

Approved for Reprint 11th August, 1976.

WESTERN AUSTRALIA.

JETTIES.

17° GEO. V., No. XLV.

No. 45 of 1926.

(Affected by Act No. 38 of 1928, s. 2, and No. 113 of 1965, s. 8.)

[As amended by Acts:

No. 33 of 1957, assented to 5th November, 1957;

No. 30 of 1965, assented to 21st October, 1965;

No. 5 of 1976, assented to 25th May, 1976;

No. 12 of 1976, assented to 27th May, 1976,

and Reprinted pursuant to the Amendments Incorporation Act, 1938.]

AN ACT to provide for the Construction, Maintenance, and Preservation of Jetties and other works, and to make better provision for securing and regulating the use and management thereof.

[Assented to 23rd December, 1926.]

Be it enacted—

1. This Act may be cited as the *Jetties Act, 1926-1976.*

Short title.
Amended by
No. 12 of 1976,
s. 12.

2. The Jetties Regulation Act, 1878, and the Jetties Regulation Act Amendment Act, 1912, are hereby repealed.

Repeal of
Acts 42 Vic.,
No. 18, and
49 of 1912.

3. In this Act, subject to the context—

Definitions.

“Department” means the department concerned, subject to the control of the Minister, with the administration of this Act.

“Government” means Her Majesty’s Government of Western Australia.

“Jetty” means any jetty, pier, wharf, grid, slip, or landing place.

“Local Authority” means a municipality and the council thereof or a road board.¹

“Officer” means an officer of the department.

“Private Jetty” means a jetty used and maintained by any person not being a person representing or acting on behalf of the Government.

“Public Jetty” means any jetty the property of Her Majesty or vested in any person on behalf of Her Majesty.

“Vessel” includes any ship, lighter, barge, boat, raft, or craft of whatsoever description and howsoever navigated.

Power to
make
Regulations.
Amended
by No. 30 of
1965, s. 2;
No. 5 of
1976, s. 2;
No. 12 of
1976, s. 13.

[Cf. 42 Vic.,
No. 18, sec. 3,
and No. 17
of 1902,
s. 65.]

4. The Governor may make regulations for the management, use, maintenance, and preservation of all jetties, and may by regulations prescribe all such matters as by this Act are required or permitted to be prescribed or as it may be necessary or convenient to prescribe for the purposes of this Act, and without prejudice to the generality of the foregoing provision it is hereby declared that regulations may provide for—

- (1) regulating and appointing and empowering officers to regulate and appoint the manner, times, places, and order of mooring and fastening vessels at public jetties, and of loading, unloading, handling, warehousing, storing, and depositing goods at, from, or on public jetties or any premises appurtenant thereto or used in connection therewith;
- (1a) relating to the special precautions and measures to be taken in relation to the landing, shipping, trans-shipping, deposit,

¹Now Council of a Shire; see Local Government Act, 1960, s. 4 (3).

removal and keeping of flammable liquids, gunpowder and other explosive substances, or other dangerous goods at, on or from jetties or any premises appurtenant thereto or used in connection therewith;

- (2) regulating and empowering officers to regulate the landing and embarking of passengers and the taking in and delivery of ballast at, on, or from public jetties;
- (3) the appointment of persons to preserve order on jetties, the regulation of the traffic thereon, and prescribing the means of transport to be used thereon;
- (4) the regulation of the use on jetties of cranes and other conveniences belonging to the Government;
- (5) the cleansing, repair, maintenance, and preservation of jetties;
- (6) requiring consignees, consignors, and others desiring to land or load cargo at any port to make use of a public jetty when such jetty is available;
- (7) imposing on the master of every vessel moored at any public jetty or in connection with which a public jetty is made use of an obligation—
 - (a) to report his arrival to an officer within a specified time;
 - (b) to produce the vessel's certificate of registry to any officer on demand;
 - (c) to give an officer a true and complete copy of the manifest of the cargo or other complete inventory of all goods intended to be unshipped or landed, together with the names of the respective consignees thereof;
 - (d) to give an officer the prescribed notice of the intended time of unloading;

Jetties.

- (8) imposing on intending shippers of goods from any public jetty an obligation to furnish to an officer full and true accounts of the goods intended to be shipped;
- (9) the imposition, fixing, levying, collection, and payment of—
 - (a) berthing dues;
 - (b) wharfage dues;
 - (c) handling charges;
 - (d) storage charges;
 - (e) charges for the use of cranes;
 - (f) haulage charges; and
 - (g) other charges—

for the use of public jetties or in respect of goods loaded, carried, or stored on or from any jetty or on, in, or from any premises appurtenant thereto, or in respect of any incidental services rendered by the department or any officer;
- (10) defining and limiting the liability of the Government in respect of goods landed, discharged, deposited, stored, carried, or left on or in any public jetty or any premises appurtenant thereto or used in connection therewith, or loaded or shipped by the department from any jetty or any such premises as aforesaid;
- (11) exempting the Government from liability for or in respect of—
 - (a) damage to any such goods as aforesaid caused or contributed to by insufficient protection or packing;
 - (b) damage to or loss of any such goods for which no receipt has been given by the department;
 - (c) damage to or loss of any such goods in any case in which no claim in respect thereof has been made within the prescribed time;

- (12) prescribing the times within which claims must be made against the Government or the department;
- (13) prescribing the conditions to be inserted in any lease granted under this Act;
- (13a) prescribing the fees to be payable for any license granted under this Act;
- (14) the suspension or cancellation of licenses granted under this Act;
- (15) the imposition of a penalty not exceeding two hundred dollars for any contravention, by act or omission, of any regulation.

4A. Any regulations made under this Act may—

Adoption
of rules,
codes, etc.
Added by
No. 12 of
1976, s. 14.

- (a) adopt, either wholly or in part or with modifications and either specifically or by reference, any rules, regulations, codes, instructions or other subordinate legislation made, determined or issued under any other Act or under any Act of the Parliament of the Commonwealth or the United Kingdom, or any of the standards, rules, codes or specifications of the bodies known as the Standards Association of Australia, the British Standards Institution, The Association of Australian Port and Marine Authorities, or other like body specified in the regulations; and
- (b) provide that where by reason of unavailability of materials or other reason that the department considers valid any requirement adopted by the regulations cannot be conformed to, the department may approve such use of materials or other matters as it considers to be consistent with the achievement of the objects of the regulations.

Application
of
regulations
under this
Act.
Amended
by No. 33
of 1957,
s. 2.
[Cf. 42 Vic.
No. 18, s. 3;
No. 32 of
1906,
s. 179 (33)
(d).]

5. (1) Regulations made under this Act—
- (a) may be general or restricted in their application, and may be limited to any particular jetty or work;
 - (b) may be declared to be applicable and shall then apply to jetties under the control of any local authority, but subject to any by-law made pursuant to the Municipal Corporations Act, 1906,¹ or the Road Districts Act, 1919,¹ and for the time being in operation;
 - (c) shall not, except where subsections (2), (3) and (4) of this section provide otherwise, apply to jetties forming part of any Government railway or under the control of the Commissioner of Railways;
 - (d) except as in this section otherwise provided, shall not, unless made pursuant to the power defined in paragraphs 3, 4, 5, 13, 14, or 15 of section four, apply to private jetties;
 - (e) shall not apply to any jetty or work under the control of the commissioners of a harbour trust or members of a harbour board.

(2) Where the Governor, as he is hereby empowered to do by Order in Council, declares regulations made under this Act to apply to any jetty referred to in paragraph (c) of subsection (1) of this section, regulations made under this Act, whether before or after the coming into operation of the Jetties Act Amendment Act, 1957, shall apply in respect of the jetty accordingly.

(3) Where a regulation made before the coming into operation of the Jetties Act Amendment Act, 1957, purports to apply to any jetty referred to in paragraph (c) of subsection (1) of this section, if after the coming into operation of that Act an Order in Council is made under subsection (2) of this section applying the regulation to the jetty, the Order in Council shall be deemed to have been

¹Repealed by Local Government Act, 1960.

effective immediately prior to the making of the regulation, and anything done in pursuance or purported pursuance of the regulation shall be deemed to have been validly done and is hereby confirmed.

(4) The Order in Council published in the *Gazette* of the fourteenth day of December, one thousand nine hundred and fifty-one, purporting to apply regulations made under this Act to the public jetty at Port Hedland is hereby validated and confirmed.

Cf. Gazette,
14/12/1951,
p. 3387.

6. (1) The Governor may authorise the Minister to—

Construction
of jetties.

- (a) undertake, construct, and provide any jetty;
- (b) acquire any private jetty from any person who is entitled thereto;
- (c) lease, close, or remove any public jetty.

(2) The provisions of the Public Works Act, 1902, shall apply to the acquisition of any jetty under this Act as if it were land required for a public work, and compensation shall be claimable, payable, and assessed in respect thereto as in that Act provided and not otherwise.

7. The Minister may grant a license on such terms and conditions as he thinks fit to any person for the erection or construction of a jetty or for the maintenance and use of any jetty.

Power to
grant
licenses.
Amended by
No. 30 of
1965, s. 3.

8. No private jetty shall hereafter be constructed except pursuant to a license granted under this Act, and no jetty, whether constructed before or after the commencement of this Act, shall hereafter be used or maintained as a private jetty except pursuant to a lease or license granted under this Act.

Private
jetties, not
to be
maintained
except
pursuant to
license or
lease.
Amended by
No. 113 of
1965, s. 8.

Penalty: Forty dollars, or a daily penalty of two dollars.

Regulations regarding buoys. Amended by No. 5 of 1976, s. 3.

9. The Governor may make such regulations as he may judge necessary to secure due provision of buoys and the preservation and proper management, use, and maintenance of buoys, and may impose a penalty not exceeding two hundred dollars for the breach of any such regulation: Provided that this section shall not apply to buoys under the control of the commissioners of a harbour trust or members of a harbour board.

Fires not to be allowed near public jetties. Amended by No. 113 of 1965, s. 8. [Cf. 42 Vic., No. 18, s. 4.]

10. No person shall light, place, or keep a fire upon or so near as to endanger any public jetty which is constructed wholly or in part of wood.

Penalty: Forty dollars.

Vessels, etc., not to be fastened to public buoys. Amended by No. 113 of 1965, s. 8. [*Ibid.*, s. 5.]

11. No person shall make fast any vessel, raft, or timber or other thing to any public buoy (not being a warping buoy), beacon, river or sea mark, fender, or other piling.

Penalty: Forty dollars.

Responsibility for injuries to jetties. Amended by No. 5 of 1976, s. 4. No. 49 of 1912.

12. (1) Where any injury is done by a vessel to any public jetty or bridge—

(a) the owner of such vessel, and

(b) in case the injury is caused through the wrongful act or negligence of the master of such vessel, the master also,

shall be answerable in damages to Her Majesty for the injury.

(2) The Governor may make regulations under this Act for the prevention of such injury to any public jetty or bridge, and may impose a penalty not exceeding two hundred dollars for the breach of any such regulations.