

LIGHTS (NAVIGATION PROTECTION).

2° GEO. VI., No. XVI.

No. 16 of 1938.

AN ACT relating to Lights likely to be a danger to marine navigation.*[Assented to 1st December, 1938.]*

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

1. This Act may be cited as the *Lights (Navigation Protection) Act, 1938.* Short title.

2. In this Act, subject to the context—

“Light” includes any fire, lamp, light, illuminated sign, street light or other mechanical, manufactured or constructed illumination and also the glow from any such light. Interpretation.

“Harbour light” includes lighthouses, lightships, beacons, buoys, lights and other signs, both on land and water, used as an aid to the navigation of ships, vessels and boats entering or leaving or within a port or harbour.

“Owner” includes the owner, lessee, tenant, purchaser, hirer or other person in possession or entitled to the possession of a light and in the case of a street light means the local government authority in whose district such street light is erected or installed.

“Port Authority” includes every person, board, trust or other body, whether corporate or not, appointed or established or constituted under or by any Act for the control and management of a port or harbour and where any port or harbour is controlled and managed by or under the Harbour and Light Department of the State, includes the said Harbour and Light Department.

“Port or Harbour” includes the ports of Albany, Bunbury, Fremantle and Geraldton and also all other ports or harbours proclaimed under and for the purposes of the Ports and Harbours Act, 1917.

Powers in relation to lights.
cf. Commonwealth No. 14 of 1911, s. 10; Qld. 41 Vic., No. 3, s. 106; S.A. No. 1149 of 1913, s. 122; N.Z. No. 31 of 1933, s. 24.

3. (1) Where any light is used, kept, burnt or exhibited between the hours of sunset and sunrise at such a place (whether within or outside the limits of a port or harbour) or in such a manner as, in the opinion of the port authority, to be likely to be mistaken for, or obscure, or conflict with, or adversely interfere with the effectiveness of a harbour light of the port or harbour controlled and managed by such port authority, the port authority may, by notice in writing, require the owner of or the person in charge of such light or the occupier of the place or premises where such light is used, kept, burnt or exhibited, within a time to be specified in the notice to take effectual means—

- (a) to extinguish the light; or
- (b) to remove the light entirely or to some other position; or
- (c) to modify the light or to alter its character or colour, or to screen the light to such an extent and in such manner as the port authority may direct; or
- (d) to refrain from using, keeping, burning or exhibiting the light either entirely or for such period or during such hours as the port authority may direct;
- (e) to do or refrain from doing such other act, matter or thing in relation to using, keeping, burning or exhibiting the light as the port authority may direct and in accordance with the directions of the port authority.

(2) Any notice under subsection (1) of this section may be served either personally or by delivery at the place of abode of the person to be served or by affixing it in some conspicuous place on or near the place or premises upon or in which the light to which the notice relates is used, kept, burnt or exhibited.

(3) It shall be the duty of the owner, occupier or other person served with a notice under subsection (1) of this section to comply with such notice.

(4) Every owner, occupier or other person on whom a notice is served under this section who fails, without reasonable cause (proof whereof shall lie upon him) to comply in all respects with the directions contained in the notice shall be guilty of an offence against this Act. Penalty—one hundred pounds, and in addition a daily penalty of five pounds for every day or part of a day during which the directions contained in the notice are not complied with after the time specified in the notice for the compliance therewith.

4. (1) If any owner, occupier or other person served with a notice under section three of this Act fails in any respect to comply with the directions of such notice within the time specified in the notice for such compliance the port authority, or any person authorised in writing by the port authority, may enter upon the place or premises whereon the light to which the notice relates is used, kept, burnt or exhibited and forthwith take effectual means (but doing no unnecessary damage) to carry out and otherwise give effect to the directions contained in the notice which have not been complied with as aforesaid.

Port authority may cause requisitions of notice to be carried out
cf. ibid.

(2) Any expense incurred by the port authority or the person authorised by the port authority under subsection (1) of this section shall be a debt owing to the port authority by the person upon whom the notice was served as aforesaid and shall be recoverable at the suit of the port authority in any court of competent jurisdiction.

(3) If the owner, occupier or other person upon whom a notice under section three of this Act has been served as aforesaid or any other person obstructs or hinders, prevents or interferes with or attempts to obstruct, hinder, prevent or interfere with the port authority, or

the person authorised by the port authority, in the exercise of the power conferred by subsection (1) of this section, he shall be guilty of an offence against this Act.

Penalty: Fifty pounds.

Civil rights.

5. Where any owner, occupier or other person upon whom a notice under section three of this Act has been served as aforesaid has failed, within the time prescribed by such notice, to comply with the directions of such notice and by reason of such non-compliance and by reason of the light to which the said notice relates being mistaken for, or obscuring, or conflicting with or adversely interfering with the effectiveness of a harbour light, any vessel, ship or boat is damaged the said non-compliance with the said notice shall, for the purpose of enabling the owner of such vessel, ship or boat to recover compensation or damages in respect of the damage suffered by such vessel, ship or boat be deemed to be a tort in the nature of a nuisance committed by such owner, occupier or person aforesaid upon which an action for damages may be instituted.

Saving provision.

6. The omission on the part of a port authority to give any notice under section three of this Act, or the failure on the part of a port authority to exercise the power conferred by section four of this Act shall not make the port authority in any respect responsible or liable for any damage suffered by a vessel, ship or boat as the result of any light being mistaken for or obscuring or conflicting with or adversely interfering with the effectiveness of a harbour light.

Proceedings for offences.

7. Proceedings for offences against this Act may be commenced on a complaint by the secretary of the port authority and may be dealt with summarily under the provisions of the Justices Act, 1902-1936.