

Western Australia

## **Jetties Act 1926**

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Western Australia

## **Jetties Act 1926**

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## Jetties Act 1926

**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.**

**1. Short title**

This Act may be cited as the *Jetties Act 1926*<sup>1</sup>.

[2. *Omitted under the Reprints Act 1984 s. 7(4)(f).*]

**3. Terms used in this Act**

In this Act, subject to the context —

**chief executive officer** means the chief executive officer of the Department;

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

**Government** means Her Majesty's Government of Western Australia;

**jetty** includes —

- (a) any jetty, pier, wharf, quay, grid, slip, landing place, stage, platform (other than a platform that is a vessel for the purposes of the *Western Australian Marine Act 1982*) or similar structure, whether fixed or floating, erected or placed, wholly or in part, in, on or over any waters; and

- (b) any ramp which is or which may be used for the purpose of launching or landing a vessel;

**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.

*[Section 3 amended by No. 35 of 1986 s. 3; No. 47 of 1993 s. 13(1); No. 14 of 1996 s. 4.]*

#### **4. Power to make regulations**

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, 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;
- (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;

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- (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;
- (11) exempting the Government from liability for or in respect of —
  - (a) damage to any such goods 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 licence granted under this Act;



- (14) the suspension or cancellation of licences granted under this Act;
- (15) the imposition of a penalty not exceeding \$500 for any contravention, by act or omission, of any regulation.

*[Section 4 amended by No. 30 of 1965 s. 2; No. 5 of 1976 s. 2; No. 12 of 1976 s. 15; No. 35 of 1986 s. 4.]*

#### **4A. Adoption of rules, codes, etc.**

Any regulations made under this Act may —

- (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 Standards 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.

*[Section 4A inserted by No. 12 of 1976 s. 14; amended by No. 74 of 2003 s. 70.]*

#### **5. Application of regulations under this Act**

- (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 government, but subject to any local law made under the *Local Government Act 1995* and for the time being in operation;
  - (c) shall not, except where subsections (2), (3) and (4) provide otherwise, apply to jetties forming part of any Government railway or under the control of the Public Transport Authority of Western Australia established by the *Public Transport Authority Act 2003* section 5;
  - (d) except as in this section otherwise provided, shall not, unless made pursuant to the power defined in section 4(3), (4), (5), (13), (14), or (15), 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 subsection (1)(c), regulations made under this Act, whether before or after the coming into operation of the *Jetties Act Amendment Act 1957*<sup>1</sup>, 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*<sup>1</sup>, purports to apply to any jetty referred to in subsection (1)(c), if after the coming into operation of that Act an Order in Council is made under subsection (2) applying the regulation to the jetty, the Order in Council shall be deemed to have been 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 14 December 1951, purporting to apply regulations made under

this Act to the public jetty at Port Hedland is hereby validated and confirmed.

*[Section 5 amended by No. 33 of 1957 s. 2; No. 14 of 1996 s. 4; No. 31 of 2003 s. 148.]*

## **6. Construction of jetties**

- (1) The Governor may authorise the Minister to —
  - (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 Part 9 of the *Land Administration Act 1997* 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.

*[Section 6 amended by No. 31 of 1997 s. 142.]*

## **7. Power to grant licences**

- (1) The chief executive officer may grant a licence 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.
- (2) The chief executive officer may by instrument in writing signed by him delegate to an officer the power conferred on him by subsection (1).
- (3) Where the erection or construction of a jetty is required to be approved under the *Swan and Canning Rivers Management Act 2006* section 70 or under the Metropolitan Region Scheme as that term is defined in the *Planning and Development Act 2005*, a licence shall not be granted under this section —
  - (a) unless that approval has been granted; or

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- (b) on any term or condition that is contrary to or inconsistent with an approval so granted.
- (4) If an approval referred to in subsection (3) has been granted for the erection or construction of a jetty, a licence shall not be refused under this section but may be granted, in accordance with subsection (3)(b), subject to compliance with any condition.

*[Section 7 amended by No. 30 of 1965 s. 3; No. 35 of 1986 s. 5; No. 21 of 1988 s. 7; No. 47 of 1993 s. 13(2); No. 55 of 2004 s. 542; No. 38 of 2005 s. 15; No. 52 of 2006 s. 6; No. 8 of 2009 s. 81.]*

**7A. Reviews**

- (1) A person whose application for a licence under section 7 has been —
  - (a) refused; or
  - (b) granted subject to terms or conditions which are unacceptable to the applicant,

may apply to the State Administrative Tribunal for a review of the decision.

*[(2) deleted]*

*[Section 7A inserted by No. 35 of 1986 s. 6; amended by No. 47 of 1993 s. 13(2); No. 55 of 2004 s. 543.]*

**8. Private jetties, not to be maintained except pursuant to licence or lease**

No private jetty shall hereafter be constructed except pursuant to a licence 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 licence granted under this Act.

Penalty: \$2 000.

*[Section 8 amended by No. 113 of 1965 s. 8.]*

**8A. Removal of unlicensed jetties**

- (1) The Minister may cause to be served on any person who constructs, uses or maintains a private jetty that is not licensed or the subject of a lease under this Act a notice in writing requiring that jetty to be removed within such period, being not less than 7 days after the date of service, as is specified in that notice.
- (2) Where a private jetty that is not licensed or the subject of a lease under this Act belongs to a person whose identity or whereabouts, or both, cannot be ascertained after the making of reasonable enquiries the Minister may, by notice published once in a newspaper circulating throughout the State, require that jetty to be removed within such period, being not less than 7 days after the date of publication, as is specified in that notice.
- (3) If a requirement under subsection (1) or (2) is not complied with, the Minister may cause the private jetty to be removed.
- (4) The cost of removal under subsection (3) is a debt due to the Crown and the Minister may recover that cost by causing the materials comprising the private jetty to be sold.
- (5) The proceeds of a sale referred to in subsection (4) shall be applied —
  - (a) first in payment of the cost of that sale; and
  - (b) secondly in payment of the costs of removing the jetty,

and the balance, if any, of those proceeds shall be paid to the owner of the jetty or, if the identity or whereabouts, or both, of that owner cannot be ascertained after making reasonable enquiries, credited to the Consolidated Account.

*[Section 8A inserted by No. 35 of 1986 s. 8; amended by No. 6 of 1993 s. 11; No. 49 of 1996 s. 64; No. 77 of 2006 s. 4.]*

**9. Regulations regarding buoys**

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 \$500 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 the harbour board.

*[Section 9 amended by No. 5 of 1976 s. 3; No. 35 of 1986 s. 9.]*

**10. Fires not to be allowed near public jetties**

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: \$2 000.

*[Section 10 amended by No. 113 of 1965 s. 8; No. 35 of 1986 s. 10.]*

**11. Vessels, etc., not to be fastened to public buoys**

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: \$2 000.

*[Section 11 amended by No. 113 of 1965 s. 8; No. 35 of 1986 s. 11.]*

**12. Responsibility for injuries to jetties**

- (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 \$500 for the breach of any such regulations.

*[Section 12 amended by No. 5 of 1976 s. 4.]*

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**Notes**

<sup>1</sup> This is a compilation of the *Jetties Act 1926* and includes the amendments made by the other written laws referred to in the following table <sup>1a</sup>. The table also contains information about any reprint.

**Compilation table**

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Jetties Act 1926</i>	45 of 1926 (17 Geo. V No. 45)	23 Dec 1926	23 Dec 1926
<i>Jetties Act Amendment Act 1957</i>	33 of 1957 (6 Eliz. II No. 33)	5 Nov 1957	5 Nov 1957
<i>Jetties Act Amendment Act 1965</i>	30 of 1965	21 Oct 1965	21 Oct 1965
<i>Decimal Currency Act 1965</i>	113 of 1965	21 Dec 1965	Act other than s. 4-9: 21 Dec 1965 (see s. 2(1)); s. 4-9: 14 Feb 1966 (see s. 2(2))
<i>Jetties Act Amendment Act 1976</i>	5 of 1976	25 May 1976	25 May 1976
<i>Acts Amendment (Port and Marine Regulations) Act 1976 Pt. VI</i>	12 of 1976	27 May 1976	27 May 1976
<b>Reprint of the <i>Jetties Act 1926</i> approved 11 Aug 1976</b> (includes amendments listed above)			
<i>Jetties Amendment Act 1986</i>	35 of 1986	1 Aug 1986	29 Aug 1986
<i>Acts Amendment (Swan River Trust) Act 1988 Pt. 3</i>	21 of 1988	5 Oct 1988	1 Mar 1989 (see s. 2 and <i>Gazette</i> 27 Jan 1989 p. 264)
<i>Financial Administration Legislation Amendment Act 1993 s. 11</i>	6 of 1993	27 Aug 1993	1 Jul 1993 (see s. 2(1))
<i>Acts Amendment (Department of Transport) Act 1993 Pt. 7</i>	47 of 1993	20 Dec 1993	1 Jan 1994 (see s. 2 and <i>Gazette</i> 31 Dec 1993 p. 6861)
<i>Local Government (Consequential Amendments) Act 1996 s. 4</i>	14 of 1996	28 Jun 1996	1 Jul 1996 (see s. 2)



<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Financial Legislation Amendment Act 1996 s. 64</i>	49 of 1996	25 Oct 1996	25 Oct 1996 (see s. 2(1))
<i>Acts Amendment (Land Administration) Act 1997 s. 142</i>	31 of 1997	3 Oct 1997	30 Mar 1998 (see s. 2 and <i>Gazette</i> 27 Mar 1998 p. 1765)
<b>Reprint of the <i>Jetties Act 1926</i> as at 4 Feb 2000</b> (includes amendments listed above)			
<i>Public Transport Authority Act 2003 s. 148</i>	31 of 2003	26 May 2003	1 Jul 2003 (see s. 2(1) and <i>Gazette</i> 27 Jun 2003 p. 2384)
<i>Statutes (Repeals and Minor Amendments) Act 2003 s. 70</i>	74 of 2003	15 Dec 2003	15 Dec 2003 (see s. 2)
<i>State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004 Pt. 2 Div. 66<sup>2</sup></i>	55 of 2004	24 Nov 2004	1 Jan 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7130)
<i>Planning and Development (Consequential and Transitional Provisions) Act 2005 s. 15</i>	38 of 2005	12 Dec 2005	9 Apr 2006 (see s. 2 and <i>Gazette</i> 21 Mar 2006 p. 1078)
<i>Swan and Canning Rivers (Consequential and Transitional Provisions) Act 2006 s. 6</i>	52 of 2006	6 Oct 2006	25 Sep 2007 (see s. 2 and <i>Gazette</i> 25 Sep 2007 p. 4835)
<i>Financial Legislation Amendment and Repeal Act 2006 s. 4</i>	77 of 2006	21 Dec 2006	1 Feb 2007 (see s. 2(1) and <i>Gazette</i> 19 Jan 2007 p. 137)
<b>Reprint 3: The <i>Jetties Act 1926</i> as at 8 Jun 2007</b> (includes amendments listed above except those in the <i>Swan and Canning Rivers (Consequential and Transitional Provisions) Act 2006</i> )			
<i>Statutes (Repeals and Miscellaneous Amendments) Act 2009 s. 81</i>	8 of 2009	21 May 2009	22 May 2009 (see s. 2(b))

<sup>1a</sup> 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.

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**Provisions that have not come into operation**

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Personal Property Securities (Consequential Repeals and Amendments) Act 2011</i> Pt. 12 Div. 1 <sup>3</sup>	42 of 2011	4 Oct 2011	Operative immediately before the registration commencement time as defined in the <i>Personal Property Securities Act 2009</i> (Cwlth) s. 306(2) (see s. 2(c))

<sup>2</sup> The *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004* Pt. 5, the *State Administrative Tribunal Act 2004* s. 167 and 169, and the *State Administrative Tribunal Regulations 2004* r. 28 and 42 deal with certain transitional issues some of which may be relevant for this Act.

<sup>3</sup> On the date as at which this compilation was prepared, the *Personal Property Securities (Consequential Repeals and Amendments) Act 2011* Pt. 12 Div. 1 had not come into operation. It reads as follows:

**Division 1 — *Jetties Act 1926* amended**

**98. Act amended**

This Division amends the *Jetties Act 1926*.

**99. Section 8A amended**

(1) Delete section 8A(4) and insert:

(4) The cost of removal under subsection (3) is a debt due to the Crown and a first charge in priority to all other claims on the materials comprising the private jetty.

(5A) In accordance with the *Personal Property Securities Act 2009* (Commonwealth) section 73(2)(a), it is declared that section 73(2) of that Act applies to a charge created under subsection (4).

(5B) The Minister may recover that cost of removal under subsection (3) by causing the materials comprising the private jetty to be sold.

(5C) If under subsection (5B) any materials comprising the private jetty are sold in good faith to a person and the person takes the property in good faith, the person receives good title to the materials against every other person including its true owner.

(2) In section 8A(5) delete “subsection (4)” and insert:

subsection (5B)