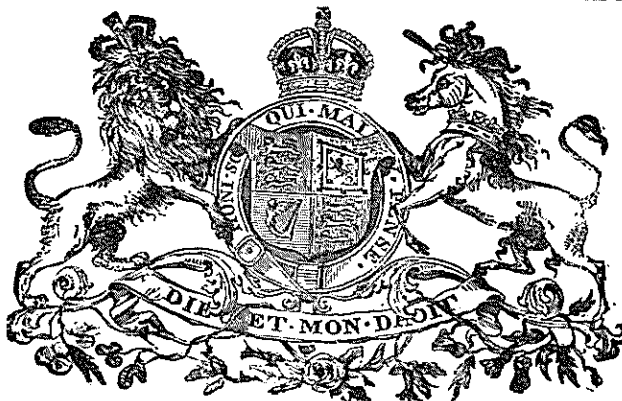


WESTERN AUSTRALIA.



ANNO NONO

EDWARDI SEPTIMI REGIS,

XVIII.

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No. 22 of 1909.

AN ACT to constitute the Bunbury Harbour Board; to regulate the appointment of the members of the Board; to define their powers and authorities; and for other purposes incidental thereto.

[Assented to 6th February, 1909.]

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 *Bunbury Harbour Board Act*, 1909, and shall come into force on a day to be fixed by proclamation.

Short title and commencement.

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

Interpretation.  
See No. 17 of 1902,  
s. 2.

“Berthing master” includes assistant berthing master.

“Board.”—The Bunbury Harbour Board constituted under this Act.

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

“Chief Harbour Master” means the Chief Harbour Master of the State of Western Australia.

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

“Harbour master” includes assistant harbour master.

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

“Members.”—The members of the Bunbury Harbour Board constituted under this Act.

“Minister” means the responsible Minister of the Crown charged with the administration of this Act.

“Owner” includes any person who is owner jointly with any other person, and any joint stock company; and when used in relation to goods, includes any consignor, consignee, shipper, 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 harbour.”—So much of the harbour of Bunbury as is contained within the boundaries described in the 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.

#### *Constitution of the Board.*

The Bunbury  
Harbour Board.

See No. 17 of 1902,  
s. 3.

Appointment of  
members.

See *ibid.*, s. 4.

Seal of Board.

*Ibid.*, s. 5.

Term of office.

*Ibid.*, s. 6.

Vacancies.

*Ibid.*, s. 7.

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

4. (1.) The members shall be appointed by the Governor.  
(2.) One of the members shall be annually appointed by the Governor as chairman.

5. Judicial notice shall be taken of the incorporation and common seal of the Board, 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.

6. Every member shall hold office for the term of three years, and, at the expiration of his term of office, shall be eligible for re-appointment for a like term of three years.

7. On the occurrence of any vacancy in the office of a member, the Governor may appoint a person to the vacant office.

whose term of office shall be for his predecessor's unexpired term of office.

8. (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 "Government Gazette." Every person so appointed shall, while so acting, have all the powers and perform all the duties of such member.

Deputy members.  
See No. 17 of 1902,  
s. 8.

(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. The Governor may remove a member from his office—

Tenure of office.  
*Ibid.*, s. 9.

- (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 Board (except on leave granted by the Governor) or becomes incapable of performing his duties; or
- (d.) If he becomes concerned or interested in any written contract made by or on behalf of the Board, or participates or claims to be entitled to participate in the profits thereof, or in any benefit or emolument arising therefrom.

Provided that this subsection shall not extend to an interest as a shareholder in an incorporated company of at least twenty members.

10. Each member, other than the chairman, may receive a prescribed fee for every ordinary meeting of the Board at which he attends.

Remuneration of members.  
*Ibid.*, s. 10.

11. The chairman shall receive a prescribed fee for every ordinary meeting of the Board at which he attends.

Remuneration of chairman.  
See *Ibid.*, s. 11.

12. The fees payable to the chairman shall not in any one year exceed one hundred pounds, and those payable to any member other than the chairman shall not in any one year exceed fifty pounds.

Maximum remuneration.  
See *Ibid.*, s. 12.

Quorum.  
See *Ibid.*, s. 13.

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

Acting chairman.  
No. 17 of 1902, s. 14.

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

Procedure on  
difference of  
opinion.  
*Ibid.*, s. 15.

**15.** 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.

Acts of Board  
not invalidated  
by vacancy.  
*Ibid.*, s. 16.

**16.** No act or proceeding of the Board shall be invalidated or prejudiced by reason only of the fact that at the time when such proceeding or act was taken, done, or commenced, there was a vacancy in the office of any member.

Minutes of proceed-  
ings.

**17.** The Board shall—

(1.) Keep minutes of their proceedings in such manner and form as the Governor shall direct; and

Yearly report.  
See *Ibid.*, s. 17.

(2.) Make a yearly report of their proceedings to the Minister, who on receipt thereof may forthwith publish such report, and such report shall be laid before both Houses of Parliament.

#### *Officers.*

Appointment of  
officers and ser-  
vants.  
See *Ibid.*, s. 19.

**18.** (1.) The Governor, on the nomination of the Board, may appoint a secretary, a berthing master (who shall be the harbour master of the harbour), and such other officers and servants as may be necessary for the administration of this Act, and on the recommendation of the Board, may dismiss any such officer or servant.

(2.) All persons so appointed shall be subject to the control of the Board.

(3.) The appointment and dismissal of servants and labourers at daily or weekly wages, shall be in the sole power of the Board.

Certain officers to  
give security.  
*Ibid.*, s. 20.

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

*Vesting of Property.*

**20.** There shall be vested in the Board for the purposes of this Act,—

Property vested in Board.

No. 17 of 1902, s. 22.

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

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

- (a.) Alter the boundaries of the harbour.
- (b.) Withdraw any land or other property of any kind from the Board, and re-vest the same in His Majesty.

**21.** All lands vested in the Board under this Act shall be exempt from any rate, tax, or imposition which any local authority might, but for this section, lawfully levy or impose; but nothing herein contained shall preclude a local authority from levying and collecting rates and other lawful charges in respect of land, houses, and buildings of the Board leased and occupied for private purposes, and by persons other than the Board, their officers and servants.

Lands vested in Board free from municipal rates.  
*Ibid.*, s. 23.

*Powers and Duties of the Board.*

**22.** The Board shall have the exclusive control of the harbour, and shall be charged with the maintenance and preservation of all property vested in them under this Act.

Board to control, maintain, and preserve.  
*Ibid.*, s. 24.

**23.** The completion and extension within the harbour of all harbour works and the construction therein of all new works shall be deemed Government work within the meaning of the Public Works Act, 1902.

Harbour extensions.  
*Ibid.*, s. 25.

**24.** The Board—

- (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 the lands vested in them; and

Roadways and approaches.  
No. 35 of 1906, s. 4.

(b.) shall cause such wharves, docks, piers, jetties, landing stages, slips, platforms, depots, and sheds, and the roads and approaches thereto, to be kept in good repair.

Power to lease lands for certain purposes. See No. 17 of 1902, s. 27.

**25.** The Governor may, upon the recommendation of the Board, grant leases of any land vested in them by this Act, for any term not exceeding twenty-one years, as yards or sites for ship-building, boat-building, storing of timber, coal, merchandise, or other property, or for the erection of workshops or foundries or for other purposes connected with shipping, provided that no lease for a period exceeding three years shall be granted unless applications therefor have first been advertised in the "Government Gazette" for one calendar month, and in at least two insertions in a newspaper published in Bunbury.

Board may make contracts, etc. *Ibid.*, s. 28.

**26.** The Board may, by their corporate name, enter into contracts with any persons for the execution of any work they may think proper to do, or to direct to be done, under the powers conferred by this Act, or for furnishing materials or labour, or for providing proper engines or other power, or for any other matters and things whatsoever necessary to enable them to carry the purposes of this Act into effect, in such manner, and upon such terms, and under such stipulations, regulations, and restrictions as they may think proper.

Goods left on wharves, etc., may be advertised and sold. *Ibid.*, s. 29.

**27.** (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 Board 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 Bunbury, the Board 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.

Disputes between departments to be settled by Minister. *Ibid.*, s. 30.

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

*Pilotage.*

**29.** (1.) Except as otherwise provided by regulations, pilotage shall be compulsory within the boundaries of the harbour.

Pilotage.  
No. 17 of 1902, s. 31.

(2.) If, after a qualified pilot has offered to take charge of the ship, or has made a signal for the purpose, the master of any ship not exempted from pilotage by regulations, pilots the ship himself, he shall be liable for each offence to a fine of double the amount of the pilotage dues that could be demanded for the conduct of the ship

*Lights, Buoys, and Signals.*

**30.** The Board shall not erect or place any harbour light, signal, buoy, or beacon within the boundaries of the harbour, or alter or remove the position of any light, signal, buoy, or beacon without the sanction of the Chief Harbour Master.

Harbour lights, etc.  
not to be erected  
or removed without  
sanction of Chief  
Harbour Master.  
*Ibid.*, s. 32.

**31.** The Chief Harbour Master 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.

Chief Harbour  
Master may erect  
and maintain har-  
bour lights, etc.

*Wrecks, Obstructions, and Damage.*

**32.** If any vessel is sunk, stranded, or abandoned within the limits of the harbour in such way as to tend to the injury of navigation, such vessel, together with the tackle thereof, and the goods if any therein (all of which are in this section hereinafter included under the term "the wreck"), may be removed in the following manner :—

Removal of wreck.  
*Ibid.* s. 34.

(1.) The Board shall give notice in writing to the owner of such vessel, or to an agent of such owner, that he is required, within a time specified in such notice, either to remove the wreck in a manner satisfactory to the Board, or to undertake, under security satisfactory to the Board, to remove the wreck in a manner satisfactory to and within a time to be fixed by the Board.

(2.) In case 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 way satisfactory to the Board, or to enter into such undertaking as aforesaid to remove the same, or, having undertaken to re-

move the wreck, fails to remove it in accordance with his undertaking, then the Board may remove the wreck, and may recover from the owner, in any Court of competent jurisdiction, the expenses incurred in removing it (in this section referred to as "the expenses of removal").

(3.) The Board, 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 same, and may, out of the proceeds, if any, of such sale, without any reference to the part of the wreck from the sale of which such proceeds may accrue, reimburse themselves for the whole of the expenses of removal, and shall, after reimbursing themselves, render the surplus, if any, to the owner.

(4.) If the proceeds of such sale are insufficient to pay the whole expenses of removal, the Board may recover the balance from the owner of the vessel, if such 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.

For the purposes of this section the term "owner" shall mean and include not only the owner of the wreck at the time of the sinking, stranding, or abandonment thereof, but also any purchaser of any such wreck, or the materials of which the same may be or may have been composed, so long as the same shall be and remain sunk, stranded, or abandoned.

Responsibility for  
injury to works of  
harbour.

No. 17 of 1902, s. 35.

**33.** 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 Board—

(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 Board for the injury, but the Board shall not recover twice for the same cause of action.

Recovery by owner  
from master of ship.  
*Ibid.*, s. 36.

**34.** 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 Board 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.

**35.** If any damage is done to any submarine cable, the property of or vested in the Board, within or partly within the harbour, by any ship, or any part of the equipment of any 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 Board may cause such repairs to be effected, and may recover the expense thereof from the master or owner or agent in any court of competent jurisdiction.

Damage to cables.  
No. 35 of 1906, s. 6.

*Actions against Board and Officers.*

**36.** The Board shall not be liable for any act or omission of any qualified pilot or of the harbour master or berthing master in case he is a qualified pilot.

Board not liable for  
acts or omissions of  
pilots.  
No. 17 of 1902, s. 37.

**37.** (1.) All actions to be brought against the Board, or any person, for anything done under this Act shall be commenced within six months after the act complained of was committed.

Actions against  
Board or officers.  
*Ibid.*, s. 38.

(2.) Notice in writing of the intended action, and the cause thereof, shall be served upon the Board at least one month before any process is issued, with the name and place of abode of the party intending to bring such action.

(3.) If—

(a.) tender of sufficient amends has been made before such process is issued; or

(b.) the matter complained of appears to have been done under the authority and in the execution of this Act; or

(c.) such action is brought after the time limited for bringing the same; or

(d.) such notice is not given as aforesaid,

judgment shall be given for the defendant with costs.

*Harbour Dues and Wharfage Charges.*

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

Harbour dues, etc.,  
to be made by  
regulation.  
*Ibid.*, s. 39.

Existing dues and charges to continue.  
No. 17 of 1902, s. 40.

**39.** Until such regulations are made, all harbour dues and wharfage charges now payable by law shall continue to be levied and charged, and shall be payable and paid to the Board as if the same had been made payable under this Act.

Tonnage of British vessels.  
*Ibid.*, s. 41.

**40.** (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.

Foreign vessels.

(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.

Ascertainment of tonnage of other foreign vessels.  
*Ibid.*, s. 42.  
No. 35 of 1906, s. 7

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

List of dues to be exhibited.  
No. 17 of 1902, s. 43.

**42.** The Board shall at all times keep exhibited in front of their principal office, lists of all dues and charges payable for the time being.

In case of difference, power to weigh or measure goods.  
*Ibid.*, s. 44.

**43.** 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 Board, 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 Board in any Court of competent jurisdiction.

Liability for dues payable by ship.  
*Ibid.*, s. 45.

**44.** The owner and master of 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.** 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.

Liability for dues payable for goods.

*Ibid.*, s. 46.

**46.** 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.

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.

*Ibid.*, s. 47.

**47.** All dues may be recovered by the Board in any Court of competent jurisdiction as a debt due to them.

Recovery of dues.

*Ibid.*, s. 48.

**48.** Any officer 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 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.

Persons authorised to collect dues may distrain.

*Ibid.*, s. 49.

**49.** 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 Bunbury, 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. 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.

Settlement of dispute concerning dues or charges occasioned by distress.

*Ibid.*, s. 50.

**50.** 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 ten pounds, or in case the amount of the dues which he has evaded or has attempted to evade exceeds ten pounds, then not exceeding such amount.

Penalty on evasion.

*Ibid.*, s. 51.

**51.** If in the opinion of the Governor the Board 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 Board, including

Power to Governor to revise harbour dues.

No. 35 of 1906, s. 10.

interest and contribution to the sinking fund, in respect of the value of the property vested in and charged against them 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 harbour dues, harbour 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 Board to impose and collect such dues and charges in accordance with such revision until the Governor shall otherwise order.

*Finance.*

Minister to declare  
value of property  
vested in Board.

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

No. 17 of 1902, s. 52.

Subsequent works.  
*Ibid.*, s. 53.

**53.** 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 cost of works in course of construction, and of all property acquired by the commissioners during the preceding financial year, to be charged as aforesaid.

Collection of dues,  
etc  
No. 17 of 1902, s. 54.  
No. 35 of 1906, s. 9.

**54.** All dues, charges, rents, and other moneys levied and collected by the Board—

- (1.) Shall be collected and received by them or their authorised officers for the use of His Majesty, and paid into the Treasury or a bank to be approved by the Minister to the credit of an account to be called the Bunbury Harbour Board account; and
- (2.) Shall, in each year, be chargeable with all fees, salaries, and wages paid by the Board, and with all expenditure lawfully incurred by the Board in exercise of their powers under this Act.
- (3.) The balance shall be carried to the Consolidated Revenue Fund, subject to such regulations as may be made by the Governor for the payment of interest on capital, and of a fund for the replacement of depreciating property.

Expenditure.  
No. 17 of 1902, s. 55.

**55.** All drafts upon the Treasury or cheques for expenditure by the Board shall be signed by two members, one of whom shall be the chairman or acting chairman, and countersigned by the secretary.

**56.** The Board shall cause books to be provided and kept, and true and regular accounts to be entered therein—

Accounts.

No. 35 of 1906, s. 11.

(a.) Of all moneys received and paid by them, and of all moneys owing to and by them under this Act, and of the several purposes for which such moneys shall have been received and paid, and owing ; and

(b.) Of all the assets and liabilities of the Board under this Act.

**57.** (1.) All such books shall be open to the inspection of the Minister and the Auditor General, and any person authorised by the Minister or Auditor General to inspect the same, and all such persons may take copies or extracts therefrom.

Books may be inspected.

No. 17 of 1902, s. 58.

(2.) Any clerk or other person having the custody of the books who does not, on demand, permit any person as aforesaid to examine the said books and take such copies or extracts therefrom, shall forfeit and pay for every such offence a sum not exceeding five pounds.

**58.** The Board shall cause their accounts to be balanced every year on the thirtieth day of June.

Accounts to be balanced.

No. 17 of 1902, s. 57.

No. 35 of 1906, s. 12.

**59.** (1.) The Board shall cause a full and true balance sheet of the 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 to be audited.

No. 35 of 1906, s. 13.

(2.) The Auditor General shall certify that he has found the accounts in order, or otherwise, as the case may be; that, 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; that all items of receipts and payments and all known liabilities and assets have been brought into account and that 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 such amounts.

(4.) The Auditor General shall, in respect to such accounts, have all the powers conferred on him by the Audit Act, 1904, and any amendments thereof.

**60.** The Board shall, once at least in every year, furnish to the Governor a true copy of the accounts so audited, and copies of such accounts, together with the Auditor General's report thereon, shall be laid before both Houses of Parliament, if then sitting, or if not sitting, at the next ensuing session thereof.

Copies of accounts as audited to be furnished.

*Ibid.*, s. 14.

*Regulations.*

Power to make  
regulations.

No. 17 of 1902, s. 60.  
No. 35 of 1906, s. 15.

Proceedings of the  
Board.

Harbour control.

Wharfs, etc.  
See N.Z. Act, No.  
35, 1878, s. 212.

61. The Board may make regulations under this Act for all or any of the following purposes:—

- (1.) The general conduct of their business and proceedings.
- (2.) Prescribing the days upon which the ordinary meetings of the Board shall be held.
- (3.) The control, supervision, and guidance of their 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.
- (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 His Majesty or of any British possession, or in the naval service of any foreign power, and of other vessels from harbour dues.
- (9.) Regulating the use of wharfs 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.) Fixing scales of dues for the storage of goods and charges to be paid for taking into and delivering the same from warehouses or buildings belonging to or in the occupation of the Board.
- (12.) Regulating the use of cranes, weighing and other machines, weights and measures, conveniences or appliances belonging to the Board, and fixing charges to be paid for the use of the same.

- (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 as the servants of the Board as others not being officers of customs, who are employed or engaged in the harbour. Duties of employees.
- (15.) The guidance of porters, cabdrivers, 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. Collection of rates and dues.
- (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 Board 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 Board 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.) Limiting the liability of the Board for goods deposited, stored, in transit, warehoused, landed, lodged, or left on any part of the property of the Board, including all wharves and sheds, in case of damage to or loss of such goods from any cause whatever. Limitation of liability.
- (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 Board, 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 Board.

Weight and measurement.

- (25.) Authorising and empowering the Board, in their 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.

Speed of vessels.

- (26.) Regulating and limiting the speed of vessels within the harbour.

Generally.

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

Penalties for breach of regulations.  
No. 17 of 1902, s. 61.

## 62. Every regulation—

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

Regulations to be approved by the Governor and published in *Government Gazette*.  
*Ibid.*, s. 62.

63. Every regulation shall, upon approval by the Governor and publication in the "Government Gazette," have the force of law; and shall be laid before Parliament within fourteen days after such publication, if Parliament is then in session, and if not, then within fourteen days after the commencement of the next ensuing session.

## Miscellaneous.

Provision for Sundays and holidays.  
No. 35 of 1906, s. 18.

64. When the day on which anything is by this Act or the regulations required to be done falls on a Sunday, Good Friday, Christmas Day, New Year's Day, or any public holiday, such thing shall be done on the day next following.

Governor may rectify irregularities.  
*Ibid.*, s. 19.

65. Whenever by any misadventure or accident anything is at any 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.** The master of any vessel who, after the service on him of notice in writing signed by the berthing master or any officer acting on behalf of the berthing master, does not forthwith regulate such vessel according to such directions, shall be liable to a penalty not exceeding fifty pounds.

Penalty for not complying with directions of berthing master. See No. 17 of 1902, s. 63.

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

Restriction on deposit of ballast or rubbish.

- (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 harbour, 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 harbour 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 harbour or tidal water, or in the sea,

*Ibid.*, s. 67.

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

**68.** 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.

Series of acts tending to the injury of navigation. *Ibid.*, s. 68.

**69.** Any person who wilfully destroys or in any way damages or injures any wharf, shed, roadway, building, or other harbour work whatsoever, or any part thereof, constructed or in course of construction, shall be liable for every such offence to a fine not exceeding one hundred pounds, or to imprisonment not exceeding twelve calendar months, with or without hard labour.

Penalty for wilful damage to works. *Ibid.*, s. 71.

**70.** 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 twenty pounds.

Penalty for wilful damage to lights. *Ibid.*, s. 72.

Offence incurring  
penalty.  
No. 17 of 1902, s. 73.

**71.** 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, berthing 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 Board; 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 twenty pounds.

Penalty for offering  
bribes to officers.  
*Ibid.*, s. 74.

**72.** Any person who gives or offers any reward or bribe to any officer or servant of the Board 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 one hundred pounds, or to imprisonment not exceeding twelve calendar months, with or without hard labour.

Summary procedure  
for breach of  
by-laws.  
*Ibid.*, s. 75.

**73.** 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 in the manner provided by the Justices Act, 1902.

What shall be  
sufficient averment.  
*Ibid.*, s. 76.

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

Application of  
penalties.  
*Ibid.*, s. 77.

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

Police officers to  
report breaches of  
Act.  
No. 35 of 1906, s. 20.

**76.** 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 secretary to the Board.

Offenders may be  
prosecuted under  
other Acts.  
No. 17 of 1902, s. 78.

**77.** 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.

## THE SCHEDULE.

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Bounded by lines starting from the intersection of the West side of the Breakwater with the sea coast at Casuarina Point and extending North-Easterly along said side of Breakwater and onwards to the South-West corner of Leschenault Location 24; thence South-Westerly and Westerly along the Eastern and Southern shores of Koombana Bay to Point Macleod at the entrance to Leschenault Estuary; thence Easterly and North-Easterly along the Northern and North-Western Shores of Leschenault Inlet to a point North of the right bank of the Preston River at its mouth; thence South to the said right bank; thence Westerly, South-Westerly, and Westerly following the Eastern and Southern Shores of the Leschenault Estuary aforesaid and the Western Shore of Koombana Bay to the shore end of the jetty; and thence North-Westerly along the sea coast to the starting point. Section 2.