

SHIPPING AND PILOTAGE.

No. 17 of 1967.

AN ACT relating to Shipping and Pilotage in and about the Ports of the State; to repeal the Shipping and Pilotage Act, 1855-1954 and the Ports and Harbours Act, 1917; and for incidental and other purposes.

[Assented to 20th October, 1967.]

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:—

Short title.

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

Repeal.

2. (1) The Shipping and Pilotage Act, 1855-1954 is repealed.

Repeal.

(2) The Ports and Harbours Act, 1917 is repealed.

(3) Without affecting the application of the Interpretation Act, 1918 in relation to the repeal effected by subsection (1) of this section, the provisions of section 15 of that Act apply in relation to— Saving.

- (a) all offices constituted and appointments of officers made;
- (b) all proclamations, orders, regulations, by-laws, rules, certificates and documents made or issued; and
- (c) all acts, matters and things done,

under the Shipping and Pilotage Act, 1855-1954, and in force, or in operation, or in existence, as the case may be, at the commencement of this Act.

3. In this Act, unless the contrary intention appears— Interpre-
tation.

“harbour master” includes a person for the time being carrying out the duties of the harbour master appointed for any port, during any absence, illness or incapacity of that harbour master;

“port” means any place for the time being declared to be a port pursuant to section 10 of this Act.

4. The Governor may appoint—

Appoint-
ments.

- (a) any person to be the harbour master of any port;
- (b) any person to be a pilot at any port.

5. (1) The harbour master of any port may—

Powers and
duties of
harbour
masters.

- (a) control the entry and departure of vessels into and from the port;

- (b) control the berthing, mooring and moving of vessels within the port;
- (c) exercise such other powers relating to the control and the direction of vessels and persons within the port and the maintaining of good order within the port, as are prescribed; and
- (d) remove any wreckage that is within, or in or about the approaches to, the waters of the port and is obstructing or likely to obstruct the safe movement of vessels therein.

(2) Where a harbour master has removed wreckage pursuant to paragraph (d) of subsection (1) of this section, he may by notice served on the owner of the wreckage, demand payment of the cost of effecting the removal of the wreckage.

(3) Where—

- (a) an owner fails within twenty-eight days of the service on him of a notice under subsection (2) of this section to pay the amount specified in the notice; or
- (b) the harbour master is unable, after making reasonable enquiries, to ascertain the owner of the wreckage,

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

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

and the balance, if any, shall be paid to the owner of the wreckage or, if the owner is not known, into the Consolidated Revenue Fund.

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

6. (1) Where a vessel within a port is, in the opinion of the harbour master, not regularly used for sea service and either unfit for sea service or so situated as to constitute an obstruction to the safe movement of vessels within the port, the harbour master may—

Removal of
unserviceable
vessels.

- (a) by notice served on the owner of the vessel;
or
- (b) if the identity or whereabouts of the owner cannot be ascertained after the making of reasonable enquiries, by notice affixed to the vessel,

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

(2) Where the terms of a notice given under subsection (1) of this section are not complied with, the harbour master may cause the vessel to be removed to the place specified in the notice, and the cost of so doing is a debt due to the Crown and recoverable in a court of competent jurisdiction.

(3) The harbour master of a port shall not order the removal of a vessel to a place outside the port unless he is satisfied that in the circumstances of the case, including the condition of the vessel, there is no place within the port where the vessel might lie without obstructing or prejudicing the safe movement of vessels within the port.

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

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

Special
powers of
harbour
master in
emergencies.

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

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

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

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

Conservancy
dues.

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

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

Pilotage
charges

9. (1) Subject to subsection (2) of this section, there is payable in respect of the use of pilotage facilities by a vessel entering, departing from or moving within a port, pilotage charges at such rates as are prescribed.

(2) The regulations may—

- (a) provide that the use of pilotage facilities at any port is compulsory;
- (b) provide for the issue of pilotage exemption certificates to the masters who hold the prescribed qualifications;

- (c) exempt vessels of prescribed classes from payment of pilotage charges.

10. (1) Every place that was, immediately prior to the coming into operation of this Act, a port or harbour for the purposes of the Shipping and Pilotage Act, 1855-1954, is, by force of this subsection, declared to be a port for the purposes of this Act, bounded in the manner in which that place was bounded as a port immediately prior to the coming into operation of this Act.

Declaration
of ports.

(2) The Governor may by proclamation—

- (a) declare any place described in the proclamation to be a port for the purposes of this Act;
- (b) vary the boundaries of any place declared to be a port by subsection (1) of this section, or declare any place declared to be a port by virtue of that subsection to be no longer a port for the purposes of this Act; or
- (c) vary or revoke any proclamation made under this section.

(3) Notwithstanding any other provision of this Act—

Application
of this Act
to certain
ports.

- (a) the provisions of sections 4, 5, 6, 7, 9 and 11 of this Act do not apply in respect of the Port of Fremantle;
- (b) the Governor may by proclamation declare that such of the provisions of this Act as specified in the proclamation do not apply to a port;
- (c) the provisions of the regulations in force under this Act apply—
 - (i) in respect of the Port of Fremantle, only insofar as they relate to the matters referred to in section 8 of this Act; and

- (ii) in respect of any port referred to in a proclamation made under paragraph (b) of this subsection, only insofar as they relate to a provision of this Act that is applicable in respect of that port.

Offences.

11. Any person who—

- (a) fails to comply with any order or direction of a harbour master given or made under the powers conferred by section 5 or 7 of this Act;
- (b) unlawfully interferes with any mooring, beacon, buoy, light or other port facility; or
- (c) deposits or removes earth or spoil within a port beneath high water mark,

commits an offence.

Penalty: Two hundred dollars.

Regulations.

12. The Governor may make regulations for any purpose necessary or convenient for the administration of this Act and in particular, but without limiting the generality of the foregoing—

- (a) relating to special precautions and measures to be taken in relation to the movement, berthing, loading and unloading of vessels carrying flammable liquids;
 - (b) prescribing tide signals and other signals to be used in ports;
 - (c) imposing penalties not exceeding two hundred dollars or imprisonment for three months for offences against the regulations.
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