992 s.16 (1).]

73. Summary procedure for breach of by-laws

Any offence against this Act, and any breach of any of the provisions thereof or of any regulation thereunder, may be heard and determined summarily by any two or more Justices of the Peace the manner provided by the *Justices Act 1902-1920*.⁴

74. What shall be sufficient averment

In any proceedings for any offence, the averment that such offence was committed within the limits of the port shall be sufficient, without proof of such limits, unless the contrary is proved.

[Section 74 amended by No. 4 of 1967 s.74.]

75. Application of penalties

All penalties recovered for offences against this Act, or against all regulations thereunder, shall be paid to the Port Authority, and the proceeds of such penalties are hereby appropriated for the purposes of this Act.

[Section 75 amended by No. 4 of 1967 s.75.]

76. Police officers to report breaches of Act

It shall be the duty of every police officer and constable who is aware or has reason to believe that any of the provisions of the Act or the regulations thereunder are being contravened, to forthwith report the matter to the managing secretary to the Port Authority.

[Section 76 amended by No. 4 of 1976 s.76.]

77. Offenders may be prosecuted under other Acts

When an offender is punishable under the provisions of this Act, and also under the provisions of some other Act, he may be prosecuted and convicted under the provisions of either Act, so that he is not punished twice for the same offence.

78. Security to Customs

The Port Authority may give, by bond or otherwise, such security as the Customs may require under the provisions of the *Customs Act 1901*, as amended from time to time, of the Parliament of the Commonwealth.

[Section 78 amended by No. 4 of 1967 s.77.]

First Schedule

 [Heading amended by No. 9 of 1963 s.9.]

Princess Royal Harbour and King George Sound west-ward by a line drawn from Herald Point to Bald Head.

Second Schedule

PART I — DEBENTURES AND INSCRIBED STOCK

The following provisions shall apply to debentures and inscribed stock issued by the Port Authority under the provisions of section fifty-four B of this Act: —

1. Interest

All debentures and inscribed stock —

- (a) shall bear interest at such rate and be redeemable on such date and at such place as the Port Authority may, with the approval of the Governor, determine; and
- (b) may with the consent of the holder or the registered owner thereof, as the case may be, be paid off at any time before the due date for repayment, at not more than the face value thereof.

2. When interest payable

Interest secured by any debentures or inscribed stock issued or created pursuant to this Act shall be payable half-yearly on such days at such places as the Port Authority determines.

3. Debentures and stock inter-changeable

The Port Authority may, at the request of the holder of a debenture or of the registered owner of inscribed stock issued or created pursuant to this Act, in lieu thereof issue to him inscribed stock or debentures, as the case may be, in respect of the same loan, and of the same amount, and of the same currency, and bearing the same interest.

4. Brokerage

The Port Authority may pay moneys by way of brokerage for the making, procuring, negotiating, or obtaining the loan of any money borrowed under the authority conferred by section fifty-four B of this Act.

5. Sinking fund

- (1) The Port Authority shall set aside half yearly by way of a sinking fund for the purpose of redeeming loans raised by the Port Authority

pursuant to section fifty-four B of this Act an amount calculated at rate approved by the Treasurer and sanctioned by the Governor.

- (2) When it is necessary to have resort to any sinking fund referred to in subclause (1) of this clause for the purpose of paying off either the whole or any part of any loan in respect of which the fund is provided, the Port Authority may sell any securities in which the fund is invested, or may obtain an advance thereon from any bank or from the Treasurer of the State.

6. Notice of trust not receivable

No notice of any trust, express, implied or constructive, shall be received by the Port Authority or by an officer of the Port Authority in relation to a debenture or inscribed stock issued or created pursuant to this Act, and the Port Authority or the officer shall not be bound to see to the execution of the trust to which the debenture or inscribed stock may be subject.

7. Owners of securities not responsible for application of moneys

A person advancing money to the Port Authority and receiving in consideration of the advance a debenture or inscribed stock issued under this Act shall not be bound to inquire into the application of the money advanced or be in any way responsible for the non-application or mis-application thereof.

PART II — DEBENTURES

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

1. Form of debenture

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

2. Seal

A debenture shall —

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

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

3. Pass by delivery

A debenture with the interest coupons annexed thereto and every interest coupon after being detached therefrom shall pass by delivery and without any assignment or endorsement.

4. Rights of bearer

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

5. Payment of interest

No interest shall be payable in respect of except to the holder of the coupon representing the interest claimed and upon delivery of the same.

6. Register of debentures

- (1) The Port Authority shall cause to be kept in one or more books a register of debentures, and within reasonable time after the date of a debenture shall cause to be made an entry in the register specifying the number date and amount of the debenture.
- (2) The register of debentures —
 - (a) may be inspected at all reasonable times by a person on payment of ten cents for each inspection; and
 - (b) shall be evidence of any matters required or authorised by or under this Act to be inserted therein.
- (3) A person shall be entitled to obtain from the Port Authority copies or extracts certified by the officer in whose custody the register is kept to be true copies of or extracts from such register upon payment for each copy or extract of a fee of twenty-five cents and two cents for every folio of seventy-two words; and any copy or extract so certified shall be admissible in evidence.

7. Provision of lost debentures

Upon proof being made before a judge in chambers by affidavit of any credible person that a debenture issued by the Port Authority under this Act and held by such person the number and sum whereof is specified by him has been lost or accidentally burnt or otherwise destroyed before the the same has been paid off, and after the insertion of such advertisements as the judge directs and upon the judge certifying that he is satisfied with the proof, the Port Authority may after the expiration of six months cause a new debenture with interest coupons attached to be made having the like currency and bearing the same number date principal sum and rate of interest as the debenture so lost or destroyed and to be delivered to the person upon his giving sufficient security to the Port Authority to indemnify it against any double payment.

8. Provision for defaced debentures

If a debenture is defaced by accident —

- (a) the Port Authority may cancel the same and cause a new debenture to be made in lieu thereof; and
- (b) the new debenture shall have the like currency and be in all respects subject to the same provisions and bear the same number date and principal sum and rate of interest as the cancelled debenture.

9. Discharged debentures to be destroyed

- (1) A debenture paid off discharged exchanged or converted into stock shall —
 - (a) be cancelled by the general manager to the Port Authority; and
 - (b) be burnt in the presence of the general manager and the Auditor General or one of his officers thereto authorised by him in writing.
- (2) The Auditor General or such officer (as the case may be) before the debenture is burnt shall audit the same and allow the accounts thereof and furnish the Port Authority with a certificate particularising the debenture so burnt; and the general manager shall file that certificate in the office of the Port Authority.

PART III — STOCK

The following provisions shall apply to The Albany Port Authority Inscribed Stock issued at Albany, Western Australia (in this Part called “stock”): —

1. Establishment of registry and appointment of registrar

The Port Authority may establish at its office a registry for the inscription of stock created and issued under the authority of this Act and appoint an officer of the Port Authority to be registrar of stock.

2. Parcels of stock

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

3. Stock ledgers

- (1) The Port Authority shall cause to be provided and kept at the office of the Port Authority books to be called “stock ledgers”.
- (2) All stock issued shall be inscribed in the stock ledgers by entering the names of the purchasers of stock and the amount of stock purchased by them respectively.
- (3) In the case of the joint purchasers of stock the names of not more than four of them shall be inscribed as the joint purchasers.
- (4) The stock ledgers shall be evidence of any matters appearing therein and required or authorised by or under this Act to be inserted therein.

4. Stock how transferable

- (1) Stock or any share therein shall be transferable in the manner prescribed by the regulations from one person to another by instrument in the form so prescribed and not otherwise.
- (2) A person shall not be entitled or allowed to transfer any fraction of one dollar or any smaller sum than twenty dollars unless that smaller sum is the full amount of the balance standing to his credit in the stock ledger.

- (3) An instrument of transfer of the stock or any share therein shall be executed by all parties and the signatures to the instrument shall be attested in the manner prescribed by the regulations.
- (4) An instrument of transfer when executed shall be delivered to the registrar who shall register the same by entering a memorial of it in the stock ledger and shall inscribe the name of the transferee in the stock ledger as the owner of the stock.

5. Application for transmission (other than transfer of stock)

- (1) A person to whom stock is transmitted in consequence of the death or bankruptcy or insolvency of the registered owner of the stock or by any other lawful means than by a transfer in accordance with this Act may apply in the form prescribed by the regulations to the registrar at the registry to be inscribed as the owner of the stock.
- (2) An application for transmission shall be verified by statutory declaration or in such other manner as is so prescribed, and —
 - (a) in the case of a transmission consequent on death — the probate of the will or the letters of administration shall be produced to the registrar or in the case of transmission to a survivor the survivors of a joint owner a certificate of the death of the owner who has died accompanied by a statutory declaration indentifying the person named in the death certificate with the person who is shown as the registered owner of the stock may if the registrar approves be produced to him in lieu of probate or letters of administration; and
 - (b) in the case of a transmission consequent on bankruptcy or insolvency — an office copy of the adjudication or order of sequestration shall be delivered to the registrar.
- (3) The registrar shall if he is satisfied that the provisions of this Act have been complied with register any such transmission by entering a memorial of it in the stock ledger and inscribe the name of the person to whom the stock has been transmitted in the stock ledger as the registered owner of the stock.

6. Power of attorney

- (1) A person may by power of attorney under his hand and seal and attested by two or more credible witnesses appoint some person to be

his attorney for any purpose in relation to stock (including an application for conversion or to receive interest or redemption money).

- (2) A power of attorney shall be valid and effectual for all purposes therein mentioned until notice of its revocation or of the bankruptcy insolvency lunacy unsoundness of mind or death of the principal has been received by the registrar at the registry.

7. When transfer books to be closed and ledgers balanced

- (1) An instrument of transfer of stock or of any part thereof shall not be registered on any Saturday or holiday or within the period of fourteen days or within such period (not exceeding twenty-one days) as is prescribed next before any of the days on which the interest thereon is payable.
- (2) During the periods referred to in the last preceding subclause the Port Authority shall cause the amount of the stock respectively standing to the credit of the several registered owners thereof to be ascertained and the balances to be struck and carried forward in the proper stock ledger.
- (3) An instrument of transfer of stock or of any part thereof shall not be registered during the period of twenty-one days immediately preceding the date of maturity of stock.

8. Receipt of registered stockholders to discharge without regard to trust

- (1) The receipt of the person in whose name stock stands in the stock ledger, or if it stands in the names of more persons than one the receipt of one of the persons named in the stock ledger shall be a sufficient discharge to the Port Authority for any interest payable in respect of the stock, notwithstanding any trusts to which the stock may then be subject and whether or not the Port Authority has had notice of the trusts, and the Port Authority shall not be bound to see to the application of the money paid upon such receipt.
- (2) If stock is held in joint names and one or more of the registered owners of the stock dies becomes bankrupt insolvent or otherwise legally incapable, the receipt of any one of the other joint owners or survivors shall be a sufficient discharge to the Port Authority for any

interest payable in respect of the stock, notwithstanding that a transmission has not been registered as required by this Act.

[Second Schedule inserted by No. 9 of 1963 s.9; amended by No. 113 of 1965 s.4 (1); No. 4 of 1967 s.78; No. 113 of 1987 s.32.]

Notes

- ^{1.} This is a compilation of the *Albany Port Authority Act 1926* and includes all amendments effected by the other Acts referred to in the following Table.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Albany Harbour Board Act 1926</i>	52 of 1926	24 Dec 1926	24 Mar 1950 (see <i>Gazette</i> 24 Mar 1950 p.712)
<i>Limitation Act Amendment Act 1954</i>	73 of 1954	14 Jan 1955	1 Mar 1955 (see <i>Gazette</i> 18 Feb 1955 p.343)
<i>Albany Harbour Board Act Amendment Act 1955</i>	52 of 1955	9 Dec 1955	9 Dec 1955
<i>Albany Harbour Board Act Amendment Act 1959</i>	50 of 1959	20 Nov 1959	20 Nov 1959
<i>Albany Harbour Board Act Amendment Act 1963</i>	9 of 1963	15 Oct 1963	15 Oct 1963
<i>Albany Harbour Board Act Amendment Act 1965</i>	10 of 1965	15 Sep 1965	15 Sep 1965
<i>Decimal Currency Act 1965</i>	113 of 1965	21 Dec 1965	14 Feb 1966
<i>Albany Harbour Board Act Amendment Act 1967</i>	4 of 1967	5 Oct 1967	1 Dec 1967 (see <i>Gazette</i> 1 Dec 1967 p.3303)
<i>Acts Amendment (Port and Marine Regulations) Act 1976, Part I</i>	12 of 1976	27 May 1976	27 May 1976
<i>Acts Amendment (Port Authorities) Act 1979</i>	78 of 1979	6 Dec 1979	6 Dec 1979
<i>Acts Amendment (Financial Administration and Audit) Act 1985, Schedule</i>	98 of 1985	4 Dec 1985	1 Jul 1986 (see <i>Gazette</i> 30 Jun 1986 p.2255)
<i>Acts Amendment (Port Authorities) Act 1986, Part II</i>	79 of 1986	4 Dec 1986	4 Dec 1986
<i>Acts Amendment (Port Authorities) Act 1987, Part II</i>	98 of 1987	16 Dec 1987	1 Jul 1988; Section 8 operative 1 Jul 1988; balance on assent
<i>Acts Amendment (Public Service) Act 1987</i>	113 of 1987	31 Dec 1987	16 Mar 1988 (see <i>Gazette</i> 16 Mar 1988 p.813)

Short title	Number and year	Assent	Commencement
<i>Criminal Law Amendment Act (No. 2) 1992, s.16 (1)</i>	51 of 1992	9 Dec 1992	6 Jan 1993
<i>Financial Administration Legislation Amendment Act 1993, Part 4</i>	6 of 1993	27 Aug 1993	Deemed operative 1 Jul 1993
<i>Ports (Functions) Act 1993, ss.37 and 46</i>	46 of 1993	20 Dec 1993	15 Jun 1994 (see <i>Gazette</i> 10 Jun 1994 p.2373)
<i>Acts Amendment (Department of Transport) Act 1993, Part 2</i>	47 of 1993	20 Dec 1993	1 Jan 1994 (see <i>Gazette</i> 31 Dec 1993 p.6861)
<i>Local Government (Consequential Amendments) Act 1996, section 4</i>	14 of 1996	28 Jun 1996	1 Jul 1996 (see section 2)
<i>Financial Legislation Amendment Act 1996, section 64</i>	49 of 1996	25 Oct 1996	25 Oct 1996 (see section 2 (1))
<i>Trustees Amendment Act 1997, section 18</i>	1 of 1997	6 May 1997	16 Jun 1997 (see section 2 and <i>Gazette</i> 10 Jun 1997 p.2661)
<i>Acts Amendment (Land Administration) Act 1997, Part 6</i>	31 of 1997	3 Oct 1997	30 Mar 1998 (see section 2 and <i>Gazette</i> 27 Mar 1998 p.1765)
<i>Statutes (Repeals and Minor Amendments) Act 1997, section 19</i>	57 of 1997	15 Dec 1997	15 Dec 1997 (see section 2)
<i>Port Authorities (Consequential Provisions) Act 1999, Part 2 and Part 3 (other than section 16(2))</i>	5 of 1999	13 Apr 1999	14 Aug 1999 (see section 2(2) and <i>Gazette</i> 13 Aug 1999 p.3823)
<i>Acts Amendment and Repeal (Financial Sector Reform) Act 1999, section 60</i>	26 of 1999	29 Jun 1999	1 Jul 1999 (see section 2(1) and <i>Gazette</i> 30 Jun 1999 p.2905)

Short title	Number and year	Assent	Commencement
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[This Act was repealed by the *Port Authorities \(Consequential Provisions\) Act 1999* s. 4\(1\) \(No. 5 of 1999\) as at 14 Aug 1999 \(see s. 2 and 3\).](#)

N.B. The *Albany Port Authority Act 1926* is affected by the *Harbours and Jetties Act 1928*.

² Section two of Act No. 50 of 1959 provides that this section shall come into operation on the first day of December one thousand nine hundred and fifty-nine.

³ Now *Explosives and Dangerous Goods Act 1961*.

⁴ Now *Justices Act 1902-1963*.

⁵ Section 6 of the *Acts Amendment (Port Authorities) Act 1986* (Act No. 79 of 1986) reads as follows:

“

6. Saving

(1) A person who was immediately before the coming into operation of this Act a member of the Port Authority within the meaning of the principal Act shall, subject to the principal Act, continue to hold office as such a member for the remainder of his period of office as if the principal Act had not been amended by this Act.

(2) A member of the Port Authority within the meaning of the principal Act who was immediately before the coming into operation of this Act the chairman of that Port Authority shall, subject to the principal Act, continue to hold office as that chairman for the remainder of his period of office as —

(a) that chairman; or

(b) a member of that Port Authority,

whichever is the shorter period, as if the principal Act had not been amended by this Act..

”.

⁶ Section 48 of the *Ports (Functions) Act 1993* (Act No. 46 of 1993) reads as follows:

“

48. Harbour masters (transitional)

On the commencement of section 22, a person who immediately before then was appointed under a port authority Act (as defined in section 3) to be a harbour master of a port, becomes, by force of this section, appointed under section 22 as the harbour master of that port..

⁷ Section 50 of the *Ports (Functions) Act 1993* (Act No. 46 of 1993) reads as follows:

“

50. Existing port authority regulations (saving)

Where this Act repeals a provision of a port authority Act (as defined in section 3) and enacts a provision in substitution therefor, regulations made under or in respect of the repealed provision and in operation immediately before the commencement of this Act shall, so far as they are consistent with this Act, continue in operation and have effect for all purposes as if made under the port authority Act as read with this Act.

”

⁸ Part 3 of the *Port Authorities (Consequential Provisions) Act 1999* (Act No. 5 of 1999) reads as follows —

“

Part 3 — Transitional and saving provisions

12. Application of *Interpretation Act 1984*

- (1) The provisions of the *Interpretation Act 1984* about the repeal of written laws and the substitution of other written laws for those so repealed (for example, sections 16(1), 36 and 38) apply to the repeal of an existing Act relating to a port authority and the amendment of the *Ports (Functions) Act 1993* in relation to that existing Act and that port authority as if the PA Act —

- (a) repealed that existing Act; and
 - (b) repealed the *Ports (Functions) Act 1993* insofar as it applied to that port authority,

when the item relating to that port authority comes into operation.

- (2) The other provisions of this Part are additional to the provisions applied by subsection (1).

13. Existing port authorities continue

- (1) If, immediately before the commencement of an item, there was an existing port authority with the name set out in that item, the port authority named in that item is a continuation of, and the same legal entity as, the existing port authority and the rights and obligations of the existing port authority are not affected.
- (2) If in a written law or other document or instrument there is —

- (a) a reference to an existing port authority constituted or established under an existing Act; or
- (b) a reference that is to be read and construed as a reference to an existing port authority,

that reference may, where the context so requires, be read as if it had been amended to be a reference to the port authority as established under the PA Act.

14. Membership

- (1) The persons who were members or commissioners of a continuing port authority (including the chairman) immediately before the commencement of the item relating to that port authority continue in office, under and subject to the PA Act, as the chairperson and directors of that port authority.
- (2) Subsection (1) does not apply to a person holding office under section 8(1)(d) of the *Dampier Port Authority Act 1985*.
- (3) A person to whom subsection (1) applies is to be regarded as having been appointed under section 7 of the PA Act.

15. Staff

- (1) A person who was the general manager of a continuing port authority immediately before the commencement of the item relating to that port authority continues in office, under and subject to the PA Act, as the chief executive officer of that port authority.
- (2) Other people who were in the employment of a continuing port authority immediately before the commencement of the item relating to that port authority continue, under and subject to the PA Act, as members of staff of that port authority.
- (3) Except as otherwise agreed by a chief executive officer or member of staff, the remuneration, existing or accrued rights, rights under a superannuation scheme or continuity of service of a chief executive officer or member of staff of a continuing port authority are not affected, prejudiced or interrupted by —
 - (a) the operation of subsection (1) or (2); or
 - (b) that port authority ceasing to be an SES organization under the *Public Sector Management Act 1994*.
- (4) A person mentioned in subsection (1) or (2) is to be regarded as an employee of an organization for the purposes of Part 6 of the *Public Sector Management Act 1994*.
- (5) Subsection (4) ceases to apply in relation to a continuing port authority at the expiration of 2 years after the item relating to that port authority commences.

- (6) A person mentioned in subsection (2) is to be regarded as having been engaged under section 16 of the PA Act.

16. Port descriptions

- (1) Until an order is made under section 24(1) of the PA Act in relation to a port referred to in item 1, 3, 4, 5, 6, 7 or 8 the description of that port for the purposes of the PA Act is the description that had effect under the relevant existing Act immediately before the commencement of that item.
- (2) Until an order is made under section 24(1) of the PA Act in relation to the Port of Broome the description of that port for the purposes of the PA Act is as follows —

Port of Broome

- (a) all that portion of water and seabed bounded by lines starting from the high water mark of Roebuck Bay at the southern extremity of Fall Point and extending south to an east-west line situate 3 nautical miles south from the southern extremity of Entrance Point; then west to a north-south line situate 3 nautical miles west from the southern extremity of Entrance Point; then north to a point situate west of the summit of Station Hill; then east to the high water mark of the Indian Ocean and then generally southwesterly and generally southeasterly along that mark and generally northeasterly, generally northwesterly, again generally northeasterly and generally easterly along the high water mark of Roebuck Bay to the starting point and including all of the waters of Dampier Creek; and
- (b) all that portion of land comprised within Broome Lots 616, 698, 848 and 956 as shown bordered in red on Lands and Surveys Reserve Plan 108.

Lands and Surveys Public Plans: Broome Regional 1:10 000 Sheet 1, Sheet 2, Sheet 3; Roebuck Plains 1:250 000; La Grange 1:250 000.

- (3) A description that has effect under subsection (1) or (2) may be amended under section 24(2) of the PA Act.

17. Strategic development plans

The first strategic development plan for a port authority under Part 5, Division 1 of the PA Act is to be for a period starting when the first financial year starts.

18. Statement of corporate intent

The first statement of corporate intent for a port authority under Part 5, Division 2 of the PA Act is to be for the first financial year.

19. Borrowing limits

The first monetary limits under section 86 of the PA Act are to be determined in relation to the first financial year.

20. Regulations

- (1) Regulations made by a continuing port authority that were in force immediately before the commencement of the item relating to that port authority continue in force after that commencement as if they were regulations made by the Governor under section 139 of the PA Act in relation to the port of that port authority.
- (2) Subsection (1) does not continue the operation of any regulation that could not be made under section 139 of the PA Act.

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