

Western Australia

Shipping and Pilotage Act 1967

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Shipping and Pilotage Act 1967

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Shipping and Pilotage Act 1967

An Act relating to shipping and pilotage in and about the ports, fishing boat harbours and mooring control areas of the State; to repeal the *Shipping and Pilotage Act 1855* and the *Ports and Harbours Act 1917*; and for incidental and other purposes.

[Long title amended by No. 88 of 1978 s. 3.]

1. Short title

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

2. Repeal

- (1) The *Shipping and Pilotage Act 1855* is repealed.
- (2) The *Ports and Harbours Act 1917* is repealed.
- (3) Without affecting the application of the *Interpretation Act 1984* in relation to the repeal effected by subsection (1), the provisions of section 36 of that Act apply in relation to —
 - (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*, and in force, or in operation, or in existence, as the case may be, at the commencement of this Act¹.

3. Interpretation

In this Act, unless the contrary intention appears —

controlling authority, when used in relation to a fishing boat harbour or a mooring control area, means the body corporate or the Department, as the case may be, specified as the controlling authority of the fishing boat harbour or mooring control area pursuant to section 10(2);

Department means the department of the Public Service principally assisting the Minister in the administration of this Act;

fishing boat harbour means any place for the time being declared to be a fishing boat harbour pursuant to section 10(2);

harbour master means a harbour master appointed under section 4 for any port and includes a person for the time being carrying out the duties of that harbour master during any absence, illness or incapacity of that harbour master;

mooring control area means any place for the time being declared to be a mooring control area pursuant to section 10(2);

port means any place for the time being declared to be a port by or under section 10.

[Section 3 amended by No. 88 of 1978 s. 4; No. 26 of 1984 s. 3; No. 46 of 1993 s. 42; No. 47 of 1993 s. 29; No. 5 of 1999 s. 21 and 24(2).]

4. Appointments

The Governor may appoint —

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

5. Powers and duties of harbour masters

- (1) The harbour master of any port may —
 - (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;
 - (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; and
 - (e) control the movement of vessels in a prescribed control area outside the port.
- (2) Where a harbour master has removed wreckage pursuant to subsection (1)(d), 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 28 days of the service on him of a notice under subsection (2) 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, credited to the Consolidated Account.
- (4) In this section *wreckage* means any cargo, sunken hull or vessel, article or thing, other than a vessel that is afloat.

[Section 5 amended by No. 65 of 1988 s. 4; No. 6 of 1993 s. 11; No. 49 of 1996 s. 64; No. 77 of 2006 s. 4.]

6. Removal of unseaworthy vessels

- (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 —
- (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), as is specified in the notice.

- (2) Where the terms of a notice given under subsection (1) 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. Special powers of harbour master in emergencies

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

8. Conservancy dues

- (1) Subject to subsection (2), by and to section 12, there are 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).

[Section 8 amended by No. 88 of 1978 s. 5; No. 46 of 1993 s. 43; No. 5 of 1999 s. 24(3) and (4).]

9. Pilotage charges

- (1) Subject to subsection (2) and section 12, pilotage charges as prescribed are payable for the use of pilotage facilities by a vessel within a port or a prescribed pilotage area outside a port.
- (2) The regulations may —
 - (a) provide that, except as otherwise provided by the regulations, the use of pilotage facilities within a port and a prescribed pilotage area outside a port is compulsory;
 - (b) provide for the issue of pilotage exemption certificates to masters who hold the prescribed qualifications and —
 - (i) prescribe the privileges that, except as otherwise expressly provided therein, are conferred by, and the duration of, a pilotage exemption certificate;
 - (ii) make provision for a pilotage exemption certificate to be subject to such conditions as may be specified therein and such other conditions (if any) as may be prescribed;
 - (iii) provide for the renewal, surrender, cancellation, and suspension of a pilotage exemption certificate and the making thereon, at the time of its issue or renewal or at any other time, of an endorsement imposing conditions on or extending the privileges attaching to that certificate;
 - (iv) provide for the examination and testing of persons applying for the issue or renewal of a pilotage exemption certificate, or the making or variation of an endorsement thereon or the removal of an endorsement therefrom;
 - (v) prescribe the matters in relation to which a fee shall be payable and the amount of any such fee;

- (c) provide for exemptions from the requirement to pay pilotage charges and for any such exemption to be according to the class of vessel or circumstance;
- (d) provide for the payment by the owner of the vessel concerned of prescribed charges in respect of the detention of a pilot in quarantine or otherwise and of such incidental expenses as are prescribed;
- (e) provide for the payment —
 - (i) where a person fails to comply with a requirement of the regulations to use pilotage facilities; or
 - (ii) where a person who, not being required to use pilotage facilities by reason of his being the holder of a pilotage exemption certificate, fails to comply with a requirement of the regulations relating to the use of that certificate,
of the pilotage charges that would have been payable had pilotage facilities been used for the movement in respect of which the failure occurred.

[Section 9 amended by No. 88 of 1978 s. 6; No. 26 of 1984 s. 4; No. 65 of 1988 s. 5.]

9A. Fishing boat harbour dues and mooring charges

- (1) Subject to subsection (2), there are payable at such intervals as are prescribed to the controlling authority of —
 - (a) a fishing boat harbour in respect of each fishing boat using —
 - (i) the facilities of the fishing boat harbour fees, known as fishing boat harbour dues; and
 - (ii) mooring pens within the fishing boat harbour fees, known as mooring charges;
- or

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- (b) a mooring control area in respect of each boat using a mooring site within the mooring control area fees, known as mooring charges,

at such rates as are prescribed.

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

[Section 9A inserted by No. 88 of 1978 s. 7.]

10. Declaration of ports

- (1) Every port specified in the Schedule continues and is declared to be a port for the purposes of this Act and shall be —

- (a) known by the name; and
- (b) bounded by the limits,

specified in the Schedule in relation to that port.

- (2) The Governor may by proclamation —

- (a) declare any place described in the proclamation to be a port, fishing boat harbour or mooring control area for the purposes of this Act;
- (b) vary the boundaries of a place declared to be —
 - (i) a port by subsection (1); or
 - (ii) a port, fishing boat harbour or mooring control area under this subsection,

or declare a port referred to in subparagraph (i) or a port, fishing boat harbour or mooring control area referred to in subparagraph (ii) to be no longer a port, fishing boat harbour or mooring control area, as the case may be, for the purposes of this Act;

- (ba) in relation to a fishing boat harbour or mooring control area, specify a body corporate or the Department as the controlling authority of the fishing boat harbour or mooring control area; or

- (c) vary or revoke any proclamation made under this section.
- (3) Notwithstanding any other provision of this Act —
- [(a) deleted]*
 - (b) the Governor may by proclamation declare that such of the provisions of this Act as are specified in the proclamation do not apply to a port, fishing boat harbour or mooring control area;
 - (c) the regulations in force under this Act apply in respect of any port, fishing boat harbour or mooring control area referred to in a proclamation made under paragraph (b), only insofar as they relate to a provision of this Act that is applicable in respect of that port, fishing boat harbour or mooring control area.

[Section 10 amended by No. 88 of 1978 s. 8; No. 38 of 1983 s. 3²; No. 26 of 1984 s. 5; No. 39 of 1985 s. 101; No. 46 of 1993 s. 44.]

11. Offences

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;
- (b) unlawfully interferes with any mooring, beacon, buoy, light or other port, fishing boat harbour or mooring control area facility; or
- (c) deposits or removes earth or spoil within a port, fishing boat harbour or mooring control area beneath high water mark,

commits an offence.

Penalty: \$200.

[Section 11 amended by No. 88 of 1978 s. 9.]

12. Regulations

- (1) 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, gunpowder and other explosive substances, or other dangerous goods and enabling the Minister to specify substances that, in addition to those identified in the regulations, are dangerous goods for the purposes of the regulations;
 - (b) prescribing tide signals and other signals to be used in ports, fishing boat harbours or mooring control areas;
 - (ba) relating to the ascertainment of the tonnage of any vessel;
 - (bb) relating to the provision within a mooring control area of mooring sites and the hire, sale or free allocation thereof to the owners of boats, to the registration of mooring sites and of all or any of the boats using the same, to the supervision of mooring sites and to the maintenance and use thereof by the owners or users of boats, to the maintenance of safe and unimpeded navigation within a mooring control area, to the regulation or prohibition of the use by owners or users of boats of mooring sites hired, sold or allocated to other persons and to the control, with the approval of the Department and of any body corporate having an interest in or right over the whole or any part of the mooring control area concerned, of changes in, or the development of, mooring sites within that mooring control area;
 - (c) requiring persons to comply with directions given or requirements made under the authority of those regulations and providing, where a person fails to

comply with such a direction or requirement, for measures to be taken at the risk and expense of that person for achieving the purposes of the direction or requirement;

- (d) empowering persons authorised in that behalf in accordance with the regulations to board vessels and enter places for the purposes of enforcing this Act and take such other action as appears to them appropriate for the purposes of this Act.

(1a) Regulations referred to in subsection (1)(ba) —

[(a), (b) and (c) deleted]

- (d) may authorise the calculation or determination of tonnage —
 - (i) by measurement;
 - (ii) by estimation; or
 - (iii) by reference to information appearing in the certificate of registry or certificate of tonnage of a vessel or in any specified record or publication,or partly by one of the methods referred to in subparagraphs (i) to (iii) and partly by either or both of the other 2 methods;
- (e) may make provision concerning the spaces, whether covered or closed or not, to be included and the spaces to be excluded in the ascertainment of the tonnage of any vessel and may prescribe the method by which any space to be included or excluded is to be calculated;
- (f) may confer power on an authorised person —
 - (i) to board, inspect, measure or survey the whole or any part of a vessel, or any goods therein or thereon;
 - (ii) to detain a vessel;

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- (iii) to require the unshipment of any goods in or on a vessel at the expense and risk of the owner of those goods,
for the purpose of ascertaining the tonnage of the vessel or enabling that tonnage to be ascertained;
 - (g) may exempt the responsible authority concerned and any authorised person from liability for any loss or damage occasioned by any act done in good faith pursuant to powers conferred by those regulations;
 - (h) may require the owner or master of a vessel to produce the certificate of registry, and any certificate of tonnage, of the vessel if and when requested to do so by an authorised person;
 - (i) may require the owner, master or agent of a vessel, upon request by an authorised person, to afford all necessary facilities to enable the vessel or any goods therein or thereon or both the vessel and those goods to be inspected, measured or surveyed for the purpose of ascertaining the tonnage of the vessel.
- (1b) In subsection (1a) —
 - authorised person** means an officer or person appointed by the responsible authority concerned to ascertain the tonnage of vessels generally or to ascertain the tonnage of a particular vessel;
 - specified** means specified in regulations referred to in subsection (1)(ba).
- (2) Regulations made under this Act may —
 - (a) create offences and provide, in respect of an offence so created, for the imposition of a penalty consisting of a fine not exceeding \$2 000 with or without imprisonment for a term not exceeding 12 months;
 - (b) provide that a person committing an offence referred to in paragraph (a), in addition to suffering any penalty

- imposed under those regulations, is liable to pay to the Crown all expenses incurred by reason of the commission of that offence, and make provision for the recovery of those expenses from that person in a court of competent jurisdiction as a debt due to the Crown;
- (c) 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 Standards Australia, the British Standards Institution, The Association of Australian Port and Marine Authorities or other body specified in those regulations;
 - (d) provide that if by reason of unavailability of materials or for any other reason that the responsible authority considers valid any requirement adopted by those regulations cannot be conformed to, the responsible authority may approve such use of materials or other matters as it considers to be consistent with the achievement of the objects of those regulations;
 - (e) be of general application or may be limited in their application according to time, place, or circumstance;
 - (f) make different provision for different classes of vessels or for the same class of vessels in different circumstances;
 - (g) make the application of any provision of the regulations dependent on compliance with specified conditions, to be evidenced in a specified manner;
 - (h) apply according to an approval or other administrative decision of a specified person or body notwithstanding that such approval or other decision may not have been, or may not have been primarily, given or made for the purposes of this Act;

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- (i) require a matter affected by them to be in accordance with a specified requirement, or as approved by, or to the satisfaction of, a specified person or body, or class of person or body, and delegate to or confer on a specified person or body, or class of person or body, a discretionary authority;
 - (j) exempt, or provide for the exemption of, persons or things from the provisions of those regulations, or any of them, and impose, or provide for the imposition of, conditions on any such exemption;
 - (k) require any matter or thing to be verified by statutory declaration.
- (3) In subsection (2) —
responsible authority means the Department;
specified means specified in the regulations.

[Section 12 amended by No. 12 of 1976 s. 19; No. 88 of 1978 s. 10; No. 26 of 1984 s. 6; No. 5 of 1999 s. 24(5); No. 74 of 2003 s. 110.]

Schedule

[Section 10]

Boundaries of Ports of Western Australia*Augusta*⁴

All that portion of water bounded by lines starting at the high water mark of Flinders Bay at the southern extremity of Ledge Point and extending south westerly to the high water mark at the northern extremity of St. Alouarn Island; thence north westerly to the high water mark at the northern extremity of Seal Island; thence northerly to the high water mark of Flinders Bay at the southern extremity of Point Matthew and thence generally north easterly along that mark to the starting point.

*Balla Balla*⁴

All that portion of water situate north-westerly of the high water mark of the Indian Ocean and contained within an arc of a circle having a radius of 8 nautical miles from the intersection of the prolongation northerly of the centre line of Walch Street (Balla Balla Townsite) with the high water mark of the Indian Ocean.

Barrow Island

All that portion of water situate east of the high water mark of the Indian Ocean on the eastern shore of Barrow Island and contained within the arc of a circle having a radius of 7 nautical miles from the intersection of latitude 20° 46' 50"S with 115° 27' 54"E.

Carnarvon

All that portion of water bounded by a line due west for 4 nautical miles from a point on the mainland in latitude 24° 10'S and longitude 113° 26' 45"E and thence in a south-southwest direction to Cape Ronsard at the north end of Bernier Island; then by the western shores of Bernier and Dorre Islands to Cape Saint Cricq; then by a straight line to Cape Inscription at the north end of Dirk Hartog Island and by its western shore to Surf Point, thence by a straight line to Steep Point on the mainland, and from thence by the coastline to the starting point at latitude 24° 10'S longitude 113° 26' 45"E and including all those waters of the Carnarvon Fishing Boat Harbour inside of Mangrove Point.

Schedule

Derby

All that portion of water bounded by lines starting at the intersection of the prolongation south-westerly of a line joining the summit of Saddle Hill and the high water mark at the eastern extremity of Valentine Island with the high water mark of the western shore of King Sound and extending generally south-easterly, generally northerly, again generally south-easterly, again generally northerly and generally north-westerly along that mark to a line joining the summit of Saddle Hill and the high water mark at the eastern extremity of Valentine Island and thence south-westerly along that line and onwards to the starting point.

*Dongara*⁴

All that portion of water situate west of the high water mark of the Indian Ocean and contained within an arc of a circle having a radius of 0.75 nautical miles from the rear beacon (obelisk) within Port Denison Lot 155.

Emu Point Fishing Boat Harbour — Albany

All that portion of water shown bordered red on Lands and Surveys¹¹ Miscellaneous Diagram 73.

Fremantle Fishing Boat Harbour

All that portion of water that lies within the area shown bordered red on Lands and Surveys¹¹ Miscellaneous Plan 1464.

Maud Landing

All that portion of water bounded by lines starting at the high water mark of the Indian Ocean at the western extremity of Point Maud and extending west 3 nautical miles; thence north 9 nautical miles; thence east to the high water mark of the Indian Ocean and thence generally south-westerly along that mark to the starting point.

*Onslow*⁵

All that portion of water bounded by lines starting from the high water mark of the Indian Ocean at the northern extremity of Entrance Point and extending north-westerly to the high water mark of the Indian Ocean at the southern extremity of Ashburton Island; thence north-easterly to the high water mark of the Indian Ocean at the southern extremity of Direction Island; thence south-easterly to the high water mark of the Indian Ocean at the eastern extremity of Coolgra Point and thence generally westerly along that mark to the

starting point but including all the waters of those rivers and creeks abutting the area.

*Perth*⁶

All that portion of water bounded by lines starting at the intersection of the high water mark of the right bank of the Swan River with the south-western side of the north-western section of the Causeway and extending south-easterly along that side to the high water mark of Heirisson Island; thence generally south-westerly, generally south-easterly and generally north-easterly along that mark to the south-western side of the south-eastern section of the Causeway; thence south-easterly along that side to the high water mark of the left bank of the Swan River; thence generally south-westerly, generally north-westerly and generally southerly downwards along that mark and generally southerly upwards along the high water mark of the right bank of the Canning River to the north-western side of Canning Bridge; thence south-westerly along that side to the high water mark of the left bank of the Canning River; thence generally north-westerly downwards along that mark and generally westerly, generally south-westerly, generally north-westerly, again generally south-westerly, again generally north-westerly and again generally south-westerly downwards along the high water mark of the left bank of the Swan River to the western side of Fremantle Bridge (Traffic); thence northerly along that side to the high water mark of the right bank of the Swan River; thence generally north-easterly, generally south-easterly, again generally north-easterly, again generally south-easterly, generally easterly and again generally south-easterly upwards along that mark to the starting point.

*Point Cloates*⁴

All that portion of water situate west of the high water mark of the Indian Ocean and contained within an arc of a circle having a radius of 12 nautical miles from the intersection of latitude 22° 35'S and longitude 113° 41'E.

*Port of Jurien*⁷

All the waters below high water mark bounded by lines drawn from a point starting about 100 metres, on a bearing of 183° 59', from the Department of Marine and Harbours Trig Station "P.W.D. Bartle" at North Head and continuing on bearing 183° 59' towards Escape Island Navigation Light Tower and a distance of about 10.5 kilometres to the point of intersection with the western prolongation of the northern boundary of Victoria Location 9302; then easterly along that prolongation and a distance of about 4.3 kilometres to high water mark; then northwesterly along high water mark to Island Point; then

Schedule

continuing along the high water mark of Jurien Bay and Jurien Boat Harbour back to the start point at North Head; and comprising in all an area of about 45.5 square kilometres.

*Port Walcott*⁸

All that portion of water bounded by a line starting from the north end of Dolphin Island running to the north end of Delambre Island then in a 081° direction to a position in latitude 20° 21.5'S longitude 117° 31.5'E and then due south to meet the high water mark on the shore, then following the high water mark of the shoreline generally in a westerly and northerly direction to Sloping Point; thence generally westerly to the northernmost north-western extremity of Burrup Peninsula; thence north-easterly crossing the western entrance of Boat Passage to the high water mark at the westernmost south-western extremity of Dolphin Island and thence generally easterly and generally north-easterly along the shoreline of that Island to the starting point.

Wyndham

All the waters of Cambridge Gulf seaward of high water mark situate southerly from a line starting from the high water mark at the southern extremity of Cape Dussejour and extending easterly to Trigonometrical Station SO34 on Lacrosse Island and thence south-easterly to the high water mark at the northern extremity of Cape Domett.

Yampi Sound

All that portion of water bounded by lines starting at the intersection of latitude 16° 13' 13"S; with longitude 123° 32' 32"E and extending north 10 nautical miles; thence east 15 nautical miles; thence south to the high water mark of the Indian Ocean; thence generally north-westerly, generally westerly and generally southerly along that mark to latitude 16° 13' 13"S and thence west to the starting point including all the waters of abutting bays and creeks flowing into the area.

[Schedule inserted by No. 38 of 1983 s. 4; amended by No. 46 of 1993 s. 45; No. 5 of 1999 s. 21.]

Notes

- ¹ This is a compilation of the *Shipping and Pilotage Act 1967* and includes the amendments made by the other written laws referred to in the following table ^{1a}. The table also contains information about any reprint.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Shipping and Pilotage Act 1967</i>	17 of 1967	20 Oct 1967	20 Oct 1967
<i>Acts Amendment (Port and Marine Regulations) Act 1976 Pt. VIII</i>	12 of 1976	27 May 1976	27 May 1976
<i>Shipping and Pilotage Act Amendment Act 1978</i>	88 of 1978	8 Nov 1978	Act except s. 3, 4(a) and (c), 7-9, 10(a)(i) and (ii) insofar as it inserts a new paragraph in s. 12(1): 1 Sep 1981 (see s. 2 and <i>Gazette</i> 28 Aug 1981 p. 3553); balance: 28 Nov 1983 (see s. 2 and <i>Gazette</i> 28 Nov 1983 p. 4707)
<i>Shipping and Pilotage Amendment Act 1983</i> ²	38 of 1983	22 Nov 1983	25 Nov 1983 (see s. 2 and <i>Gazette</i> 25 Nov 1983 p. 4706)
<i>Shipping and Pilotage Amendment Act 1984</i>	26 of 1984	31 May 1984	1 Nov 1984 (see s. 2 and <i>Gazette</i> 27 Aug 1984 p. 2632)
Reprint of the <i>Shipping and Pilotage Act 1967</i> approved 9 Nov 1984 (includes amendments listed above)			
<i>Dampier Port Authority Act 1985 s. 101</i>	39 of 1985	20 May 1985	1 Mar 1989 (see s. 2 and <i>Gazette</i> 23 Oct 1987 p. 3937)
<i>Shipping and Pilotage Amendment Act 1988</i> ⁹	65 of 1988	14 Dec 1988	14 Dec 1988 (see s. 2)
<i>Financial Administration Legislation Amendment Act 1993 s. 11</i>	6 of 1993	27 Aug 1993	1 Jul 1993 (see s. 2(1))
<i>Ports (Functions) Act 1993 Pt. 4</i>	46 of 1993	20 Dec 1993	15 Jun 1994 (see s. 2 and <i>Gazette</i> 10 Jun 1994 p. 2373)

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Short title	Number and year	Assent	Commencement
<i>Acts Amendment (Department of Transport) Act 1993</i> Pt. 12	47 of 1993	20 Dec 1993	1 Jan 1994 (see s. 2 and <i>Gazette</i> 31 Dec 1993 p. 6861)
<i>Financial Legislation Amendment Act 1996</i> s. 64	49 of 1996	25 Oct 1996	25 Oct 1996 (see s. 2(1))
<i>Port Authorities (Consequential Provisions) Act 1999</i> s. 21 (Sch. 1-8) and 24	5 of 1999	13 Apr 1999	Sch. 1, 3-8 and s. 24: 14 Aug 1999 (see s. 2 and <i>Gazette</i> 13 Aug 1999 p. 3823); Sch. 2: 1 Jan 2000 (see s. 2(9) and <i>Gazette</i> 24 Dec 1999 p. 6871)
Reprint of the Shipping and Pilotage Act 1967 as at 18 Jan 2002 (includes amendments listed above)			
Reprint 3: The Shipping and Pilotage Act 1967 as at 21 Mar 2003			
<i>Statutes (Repeals and Minor Amendments) Act 2003</i> s. 110	74 of 2003	15 Dec 2003	15 Dec 2003 (see s. 2)
<i>Financial Legislation Amendment and Repeal Act 2006</i> s. 4	77 of 2006	21 Dec 2006	1 Feb 2007 (see s. 2 and <i>Gazette</i> 19 Jan 2007 p. 137)

^{1a} On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.

Provisions that have not come into operation

Short title	Number and year	Assent	Commencement
<i>Shipping and Pilotage Amendment Act 2006</i> s. 3-14 ¹⁰	71 of 2006	13 Dec 2006	To be proclaimed (see s. 2)

² The *Shipping and Pilotage Amendment Act 1983* s. 3(2) reads as follows:

“

- (2) All proclamations made prior to the commencement of this section, under section 10(2) of the principal Act are hereby revoked.

”.

³ The Standards Association of Australia has changed its corporate status and its name. It is now Standards Australia International Limited (ACN 087 326 690). It also trades as Standards Australia.

⁴ The ports of Augusta, Balla Balla, Dongara and Point Cloates were declared by proclamation under s. 10(2) to no longer be ports. See *Gazette* 29 May 1998 p. 2981.

⁵ For variation of Onslow port boundaries see proclamation in *Gazette* 24 Aug 1990 p. 4246-7.

⁶ For variation of Perth port boundaries see proclamation in *Gazette* 13 Jun 1986 p. 1969.

⁷ The port of Jurien was declared by proclamation under s. 10(2) to no longer be a port. See *Gazette* 23 Mar 1989 p. 811.

⁸ For variation of Port Walcott boundaries see proclamation in *Gazette* 17 Nov 1989 p. 4089.

⁹ The *Shipping and Pilotage Amendment Act 1988* s. 6 reads as follows:

“

6. Validation

Any act or other thing done before the day on which this Act comes into operation that would have been lawful had this Act been in force when that act or other thing was done shall be deemed to be and to have been lawfully done and is hereby validated.

”.

¹⁰ On the date as at which this compilation was prepared, the *Shipping and Pilotage Amendment Act 2006* s. 3-14 had not come into operation. They read as follows:

“

3. The Act amended

The amendments in this Act are to the *Shipping and Pilotage Act 1967*.

4. Section 3 amended

Section 3 is amended as follows:

- (a) by inserting in the appropriate alphabetical positions —

“

CEO means the chief executive officer of the Department;

controlled area means an area of water outside a port that is declared under section 10(1c) to be an area in which pilotage services are to be used;

marine safety plan has the meaning given to that term in section 7B(1);

pilotage area means a port or a controlled area;

- ”
”
“
(b) by deleting the definitions of “harbour master” and “port” and inserting instead —

harbour master of a port means —

- (a) a harbour master of the port appointed under section 4; or
(b) an acting harbour master of the port appointed under the *Interpretation Act 1984* section 52(1)(b); or
(c) a deputy harbour master of the port appointed under section 7A when performing a function of the harbour master as authorised by section 7A(2), (3) or (5);

port means an area of water, or land and water, for the time being declared to be a port under section 10(1).
”
”

5. Section 4 replaced

Section 4 is repealed and the following section is inserted instead —
“

4. Appointment of harbour masters

The Minister may, in writing, appoint any person to be the harbour master of a port.
”

6. Section 6 amended

Section 6(4) is amended by deleting “section.” and inserting instead —

“ section or section 5(1)(d) or (3). ”

7. Section 7A inserted

After section 7 the following section is inserted —

“

7A. Deputy harbour masters: appointment and functions

- (1) The Minister may, in writing, appoint any person to be a deputy harbour master of any port.
- (2) If there is one deputy harbour master of a port, the deputy harbour master may perform the functions of the harbour master under this Act during any absence, illness or incapacity of the harbour master.
- (3) If there are 2 or more deputy harbour masters of a port, one of them may if —
 - (a) nominated to do so by the CEO; or
 - (b) authorised to do so under arrangements approved by the CEO,perform the functions of the harbour master under this Act during an absence, illness or incapacity of the harbour master.
- (4) Subsections (2) and (3) do not limit the Minister's power under the *Interpretation Act 1984* section 52(1)(b) to appoint an acting harbour master of the port.
- (5) Even if the harbour master of a port is able to perform a function under this Act, a deputy harbour master of the port may perform that function subject to the supervision of the harbour master.

”

8. Section 7B inserted

Before section 8 the following section is inserted —

“

7B. Marine safety plans

- (1) In this section —

marine department means the department of the Public Service principally assisting the Minister administering the *Marine and Harbours Act 1981* in the administration of that Act;

marine safety plan means a plan prepared by the safety operator for an MSP area and approved by the CEO setting out the arrangements for marine safety in the MSP area;

MSP area means an area of water, or land and water, declared to be an MSP area under this section;

safety operator has the meaning given to that term in subsection (4).

- (2) For the purposes of this section, the CEO may, by notice published in the *Gazette*, declare an area of water, or land and water, to be an MSP area.
- (3) An MSP area cannot include —
 - (a) any land or water that is outside a port or outside any controlled area outside a port; or
 - (b) any land that is controlled or managed by the marine department; or
 - (c) any part of a mooring control area or fishing boat harbour; or
 - (d) any land or water where the marine department controls and manages shipping movements and the use of facilities provided for shipping.
- (4) If under subsection (2) the CEO declares an MSP area, the CEO must, by notice published in the *Gazette*, designate a person as the **safety operator** for the MSP area.
- (5) In designating a person as the safety operator for an MSP area the CEO must take into account —
 - (a) the ability of the person to undertake the functions of a safety operator; and
 - (b) the views of the person, or persons, who control or manage shipping movements, and the use of facilities provided for shipping, in the MSP area.
- (6) The *Interpretation Act 1984* section 52 applies to the designation of a person as the safety operator for an MSP area as if the designation were an appointment.
- (7) The CEO, by notice published in the *Gazette*, may at any time cancel or amend a declaration or designation made under this section.
- (8) The safety operator for an MSP area is to have, maintain and implement a marine safety plan for the MSP area.
- (9) The CEO is to monitor the maintenance and implementation of the marine safety plan and may give directions to the safety operator as to the maintenance and implementation of the plan.
- (10) The safety operator is to give effect to any direction given under subsection (9).
- (11) When required to do so under the regulations, and whenever else directed to do so by the CEO, the safety operator is to —
 - (a) review a marine safety plan; and

- (b) submit modifications of the plan to the CEO for approval.
- (12) If the marine department controls and manages shipping movements and the use of facilities provided for shipping in an area that —
 - (a) is not, or is not part of, an MSP area; but
 - (b) is, or is a part of, a port or any controlled area outside a port,

the chief executive officer of the marine department is to have, maintain and implement a plan setting out the arrangements for marine safety in the area.

”.

9. Section 9 amended

- (1) Section 9(1) is amended by deleting “port or a prescribed pilotage area outside a port.” and inserting instead —
“ pilotage area. ”.
- (2) Section 9(2)(a) is deleted and the following paragraphs are inserted instead —

“

- (a) provide for the issue of a licence to a person to act as a pilot for a pilotage area specified in the licence (a *pilot’s licence*);
- (aa) provide for the period for which a pilot’s licence has effect;
- (ab) provide for the imposition of conditions on a pilot’s licence and for the revocation or amendment of conditions so imposed;
- (ac) prescribe procedures and prerequisites for, and other matters relating to, the issue or renewal of a pilot’s licence;
- (ad) provide for the suspension or revocation of a pilot’s licence;
- (ae) provide for a person aggrieved by —
 - (i) a decision not to issue a pilot’s licence to the person or not to renew the person’s pilot’s licence; or
 - (ii) a decision made in respect of that person under regulations made under paragraph (ab) or (ad), to apply to the State Administrative Tribunal for a review of the decision;

- (af) prohibit a person from moving a vessel in a pilotage area without it being under the control of a person who holds a pilot's licence for the pilotage area unless under the regulations —
 - (i) that person is permitted to do so; or
 - (ii) the vessel does not have to be under the control of a person who has a pilot's licence;
- (ag) prohibit a person from acting as pilot in a pilotage area unless the person does so under and in accordance with a pilot's licence for the pilotage area;
- (ah) provide for persons appointed as pilots under section 4 before the coming into operation of the *Shipping and Pilotage Amendment Act 2006* to be regarded for a prescribed period as holding pilot's licences;

Note: The heading to section 9 will be altered to read "**Pilotage and pilotage charges**".

10. Section 10 amended

- (1) Section 10(1) is repealed and the following subsections are inserted instead —

“

- (1) The regulations may declare an area of water, or land and water, intended for use either wholly or partly in connection with the movement, loading, unloading, maintenance or provisioning of vessels to be a port for the purposes of this Act.
 - (1a) A port is to be —
 - (a) known by the name; and
 - (b) bounded by the limits,
specified in the regulations in relation to that port.
 - (1b) A port named in the *Port Authorities Act 1999* Schedule 1 is not a port for the purposes of this Act and a declaration under subsection (1) cannot relate to a port so named.
 - (1c) The regulations may declare an area of water outside a port to be an area in which pilotage services are to be used.

- (2) Section 10(2) is amended as follows:
- (a) in paragraph (a) by deleting “port,”;
 - (b) after paragraph (a) by inserting —
“ or ”;

(c) by deleting paragraph (b) and inserting instead —

“

(b) vary the boundaries of a place declared to be a fishing boat harbour or mooring control area under this subsection, or declare a fishing boat harbour or mooring control area to be no longer a fishing boat harbour or mooring control area, as the case may be, for the purposes of this Act; or

”.

(3) Section 10(3) is repealed and the following subsections are inserted instead —

“

(3) In subsections (4) and (5) —

existing port means a port specified in the Schedule repealed by the *Shipping and Pilotage Amendment Act 2006* section 14;

regulations means regulations made for the purposes of subsection (1).

(4) An area declared to be a port by the initial regulations is taken to be the same port as an existing port of the same name even if it is bounded by different limits.

(5) If —

(a) the initial regulations divide an existing port into 2 or more ports; or

(b) subsequent regulations divide a port into 2 or more ports,

the regulations may contain any transitional provisions that are necessary or convenient in relation to the division.

”.

11. Section 11 amended

Section 11 is amended in the penalty by deleting “\$200” and inserting instead —

“ \$12 000 ”.

12. Section 11A inserted

After section 11 the following section is inserted —

“

11A. Delegation

(1) The Minister may delegate to any officer of the Department any power or duty of the Minister under another provision of this Act.

- (2) The delegation must be in writing signed by the Minister.
- (3) A person to whom a power or duty is delegated under this section cannot delegate the power or duty.
- (4) A person exercising or performing a power or duty that has been delegated under this section, is to be taken to do so in accordance with the terms of the delegation unless the contrary is shown.
- (5) Nothing in this section limits the ability of the Minister to perform a function through an officer or agent.

”.

13. Section 12 amended

- (1) Section 12(1) is amended as follows:

(a) after paragraph (a) by inserting —

“

(aa) relating to the movement, mooring, berthing, loading and unloading of vessels generally;

”;

(b) after paragraph (bb) by inserting —

“

(bc) in relation to marine safety plans, providing for —

(i) their form and the matters to be dealt with in them; and

(ii) the procedures for submitting and obtaining approval of them; and

(iii) their review and procedures for submitting and obtaining approval of modifications of them; and

(iv) the powers that the CEO can exercise in order to monitor their maintenance and implementation;

”;

(c) in paragraph (d) by deleting “Act.” and inserting instead —

“ Act; ”;

(d) after paragraph (d) by inserting —

“

(e) providing for the period for which the appointment of a person as a harbour master or deputy harbour master has effect;

- (f) providing for the imposition of conditions on the appointment of a harbour master or deputy harbour master and for the revocation or amendment of conditions so imposed;
- (g) prescribing procedures and prerequisites for, and other matters relating to, the appointment of a person as a harbour master or deputy harbour master or the renewal of an appointment;
- (h) providing for the revocation of the appointment of a harbour master or deputy harbour master;
- (i) relating to the continuation for a prescribed period of appointments of harbour masters made under section 4 before the coming into operation of the *Shipping and Pilotage Amendment Act 2006*.

”.

(2) Section 12(2) is amended as follows:

- (a) in paragraph (a) by deleting “\$2 000” and inserting instead —
“ \$12 000 ”;
- (b) after paragraph (b) by inserting —

“

- (ba) provide for fees or charges to be paid in respect of matters to which the regulations relate and prescribe or provide for those fees or charges;

”.

14. Schedule repealed and certain proclamations cancelled

- (1) The Schedule is repealed.
- (2) The following proclamations made under section 10(2) are cancelled —
 - (a) the proclamation about the port of Jurien published in the *Gazette* 23 March 1989;
 - (b) the proclamation varying the boundaries of the port of Onslow published in the *Gazette* 24 August 1990;
 - (c) the proclamations varying the boundaries of the port of Perth published in the *Gazette* 13 June 1986 and 13 February 1987;
 - (d) the proclamation about the port of Varanus Island published in the *Gazette* 18 April 1986;
 - (e) the proclamation varying the boundaries of Port Walcott published in the *Gazette* 17 November 1989.

”.

- ¹¹ Lands and Surveys plans are now being held by the Western Australian Land Information Authority (see the *Land Information Authority Act 2006* s. 100).