

ESPERANCE PORT AUTHORITY.

No. 11 of 1968.

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

[Assented to 26th September, 1968.]

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

PART I.—PRELIMINARY.

1. This Act may be cited as the *Esperance Port Authority Act, 1968.* Citation.

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

Applica-
tion of Act
No. 17 of
1967.

3. On the coming into operation of this Act, the Shipping and Pilotage Act, 1967 shall continue to apply to the Esperance Harbour.

Arrange-
ment.

4. This Act is divided into Parts as follows—

PART I.—PRELIMINARY. Ss. 1-5.

PART II.—ESTABLISHMENT OF PORT AUTHORITY.
Ss. 6-30.

Division 1.—Constitution. Ss. 6-17.

Division 2.—Officers and Servants. Ss. 18-19.

Division 3.—Vesting of Property. Ss. 20-22.

*Division 4.—Powers and Duties of Port
Authority. Ss. 23-30.*

PART III.—PILOTAGE. S. 31.

PART IV.—LIGHTS, BUOYS AND SIGNALS. Ss. 32-33.

PART V.—WRECKS, OBSTRUCTIONS AND DAMAGE.
Ss. 34-37.

PART VI.—PORT DUES AND WHARFAGE CHARGES.
Ss. 38-41.

PART VII.—LIABILITY FOR DUES. Ss. 42-49.

PART VIII.—FINANCE. Ss. 50-69.

PART IX.—MISCELLANEOUS. Ss. 70-83.

PART X.—REGULATIONS. S. 84.

FIRST SCHEDULE.

SECOND SCHEDULE.

Definitions.

5. In this Act, unless the contrary intention appears—

“berthing master” includes assistant berthing master;

“boat” means every description of vessel used in navigation not being a ship;

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

“chairman” means the chairman of the Port Authority;

“Chief Harbour Master” means the person for the time being holding the office of Manager of the Harbour and Light Department of this State;

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

“harbour master” includes assistant harbour master;

“master” in relation to a vessel means the person, not being a pilot, having for the time being the command or charge of that vessel;

“member” means a member of the Port Authority;

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

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

“port dues or dues” include any due, rate, fee, toll, tax, charge or payment in the nature thereof payable or leviable under this Act;

“port light” means any light erected in aid of navigation within the port or near the approaches thereof, including all fog signal apparatus, light-ships or other fixed or floating lights erected, moored or placed for that purpose;

“port works” or “works” includes generally any works for the improvement, protection, management, or utilization of the port and in particular, but without limiting the general import of the term, includes any

basin, graving-dock, slip, dock, pier, quay, wharf, jetty, bridge, viaduct, breakwater, embankment or drain or the reclamation of land from the sea or any excavation, deepening, dredging or widening of any channel, basin or other part of the port and all buildings thereon, and plant and machinery used in connection with any port works;

“section” means a section of this Act;

“ship” includes every description of vessel, whether used in navigation, or in any way kept or used as a hulk or store-ship, or for any other purpose, and not propelled exclusively by oars;

“tackle” in relation to a ship, includes all furniture and apparel thereof;

“the Account” means the Esperance Port Authority Account kept at the Treasury pursuant to section 52;

“the port” means so much of the port of Esperance as is contained within the boundaries described in the First Schedule to this Act, or as altered from time to time, by the Governor pursuant to this Act;

“vessel” means any ship or boat or any other description of vessel used or designed to be used in navigation and howsoever navigated.

PART II.—ESTABLISHMENT OF PORT AUTHORITY.

Division 1.—Constitution.

Esperance
Port
Authority.

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

(2) The Port Authority—

(a) is a body corporate, with perpetual succession;

(b) shall have a common seal;

(c) may acquire, hold and dispose of real and personal property; and

(d) may sue and be sued in its corporate name.

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

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

(2) The members shall be appointed by the Governor.

(3) The Governor shall designate one of the members appointed by him to be the chairman.

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

9. When and as often as a vacancy occurs in the office of any member the Governor may appoint some person to fill the vacancy for the unexpired term of office of the member in whose place he is appointed. Vacancy.

10. (1) In the case of illness, suspension or absence of a member, the Governor may appoint a person to act as deputy for that member during his illness, suspension or absence. Deputy
members.

(2) Until the appointment of the person to act as deputy, as referred to in subsection (1) of this section, is terminated by the Governor by notice in the *Gazette*, the person while so acting has the powers and shall perform the functions of the member for whom he is the deputy.

Disclosure
of interests,
etc., in
contracts.

11. (1) A member who is directly or indirectly interested in a contract made or proposed to be made by the Port Authority, otherwise than as a member, and in common with other members, of an incorporated company consisting of not less than twenty-five persons, shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Port Authority.

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

(3) A member who has made a disclosure under subsection (1) of this section, shall not take part in the consideration or discussion, and shall not vote, in respect of any matter relating to the contract in respect of which the disclosure was made, at a meeting of the Port Authority.

Suspension
from office.

12. The Governor may suspend a member from office—

- (a) for misbehaviour or incapacity;
- (b) if he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of any moneys payable to him under this Act for the benefit of his creditors;
- (c) is absent, except on leave of absence granted by the Minister, from three consecutive meetings of the Port Authority;
- (d) if he fails to comply with subsection (1) or (3) of section 11.

Remunera-
tion and
allowances
of members.

13. The chairman and other members shall be paid such remuneration and allowances as the Governor, from time to time, determines.

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

Leave of
absence.

15 A member may resign his office by writing under his hand addressed to the Governor.

Resignation
of member.

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

Meetings of
the Port
Authority.

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

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

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

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

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

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

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

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

Records to be kept and annual report to be furnished.

17. (1) The Port Authority—

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

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

Division 2.—Officers and Servants.

Appointment of officers, etc.

18. (1) The Governor, on the nomination of the Port Authority may appoint a managing secretary, berthing master (who shall be the person appointed as harbour master of the port), and wharf manager and on recommendation of the Port Authority may dismiss the managing secretary, berthing master or wharf 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.

19. Before any officer entrusted by the Port Authority with the custody or control of money by virtue of his office enters upon his office, the Port Authority shall take sufficient security from him for the faithful execution thereof but instead of, or in addition to, taking security from an officer, the Port Authority may provide against any loss that may arise in the event of the dishonesty of the officer—

Certain officers to give security.

- (a) by taking out a guarantee policy and paying the premiums thereon; or
- (b) by creating a special fund for the purpose, or partly by one such method and partly by the other.

Division 3.—Vesting of Property.

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

Property vested in Port Authority.

- (a) all lands of the Crown within the boundaries of the port, as described in the First Schedule to this Act, or as altered from time to time by the Governor pursuant to section 21, including the bed and shores of the port;
- (b) all wharfs, docks, landing stages, piers, jetties, wharf sheds, port lights and railways belonging to the Crown and within the boundaries of the port and all other port works;
- (c) 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.

21. (1) For the purposes of this Act the Governor may by proclamation—

Power of Governor to define port.

- (a) alter the boundaries of the port;
- (b) withdraw any land or other property of any kind from the Port Authority, and vest or re-vest it in the Crown.

(2) The Governor may cancel or vary any proclamation made under subsection (1) of this section.

Exemption
from
municipal
rates.

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

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

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

Power of
Port Author-
ity to control
port, etc.

23. The Port Authority has the exclusive control of the port and is charged with the maintenance and preservation of all property vested in it under this Act.

Port
extensions.

24. (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 may be undertaken by the Minister for Works.

(2) Without affecting the operation of subsection (1) of this section, the Port Authority may with the prior approval of the Governor, undertake the construction, completion and extension within the port of any port works, the total cost of which does not exceed twenty thousand dollars; and for the purpose the Port Authority is a local authority within the meaning of the Public Works Act, 1902.

25. (1) The Port Authority—

Roadways
and
approaches.

- (a) shall maintain the roads and approaches to all wharves, docks, piers, jetties, landing stages, slips, platforms, depots and sheds that are now or may hereafter be erected on any land vested in it; and
- (b) shall cause those wharves, docks, piers, jetties, landing stages, slips, platforms, depots, and sheds, and the roads and approaches thereto, to be kept in good repair.

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

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

Power of
Port Author-
ity to lease
certain land
for certain
purposes.

- (a) shipbuilding, boat building, storing of goods;
- (b) the erection of workshops or foundries;
- (c) other purposes connected with shipping,

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

Power of
Port Author-
ity to make
contracts.

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

Power to
acquire land
compulsor-
ily.

28. Subject to this Act, wherever any land is required for the purposes of this Act, that land may be entered upon, surveyed and taken under the powers contained in and in accordance with the procedure prescribed by the Public Works Act, 1902.

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

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

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

(3) If those expenses are not paid within seven days after demand therefor made upon the owner, or if the owner is unknown or cannot be found, then after public notice by advertisement, at least once in each of two consecutive weeks, in a newspaper

circulating at the port, the Port Authority may sell the goods by public auction, except that if the goods are perishable they may be sold by the Port Authority without such demand and at any time after twenty-four hours of their being so removed.

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

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

Disputes
between
Port
Authority
and Govern-
ment De-
partments to
be settled by
Minister.

PART III.—PILOTAGE.

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

Pilotage
compulsory.

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

PART IV.—LIGHTS, BUOYS AND SIGNALS.

32. The Port Authority shall not erect or place any port light, signal, buoy, or beacon within the boundaries of the port or alter or remove the position of any port light, signal, buoy, or beacon without the approval of the Chief Harbour Master.

Port lights,
etc., not to
be erected or
removed
without
approval of
Chief
Harbour
Master.

Power of
Chief
Harbour
Master to
erect and
maintain
port lights,
etc.

33. The Chief Harbour Master may, with the approval of the Minister, erect, maintain, replace, remove, or discontinue any port lights, signals, buoys, or beacons, or make any variation in the character of any of those lights or signals, or in the mode of exhibiting them, as he may from time to time consider necessary.

PART V.—WRECKS, OBSTRUCTIONS, AND DAMAGE.

Removal of
wrecks.

34. (1) Where a vessel is sunk, stranded or abandoned within the port in such way as in the opinion of the Port Authority to tend to the injury of navigation, the vessel, together with the tackle thereof, and the goods, if any, therein (all of which are in this section hereinafter referred to as “the wreck”), may be removed in the following manner—

- (a) the Port Authority shall give notice in writing to the owner of the vessel, or to an agent of the owner, that he is required, within a time specified in the notice, either to remove the wreck in a manner satisfactory to the Port Authority, or to undertake, under security satisfactory to the Port Authority, to remove the wreck in a manner satisfactory to and within a time to be fixed by the Port Authority;
- (b) if the owner or agent cannot be found within the State, or fails within the time specified in the notice to remove the whole of the wreck in a manner satisfactory to the Port Authority, or to enter into such undertaking as is mentioned in paragraph (a) of this subsection to remove the wreck, or having undertaken to remove it, fails to remove it in accordance with his undertaking, then the Port Authority may remove the wreck, and may recover from the owner, in a court of competent jurisdiction, the expenses incurred in removing it (in this section referred to as “the expenses of removal”);

- (c) the Port Authority may, for the purpose of removal, destroy the wreck or any part of it, and may remove and take possession of the wreck or any part of it, and may sell the wreck or any part of it, and may, out of the proceeds, if any, of the sale, without any reference to the part of the wreck from the sale of which those proceeds may accrue, reimburse itself for the whole of the expenses of removal, and shall, after reimbursing itself, render the surplus, if any, to the owner;
- (d) if the proceeds of the sale are insufficient to pay the whole expenses of removal, the Port Authority may recover the balance from the owner of the vessel, if the vessel was stranded or sunk by his fault or negligence, or from any other person by whose fault or negligence the vessel was stranded or sunk.

(2) For the purposes of this section the term "owner" includes not only the owner of the wreck at the time of the sinking, stranding or abandonment thereof, but also any purchaser of the wreck, or the materials of which it may be or may have been comprised, so long as the wreck or materials remain sunk, stranded or abandoned.

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

Respon-
sibility for
injury to
works and
property.

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

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

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

Liability for
damage to
submarine
cables.

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

Port
Authority
not liable for
acts or
omissions of
pilot.

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

PART VI.—PORT DUES AND WHARFAGE CHARGES.

Port dues.

38. Port dues shall be made and levied and are payable in accordance with the regulations.

Tonnage of
vessels.

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

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

Measure-
ment of ton-
nage in
certain
cases.

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

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

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

PART VII.—LIABILITY FOR DUES.

42. The following persons are liable to pay the dues payable by or in respect of a ship, namely—

Liability
for dues
payable by
ship.

- (a) the owner and master thereof; and
- (b) any consignee or agent thereof who has paid or made himself liable to pay any other charge on account of the ship in the port.

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

Liability
for dues
payable for
goods.

- (a) the owner of the goods;

- (b) any consignor, consignee, shipper or agent for sale or custody of the goods; and
- (c) any person entitled to the possession of the goods, either as owner or agent for the owner.

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

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

Recovery of dues.

45. All dues payable to the Port Authority may be recovered by the Port Authority as a debt in a court of competent jurisdiction.

Power of persons authorised to collect dues, to distrain.

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

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

Settlement of dispute concerning dues or charges occasioned by distress.

47. (1) Where a difference arises concerning the amount of any dues payable, or of the charges occasioned by any distress, the person distraining may detain the ship, tackle or goods distrained until

such amount is ascertained by the Local Court at Esperance, or until he is satisfied that sufficient security has been given for the payment of such amount when ascertained, and of the expenses arising from non-payment thereof.

(2) The court shall, upon application made for that purpose, determine the amount, and award such costs to be paid by either party to the other as the court thinks reasonable.

48. If any master, owner, consignor, shipper or agent evades or attempts to evade the payment of any dues, he commits an offence against this Act and is liable to a fine either not exceeding two hundred dollars or in case the amount of the dues that he has evaded or has attempted to evade exceeds two hundred dollars, then not exceeding the amount of those dues; and the fine is in addition to the dues payable by him. Penalty for evasion.

49. (1) If in the opinion of the Governor the Port Authority— Power of Governor to revise port dues.

- (a) has not, in any year, collected and received dues, rents and other sources of revenue sufficient; or
- (b) has, in any year so collected and so received more than sufficient,

to provide for the lawful expenditure of the Port Authority, including interest and contributions to the sinking fund, in respect of the value of the property vested in and charged against it under sections 50 and 51, or if for any other reason the Governor thinks fit so to do, the Governor may revise the port dues, wharfage charges and other dues, tolls, rates, fees and charges prescribed by the regulations.

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

PART VIII.—FINANCE.

Determina-
tion of value
of property
vested in
Port
Authority.

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

Value of
subsequent
works.

51. After the Minister determines the value under section 50, 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 cost of works in course of construction, and of all property acquired by the Port Authority during the preceding financial year to be charged against the Port Authority.

Funds of
Port
Authority.

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

- (a) such moneys as are from time to time appropriated by Parliament for that purpose;
- (b) the income derived by the Port Authority from all dues, rents and other levies under the authority of this Act; and
- (c) such moneys as the Port Authority may borrow under and subject to the provisions of this Act.

(2) All moneys referred to in subsection (1) of this section shall be paid into and be placed to the credit of an account at the Treasury to be called “Esperance Port Authority Account”, and shall be applied to the purposes of this Act.

(3) The moneys from time to time in the Account are chargeable with—

- (a) all capital expenditure incurred in connection with the acquisition by purchase or compulsory taking of land or land and

buildings or other property, or in connection with the establishment and maintenance of any works or undertakings vested in or to be carried on by the Port Authority under this Act;

- (b) the fees or remuneration and allowances payable to the chairman and other members of the Port Authority;
- (c) the salaries and wages of officers and servants employed in or in connection with the activities carried on by the Port Authority; and
- (d) all other expenditure lawfully incurred by the Port Authority in the exercise of its powers or the discharge of its duties or obligations under this Act.

53. (1) If at any time the funds of the Port Authority are not sufficient to defray expenditure incurred by it under this Act, the Port Authority in addition to any power conferred on it by sections 54 and 55 may borrow from the Treasurer, or from a bank approved by the Treasurer, that is carrying on business within the State, money for the purpose of enabling the Port Authority to defray that expenditure, and any advances made by the Treasurer under this subsection may be made by him out of moneys appropriated by Parliament for the purposes of this Act.

Power of
Port
Authority to
borrow.

(2) The Port Authority shall pay to the Treasurer in respect of money borrowed from him under subsection (1) of this section, interest at such rate and at such times, as the Treasurer determines.

(3) Any money borrowed by the Port Authority under this section including interest payable thereon is a charge upon the money from time to time standing to the credit of the Account or in any bank account of the Port Authority, and upon any works, undertakings and other assets vested in the

Port Authority and the due repayment of the moneys so borrowed including the interest payable thereon, is hereby guaranteed by the Treasurer, for and on behalf of the State.

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

54. (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 creation and issue and sale of debentures and of inscribed stock for the purpose of raising the funds of the Port Authority for the effectual exercise by it of the powers conferred by this Act;
- (b) create and issue debentures and inscribed stock in exchange for any debentures and inscribed stock respectively issued in respect of moneys previously borrowed by the Port Authority and not repaid;
- (c) create, issue and sell debentures and inscribed stock for the purpose of borrowing money for redeeming any loans owing by the Port Authority, and for paying the expenses incurred in the creation and issue of the debentures and inscribed stock and otherwise carrying out the provisions of this Act;
- (d) effect any conversion authorised by this section either by arrangement with the holders of the existing debentures or registered owners of inscribed stock, or by the purchase of the debentures or inscribed stock out of moneys raised by the sale of debentures and inscribed stock, or partly in the one way and partly in the other.

(2) The Governor shall not approve of the borrowing by the Port Authority of moneys under the provisions of this section, unless a proposal in writing showing—

- (a) the term and particulars of the proposed loan;

- (b) the rate of interest to be paid on the loan;
- (c) the purposes to which the money proposed to be borrowed is to be applied; and
- (d) the manner in which the loan is to be repaid,

is first submitted by the Port Authority to, and approved by, the Minister.

(3) Any moneys borrowed by the Port Authority under the provisions of this section—

- (a) may be raised as one loan or as several loans; and
- (b) may be raised—
 - (i) by the issue of debentures with or without interest coupons attached;
 - (ii) by the creation and issue of inscribed stock to be called “The Esperance Port Authority Inscribed Stock”;
 - (iii) partly as provided by subparagraph (i), and partly as provided by subparagraph (ii) of this paragraph; or
 - (iv) in such other manner as the Governor may approve.

55. 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 54, borrow the moneys necessary for that purpose before the loan or part of it becomes payable.

Power to borrow to repay loan.

56. (1) Due payment of debentures and inscribed stock respectively created or issued under the provisions of section 54 and sold by the Port Authority, with all interest thereon, shall be charged on and secured upon the revenues of the Port Authority.

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

(2) For the purposes of subsection (1) of this section "revenues" of the Port Authority means all dues, 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 created or issued by the Port Authority under the provisions of section 54 is hereby guaranteed by the Treasurer, for and on behalf of the State.

(4) Any sums required by the Treasurer for fulfilling any guarantee given by this Act shall be paid out of the Public Account which is hereby to the necessary extent appropriated accordingly, and any sums received or recovered by the Treasurer from the Port Authority or otherwise in respect of a sum so paid by the Treasurer shall be paid into the Public Account.

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

57. (1) The provisions of Part I of the Second Schedule to this Act apply with respect to debentures and inscribed stock issued by the Port Authority under the provisions of section 54.

(2) The provisions of Part II of that Schedule apply with respect to debentures issued under the provisions of section 54.

(3) The provisions of Part III of that Schedule shall apply with respect to inscribed stock issued in Esperance in the State under the provisions of section 54.

Debentures
and
inscribed
stock
authorised
trustee
investments.

58. (1) Debentures and inscribed stock created and issued by the Port Authority under the provisions of section 54—

- (a) are securities authorised by the law relating to the investment of trust moneys; and
- (b) have the status of Government securities within the meaning of any Act in force for the time being relating to friendly societies.

(2) Unless he is expressly forbidden by the instrument, if any, creating the trust, a trustee may invest trust funds in his hands in the debentures and inscribed stock referred to in subsection (1) of this section.

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

(4) A trustee or body corporate may pursuant to this Act convert the debentures in his or its hands into inscribed stock.

59. (1) There shall be entered and debited each year in the Account such amounts as are fixed by the Treasurer as the interest and sinking fund contributions payable for the year in respect of such portion of the General Loan Fund as have been applied to the exercise by the Port Authority of any of the powers conferred upon it or the discharge of the duties imposed upon it by this Act.

Contribu-
tion of
interest and
sinking
fund.

(2) Those contributions shall be paid to the Treasurer.

(3) The accrued interest in the sinking fund contributions as certified by the Under Treasurer of the State 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.

60. (1) Interest on the daily balance of money provided out of the Public Account for the purposes of this Act shall be charged in the books of account of the Port Authority in relation to the exercise of its powers and the discharge of its duties under this Act, and the amount of that interest shall be paid to the credit of the Public Account half-yearly or at such other times as the Treasurer may direct.

Interest on
daily
balance.

(2) The rate of interest shall be fixed from time to time by the Treasurer.

Power to
invest
moneys.

(3) Money standing to the credit of the Port Authority in the Account or in any bank account of the Port Authority may, until required by the Port Authority for the purposes of this Act, be temporarily invested as the Treasurer may direct and all interest derived from any money so invested shall be paid to the credit of the Account.

Application
of profit.

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

Port
Authority to
determine
depreca-
tion.

62. The Port Authority shall determine the amount of the depreciation and obsolescence of the assets in relation to the exercise by the Port Authority of its powers and the discharge of its duties under this Act, and that amount applies for the purpose of section 61 unless in the opinion of the Auditor General that amount should be increased, in which case the amount determined by the Auditor General applies.

Signatures
on drafts
and cheques.

63. All drafts upon the Treasury or cheques drawn for expenditure by the Port Authority shall be signed by one member and countersigned by the managing secretary to the Port Authority.

Accounts.

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

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

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

Reserve
accounts.

66. (1) All books of the Port Authority kept under this Act and all documents relating to the accounts of the Port Authority shall, at all reasonable times during office hours, be open to the inspection of the Minister, the Auditor General and any person authorised by the Minister or Auditor General to inspect them.

Power to
inspect
books.

(2) Any person empowered by this section to inspect the books and documents may make copies of, or take extracts therefrom.

(3) Every person having the possession or custody of the books or documents referred to in subsection (1) of this section who does not on the reasonable request of the Minister, Auditor General or person duly authorised to inspect them, permit him after such request has been made to inspect or to take copies of, or extract from, the books or documents, is guilty of an offence.

Penalty: Fifty dollars.

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

Accounts to
be balanced.

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

Accounts of
Port
Authority
to be
audited.

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

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

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

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

Copies of
accounts of
Port
Authority to
be furnished.

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

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

PART IX.—MISCELLANEOUS.

Power of
Governor to
rectify
irregularities.

70. (1) Where by misadventure or accident, anything is at any time done after the time or is not done within the time required by this Act, or is otherwise irregularly done in matter of form, the Governor may from time to time, by Order in Council

published in the *Gazette*, make provision for any such case, or may extend the time within which anything is required to be done or may validate anything so done after the time required, or so irregularly done in the matter of form, so that the true intent and purpose of this Act may have effect.

(2) Nothing in this section confers on the Governor any authority to extend any period of limitation prescribed by this or any other Act for the bringing of any proceeding in a court of law by or against the Port Authority.

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

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

Offence of not complying with directions of harbour master, etc.

Penalty: Two hundred dollars.

72. (1) A person commits an offence against this Act who does, or causes or suffers to be done, any of the following things so as to be or tend to the injury of navigation, that is to say—

Offences of depositing.

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

- (c) 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 land, or in the port or tidal water, or in the sea.

Penalty: One hundred dollars.

(2) In addition to any penalty for which the offender is liable for an offence under subsection (1) of this section, he is also liable to pay to the Port Authority the expenses of the removal to a proper position, or in appropriate cases of the recovery and removal to a proper position, of the substance or thing concerned.

(3) A person shall not be proceeded against for an offence under this section except on the prosecution of the Port Authority

Offence of
wilfully
damaging
port works.

73. A person who wilfully destroys or in any way damages any port work or any part thereof that is constructed or in course of construction is guilty of an offence against this Act.

Penalty: Three hundred dollars or imprisonment for twelve months.

Offence of
damaging
lights, buoys,
beacons, etc.

74. (1) Subject to Part IV of this Act, a person who wilfully or negligently—

- (a) injures any port light, or the lights exhibited therein, or any buoy or beacon;
- (b) removes, alters, or destroys any port light, light-ship, buoy, or beacon;
- (c) rides by, makes fast to, or runs foul of any port light, light-ship, buoy, or beacon;
- (d) removes, alters, injures, or destroys any signal or signal staff used for purposes in aid of vessels navigating; or
- (e) removes, destroys, injures or interferes with any life buoy or life saving apparatus,

commits an offence against this Act.

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

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

Offence of cutting moorings.

Penalty: Two hundred dollars or imprisonment for twelve months.

76. A person commits an offence against this Act who wilfully or knowingly breaks, throws down, damages or takes away any lamp, lamp post or other appliance used for the purpose of lighting any wharf, quay, pier, or any road or dock or other place within the port or wilfully extinguishes any light within the lamp.

Penalty for wilful damage to lights.

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

77. A person commits an offence against this Act, who gives or offers any money or thing by way of reward or bribe to any harbour master or other officer or employee of the Port Authority employed about the port, for the purpose of gaining an undue preference in the execution of his office or for the purpose of inducing him to do or omit to do anything relating to his office.

Offence of offering bribes to officers.

Penalty: Two hundred dollars or twelve months imprisonment.

78. A person commits an offence against this Act who—

Other offences

- (a) fails, refuses, or neglects to do, or in any manner obstructs, impedes or interferes with the doing of anything enjoined or authorised to be done under this Act;

- (b) wilfully does anything prohibited by this Act;
- (c) molests or makes use of any threatening language to any harbour master, pilot, engineer, surveyor, other officer or person while in the execution of his duty under this Act and whether acting under the authority of the Governor, the Minister or the Port Authority; or
- (d) in any other respect offends against the provisions of this Act.

General
penalty.

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

Averment as
to port.

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

Application
of penalties.
"This Act"
includes
regulations.
Vide s. 4. Act
No. 30 of
1918.

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

Police officer
to report
breaches of
the Act.

82. A police officer of the police force of the State who is aware or has reason to believe that any of the provisions of this Act are being contravened shall forthwith report the matter to the managing secretary to the Port Authority.

Power of
Port
Authority to
give
security.

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

PART X.—REGULATIONS.

84. (1) The Port Authority may with the Regulations.
approval of the Governor make regulations not inconsistent with this Act prescribing all or any matters that by this Act are required or permitted to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and for all purposes relating to the convenience of shipping or of the public within the port.

(2) In particular, but without limiting the generality of subsection (1) of this section, the regulations may make provision for any of the following matters—

- (a) the general conduct of its business and proceedings;
- (b) the control supervision, and guidance of its officers and servants;
- (c) regulating all matters relating to the protection of life and property within the port;
- (d) regulating the landing, shipping, transshipping, deposit, removal, and keeping of gunpowder and other explosive substances and compounds, or other dangerous goods;
- (e) 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;
- (f) imposing, levying, and receiving all port dues, and other tolls, rates or charges;
- (g) the exemption of ships of or in the naval military or air forces of Her Majesty or any Commonwealth country or foreign power;

- (h) regulating the use of wharfs or docks, quays, landing stages, and other landing places, and generally regulating the traffic thereon; and fixing scales of dues, tolls and charges to be paid for the use thereof;
- (i) fixing scales of dues for the storage of goods and charges to be paid for taking into and delivering the goods from warehouses or buildings belonging to or in the occupation of the Port Authority;
- (j) regulating the use of cranes, weighing and other machines, weights and measures, conveniences or appliances belonging to the Port Authority, and fixing charges to be paid for the use thereof;
- (k) regulating the cleansing, repair, and effectual preservation of docks and wharves and providing for the keeping and maintenance thereof in a fit state for the convenience of persons walking upon or landing on or embarking from any dock or wharf;
- (l) 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;
- (m) regulating and controlling the conduct and providing for the guidance of drivers, porters, cabdrivers, carters, carmen, and others carrying goods or driving motor vehicles, horses, wagons, carts, drays, trucks or other vehicles for conveying passengers or goods on any wharf;
- (n) empowering a collector of port dues, either alone or with other persons to enter a ship in order to ascertain the port dues payable in respect of the ship or of the goods therein;
- (o) requiring the master of every ship to report his arrival within a specified time after his arrival;

- (p) requiring the master of every ship to produce his certificate of registry to any officer on demand;
- (q) requiring the master of every ship to give as many copies as may be required by the Port Authority of the bill of lading or manifest of the cargo, or other proper account of goods intended to be unshipped, and the name of the consignee, or other person to whom they are intended to be delivered, and as many copies as may be required by the Port Authority of all alterations in or additions to the bill of lading, manifest, or other proper account;
- (r) requiring the master of every ship to obtain permission to discharge cargo before doing so;
- (s) requiring the shippers of goods to furnish accounts of the goods intended to be shipped;
- (t) regulating the time when port dues on goods shipped or unshipped are to be payable;
- (u) limiting the liability of the Port Authority for goods deposited, stored, in transit, warehoused, landed, lodged, or left on any part of the property of the Port Authority, including all wharves and sheds, in case of damage to or loss of the goods from any cause whatever;
- (v) 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 appropriate licence of the Port Authority and prescribing the duration of and the fees for such a licence, and providing that the issue of a licence and the cancellation thereof shall be at the absolute discretion of the Port Authority;
- (w) authorising and empowering the Port Authority in its discretion, to adopt the weight or measurement of goods set forth

in the bill of lading or manifest of the goods, for the purpose of levying, imposing, charging, and collecting port dues and other charges under this Act;

- (x) regulating and limiting the speed of vessels within the port;
- (y) prescribing all matters and things that are required to be prescribed or which it may be necessary or convenient to prescribe with respect to debentures and inscribed stock created and issued by the Port Authority under this Act.

(3) A regulation may impose a penalty not exceeding two hundred dollars for any breach thereof and may also provide that, in addition to the penalty, any expense incurred by the Port Authority in consequence of the breach shall be paid to the Port Authority by the person committing it.

ss. 5 and 21.

FIRST SCHEDULE.

All that piece of water within a radius of 10 miles from Western Entrance Point of Bandy Creek.

SECOND SCHEDULE.

PART I.—DEBENTURES AND INSCRIBED STOCK.

The following provisions apply to debentures and inscribed stock issued by the Port Authority under the provisions of section 54:—

Interest.

1. 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.

Debentures and stock payable before due date.

When interest payable.

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

3. The Port Authority may, at the request of the holder of a debenture or of the registered owner of inscribed stock created or issued 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.

Debentures
and stock
interchange-
able.

4. The Port Authority may pay moneys by way of brokerage for the making, procuring, negotiating, or obtaining the loan of any money borrowed under the authority conferred by section 54.

Brokerage.

5. (1) The Port Authority shall set aside half-yearly by way of a sinking fund for the purpose of redeeming any loans raised by them pursuant to section 54 an amount calculated at a rate approved by the Treasurer and sanctioned by the Governor.

Sinking
Fund.

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

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

Notice of
trust not
receivable.

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

Owners of
securities
not respon-
sible for
application
of moneys.

PART II.—DEBENTURES.

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

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

Form of
debenture.

2. A debenture shall—

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

Seal.

- Number. (b) be numbered consecutively beginning with the number one and proceeding in an arithmetical progression whereof the common difference is one.
- Pass by delivery. 3. A debenture with the interest coupons annexed thereto and every interest coupon after being detached therefrom shall pass by delivery and without any assignment or endorsement.
- Rights of bearer. 4. The bearer of a debenture or detached interest coupon shall have the same rights as if he were expressly named as payee therein.
- Payment of interest. 5. No interest shall be payable in respect of a debenture except to the holder of the coupon representing the interest claimed and upon delivery of the same.
- Register of debentures. 6. (1) The Port Authority shall cause to be kept in one or more books a register of debentures, and within a reasonable time after the date of a debenture shall cause to be made an entry in the register specifying the number date and amount of the debenture.
- Inspection. (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
- Register to be evidence. (b) shall be evidence of any matters required or authorised by or under this Act to be inserted therein.
- Copies to be supplied. (3) A person is entitled to obtain from the Port Authority copies or extracts certified by the officer in whose custody the register is kept to be true copies of or extracts from the register upon payment for each copy or extract of a fee of twenty-five cents and two cents for every folio of seventy-two words; and any copy or extract so certified is admissible in evidence.
- Provision for lost debentures. 7. Upon proof being made before a judge in chambers by affidavit of any credible person that a debenture issued by the Port Authority under this Act and held by such person the number and sum whereof is specified by him has been lost or accidentally burnt or otherwise destroyed before it has been paid off, and after the insertion of such advertisements as the judge directs and upon the judge certifying that he is satisfied with the proof, the Port Authority may after the expiration of six months cause a new debenture with interest coupons attached to be made having the like currency and bearing the same number date principal sum and rate of interest as the debenture so lost or destroyed and to be delivered to the person upon his giving sufficient security to the Port Authority to indemnify the Port Authority against any double payment.

8. If a debenture is defaced by accident—
- (a) the Port Authority may cancel it and cause a new debenture to be made in lieu thereof; and
 - (b) the new debenture shall have the like currency and be in all respects subject to the same provisions and bear the same number date and principal sum and rate of interest as the cancelled debenture.
- Provision
for defaced
debentures.
9. (1) A debenture paid off discharged exchanged or converted into stock—
- (a) shall be cancelled by the managing secretary to the Port Authority; and
 - (b) shall be burnt in the presence of the managing secretary and the Auditor General or one of his officers thereto authorised by him in writing.
- Discharged
debentures
to be
destroyed.
- (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 managing secretary shall file that certificate in the office of the Port Authority.

PART III.—STOCK.

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

1. The Port Authority may establish at the office of the Port Authority a registry for the inscription of stock created and issued under the authority of this Act and appoint an officer of the Port Authority to be registrar of stock.
- Establish-
ment of
registry and
appointment
of registrar.
2. Stock may be sold by the Port Authority for ready money in parcels or amounts of twenty dollars or some multiple of twenty dollars.
- Parcels of
stock.
3. (1) The Port Authority shall cause to be provided and kept at the office of the Port Authority books to be called "stock ledgers".
- Stock
ledgers.
- (2) All stock issued shall be inscribed in the stock ledgers by entering the names of the purchasers of stock and the amount of stock purchased by them respectively.
- Inscription
of stock.
- (3) In the case of joint purchasers of stock the names of not more than four of them shall be inscribed as the joint purchasers.
- Joint
purchasers.
- (4) The stock ledgers are evidence of any matters appearing therein and required or authorised by or under this Act to be inserted therein.
- Evidence.

Stock how transferable.

4. (1) Stock or any share therein are transferable in the manner prescribed by the regulations from one person to another by instrument in the form so prescribed and not otherwise.

Restrictions on amount of stock which may be transferred.

(2) A person is not entitled or allowed to transfer any fraction of a dollar or any smaller sum than twenty dollars unless that smaller sum is the full amount of the balance standing to his credit in the stock ledger.

Execution of transfer.

(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.

Registration of transfer.

(4) An instrument of transfer when executed shall be delivered to the registrar who shall register it by entering a memorial of it in the stock ledger and shall inscribe the name of the transferee in the stock ledger as the owner of the stock.

Application for transmission (other than transfer) of stock.

5. (1) A person to whom stock is transmitted in consequence of the death or bankruptcy or insolvency of the registered owner of the stock or by any other lawful means than by a transfer in accordance with this Act may apply in the form prescribed by the regulations to the registrar at the registry to be inscribed as the owner of the stock.

Verification of application for transmission.

(2) An application for transmission shall be verified by statutory declaration or in such other manner as is so prescribed, and—

(a) in the case of a transmission consequent on death—the probate of the will or the letters of administration shall be produced to the registrar or in the case of transmission to a survivor or the survivors of a joint owner a certificate of the death of the owner who has died accompanied by a statutory declaration identifying the person named in the death certificate with the person who is shown as the registered owner of the stock may if the registrar approves be produced to him in lieu of probate or letters of administration; and

(b) in the case of a transmission consequent on bankruptcy or insolvency—an office copy of the adjudication or order of sequestration shall be delivered to the registrar.

Registration of transmission.

(3) The registrar shall if he is satisfied that the provisions of this Act have been complied with register any such transmission by entering a memorial of it in the stock ledger and inscribe the name of the person to whom the stock has been transmitted in the stock ledger as the registered owner of the stock.

6. (1) A person may by power of attorney under his hand and seal and attested by two or more credible witnesses appoint some person to be his attorney for any purpose in relation to stock (including an application for conversion or to receive interest or redemption money).

Power of attorney.

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

7. (1) An instrument of transfer of stock or of any part thereof shall not be registered on any Saturday or holiday or within the period of fourteen days or within such period (not exceeding twenty-one days) as is prescribed next before any of the days on which the interest thereon is payable.

When transfer books to be closed and ledgers balanced.

(2) During the periods referred to in subclause (1) of this clause the Port Authority shall cause the amount of stock respectively standing to the credit of the several registered owners thereof to be ascertained and the balances to be struck and carried forward in the proper stock ledger.

(3) An instrument of transfer of stock or of any part thereof shall not be registered during the period of twenty-one days immediately preceding the date of maturity of stock.

8. (1) The receipt of the person in whose name stock stands in the stock ledger, or if it stands in the names of more persons than one, the receipt of one of the persons named in the stock ledger shall be a sufficient discharge to the Port Authority for any interest payable in respect of the stock, notwithstanding any trusts to which the stock may then be subject and whether or not the Port Authority has had notice of the trusts, and the Port Authority is not bound to see to the application of the money paid upon the receipt.

Receipt of registered stockholders to discharge without regard to trust.

(2) If stock is held in joint names and one or more of the registered owners of the stock dies becomes bankrupt insolvent or otherwise legally incapable, the receipt of any one of the other joint owners or survivors shall be a sufficient discharge to the Port Authority for any interest payable in respect of the stock, notwithstanding that a transmission has not been registered as required by this Act.

Receipt where one of joint holders dies, etc.