

WESTERN AUSTRALIA.



ANNO SEXTO

EDWARDI SEPTIMI REGIS,

XXXV.

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**No. 35 of 1906.**

AN ACT to amend the Fremantle Harbour  
Trust Act, 1902.

[Assented to 14th December, 1906.]

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 *Fremantle Harbour Trust* Short title.  
*Amendment Act*, 1906, and shall be read as one with the Fremantle  
Harbour Trust Act, 1902, hereinafter referred to as the principal  
Act.

2. Section seventeen of the principal Act is hereby amended by Amendment of  
omitting the word “half-yearly,” and inserting “yearly” in place 2 Edw. VII., No. 17,  
thereof. s. 17.

3. Section twenty-five of the principal Act is hereby amended Amendment of s. 25.  
by adding a proviso as follows:—

“Provided that the completion and extension within the Harbour extensions.  
harbour of harbour works may, with the approval of the  
Governor, be undertaken by the Commissioners, who shall  
be deemed a local authority within the meaning of the  
Public Works Act, 1902.

“The term ‘Harbour Works’ in this proviso includes any pier, quay, wharf, jetty, bridge, viaduct, embankment, or dam, or any reclamation of land from the sea, or river, or excavation, deepening, dredging, or widening of any channel, basin, or other part of the harbour :

“Provided also, that the total cost of any one of the undertakings by the Commissioners shall not exceed two thousand pounds.”

Repeal of s. 26.

4. Section twenty-six of the principal Act is hereby repealed, and a section is inserted in place thereof as follows:—

Roadways and approaches.

“26. The Commissioners—

(a.) may make and maintain roads and approaches to all wharves, docks, piers, jetties, landing stages, slips, platforms, depôts, and sheds that are now or may hereafter be erected on the lands vested in them; and

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

(c.) shall cause such wharves, docks, piers, jetties, landing stages, slips, platforms, depôts, and sheds, and the roads and approaches thereto, to be well and sufficiently lighted; but a breach of the duty imposed by this subsection shall not confer a right of action on any person who may suffer damage therefrom; and

(d.) may provide such depôts 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 they may think expedient for the trade of the port, and may make reasonable charges for the use of any such depôts, sheds, engines, cranes, hoisting and weighing machines, and such other apparatus and conveniences.”

Commissioners may provide labourers, etc., for working cargo.

5. [31.] The Commissioners may provide servants and labourers for loading and unloading goods on the wharves vested in the Commissioners, and for working cranes, weighing machines, or other machines and conveniences erected or provided by the Commissioners for such purpose.

Damage to cables.

6. [38.] If any damage is done to any submarine cable, the property of or vested in the Commissioners, 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 Commissioners 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.

7. Section forty-two of the principal Act is hereby amended by adding the following words:—"or the Commissioners 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 Commissioners."

Amendment of  
s. 42.

8. [43.] (1.) The Commissioners may, from time to time, make regulations providing that harbour improvement rates, not exceeding in any case one shilling per ton by weight or by measurement as shall be expressed in such regulations, shall be levied upon all goods discharged at or shipped from the harbour.

Power to levy har-  
bour improvement  
rates.

N.Z. 1878, No. 35,  
s. 216.

(2.) In and by such regulations the Commissioners may provide for the manner of levying and collecting such rates, and by whom the same shall be paid, and in what manner the same shall be paid to any authorised officer of the Commissioners or other person authorised by the Commissioners in that behalf.

9. Section fifty-four of the principal Act is amended by adding the words "and of a fund for the replacement of depreciating property."

Amendment of sec-  
tion 54.

10. [55.] If in the opinion of the Governor the Commissioners 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 Commissioners, including interest and contribution to the sinking fund, in respect of the value of the property vested in and charged against them under sections fifty-six and fifty-seven, 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 Commissioners to impose and collect such dues and charges in accordance with such revision until the Governor shall otherwise order.

Power to Governor  
to revise harbour  
dues.

11. Section fifty-six of the principal Act is hereby repealed, and a section is inserted in place thereof, as follows:—

Amendment of  
s. 56.

"[60.] The Commissioners 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 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 Commissioners under this Act.”

Amendment of  
s. 57.

**12.** Section fifty-seven of the principal Act is amended by striking out the words “twice in” and the words “and the thirty-first day of December.”

Accounts to be  
audited.

**13.** [63.] (1.) The Commissioners 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.

(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 respects to such accounts, have all the powers conferred on him by the Audit Act, 1904, and any amendment thereof.

Amendment of  
s. 59.

**14.** Section fifty-nine of the principal Act is hereby repealed, and a section is inserted in place thereof as follows:—

Copies of accounts  
as audited to be  
furnished.

“[64.] The Commissioners 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 then sitting, at the next ensuing session thereof.”

Amendment of  
s. 60.

**15.** Section sixty of the principal Act is hereby amended by the insertion of subsections as follows:—

Limitation of  
liability.

(39.) Limiting the liability of the Commissioners for goods deposited, stored, in transit, warehoused, landed, lodged, or left on any part of the property of the Commissioners, including all wharves and sheds, in case of damage to or loss of such goods from any cause whatever.

- (40.) Limiting the amount of liability on each package of goods coming into the custody of the Commissioners and enabling the Commissioners to rely upon, and the owner of goods to be bound by all statements, exceptions, and conditions indorsed on ships' receipts, bills of lading, or ships' manifests for goods, as to declarations of value.
- (41.) Providing that in any case of discharge and landing of goods outside what may be fixed by the Commissioners as the ordinary working hours of the harbour, the Commissioners shall not be liable to any person for the condition of such goods.
- (42.) Providing that the Commissioners shall in no case be liable for the contents of packages of goods which are so packed or secured that the contents are not plainly visible, or the character thereof not ascertainable on receipt of the goods without the goods being unpacked or opened.
- (43.) Exempting the Commissioners from liability for damage to goods caused or contributed to by insufficient protection or packing.
- (44.) Exempting the Commissioners from liability for damage to or loss of goods which may have been delivered on their premises, but for which the Commissioners or their servants have not given a receipt.
- (45.) Exempting the Commissioners from liability for damage suffered by any person in consequence of delay in, or the wrongful delivery of goods.
- (46.) Exempting the Commissioners from liability for damage to goods if landed or otherwise handled in wet weather, and authorising the wharf manager to decide in his absolute discretion when the weather is wet.
- (47.) Limiting the time within which claims in respect of goods damaged or lost must be made against the Commissioners, and exempting the Commissioners from liability in case claims are not made in accordance with such regulations.
- (48.) Regulating the working and the provision of servants and labourers for the working of cranes, weighing machines, and other machines and conveniences erected or provided by the Commissioners for use in the loading and unloading of goods on any of the wharves of the Commissioners, and prescribing the rates or charges for the same, and for the handling and storing of goods.

Loading and unloading.

Licensed boatmen,  
etc.

(49.) Regulating the charges to be made by licensed boatmen, porters, and other carriers.

(50.) Prohibiting persons from acting as boatmen plying for hire, 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 Commissioners, 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 Commissioners.

Weight and  
measurement.

(51.) Authorising and empowering the Commissioners, 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 harbour dues, wharfage, and handling and storage charges.

Speed of vessels.

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

And by adding to subsection thirty the following words:—

Provided that every exemption certificate shall be revocable in the absolute discretion of the Commissioners.

And by striking out the words “a copy” in subsection thirty-five, and inserting in place thereof the words “as many copies as may be required by the Commissioners,” and by adding to the subsection the words “and as many copies as may be required by the Commissioners of all alterations in or additions to such bill of lading, manifest, or other proper account.”

Amendment of  
s. 63.

**16.** The word “*Offences*,” as the headline to section sixty-three, is struck out, and the word “*Miscellaneous*” inserted in place thereof.

Municipal Council  
may make by-laws  
under 64 Vict., No.  
8, s. 167 (35).

**17.** [68.] It shall be lawful for the Councils of the Municipalities of Fremantle, East Fremantle, and North Fremantle, with the approval of the Commissioners, to make by-laws under subsection thirty-five of section one hundred and sixty-seven of the Municipal Institutions Act, 1900, or the corresponding provisions of any Act amending the same, having the force of law within the boundaries of the harbour; and for such purpose the harbour shall be deemed to be within the respective municipal districts to such extent as may be prescribed by such by-laws.

Provided that such by-laws may from time to time be altered, amended, or repealed by the Governor.

18. [69.] 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.

Provision for  
Sundays and holi-  
days.

19. [70.] 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.

Governor may  
rectify irregulari-  
ties.

20. [86.] 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 Commissioners.

Police officers to  
report breaches of  
Act.

21. All copies of the principal Act hereafter printed by the Government Printer shall be printed as amended by this Act, under the supervision of the Clerk of the Parliaments, and reference shall be made in the margin of the principal Act to the sections of this Act by which such amendments are made.

Manner of showing  
amendments.

The remaining sections of this Act shall be inserted in the principal Act, and when so inserted shall respectively bear the numbers set against each of them in brackets, and the sections of the principal Act, so far as necessary, shall be renumbered under the like supervision.