

# BUNBURY PORT AUTHORITY

No. 22 of 1909.

(Affected by Act No. 38 of 1928.)

[As amended by Acts:

- No. 73 of 1954<sup>1</sup>, assented to 14th January, 1955;
- No. 51 of 1957, assented to 9th December, 1957;
- No. 48 of 1959, assented to 20th November, 1959;
- No. 8 of 1963, assented to 15th October, 1963;
- No. 9 of 1965, assented to 15th September, 1965;
- No. 113 of 1965<sup>2</sup>, assented to 21st December, 1965;
- No. 5 of 1967<sup>3</sup>, assented to 5th October, 1967;

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

**AN ACT to constitute the Bunbury Port Authority; to regulate the appointment of the members of the Bunbury Port Authority; to define its powers and authorities and for other purposes incidental thereto.**

Long Title, Repealed and re-enacted by No. 5 of 1967, s. 3.

[Assented to 6th February, 1909.]

**BE** it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the *Bunbury Port Authority Act, 1909-1967*, and shall come into force on a day to be fixed by proclamation.

Short title and commencement. Amended by Act No. 5 of 1967, s. 1.

1A. (1) The name of the body corporate constituted under section three of this Act is changed to the Bunbury Port Authority.

Change of name of Board to Bunbury Port Authority. Added by No. 5 of 1967, s. 4.

(2) Notwithstanding the change of name effected by subsection (1) of this section, the body corporate constituted under this Act by the name of the Bunbury Harbour Board is preserved and continues in existence as a body corporate under and subject to

<sup>1</sup> Came into operation on 1st March, 1955, G.G. 18/2/55.

<sup>2</sup> Decimal Currency Act, 1965, came into operation 14th February, 1966.

<sup>3</sup> Came into operation 1st December, 1967, G.G. 1/12/67, p. 3303.

*Bunbury Port Authority.*

the provisions of this Act, under the name Bunbury Port Authority, but so that the corporate identity of the body corporate and its rights, powers, functions, duties and liabilities, subject to those provisions, shall not be affected.

(3) A reference—

(a) in law of the State; and

(b) in any document,

in force immediately before the date of the coming into operation of the Bunbury Harbour Board Act Amendment Act, 1967, to the Bunbury Harbour shall be read as a reference to the Bunbury Port Authority.

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

“Berthing master” includes assistant berthing master.

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

“Chief Harbour Master” means the person for the time being holding the office of Manager of the Harbour and Light Department of the State;

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

“Harbour master” includes assistant harbour master.

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

“Members” means the members of the Port Authority.

“Owner” includes any person who is owner jointly with any other person, and any joint stock company; and when used in relation to goods, includes any consignor,

Interpre-  
tation.  
See No. 17  
of 1902, s. 2.  
Amended  
by No. 8 of  
1963, s. 2;  
No. 5 of  
1967, s. 5.

consignee, shipper, or agent for the sale or custody, loading or unloading of goods.

“Ship”—Every description of vessel used in navigation and not propelled exclusively by oars.

“the Port Authority” means the Bunbury Port Authority constituted under this Act.

“The port”—So much of the port of Bunbury as is contained within the boundaries described in the First Schedule to this Act, or as altered from time to time by the Governor.

“Vessel”—Any ship, lighter, barge, boat, raft, or craft, of whatever description, and howsoever navigated.

*Constitution of the Port Authority.*

Heading.  
Repealed and re-enacted by No. 5 of 1967, s. 6.

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

The Bunbury Port Authority.  
See No. 17 of 1902, s. 3.  
Amended by No. 5 of 1967, s. 7.

4. (1) The members shall be appointed by the Governor.

Appointment of members.

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

See *ibid.*, s. 4.

5. Judicial notice shall be taken of the incorporation and common seal of the Port Authority, and every deed, instrument, or writing, when sealed, shall be admissible in evidence on the mere production thereof, without any other or further proof of the making of such deed, instrument, or writing.

Seal of Port Authority.  
*Ibid.*, s. 5.  
Amended by No. 5 of 1967, s. 8.

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

Term of office.  
*Ibid.*, s. 6.

Vacancies.  
*Ibid.*, s. 7.

7. On the occurrence of any vacancy in the office of a member, the Governor may appoint a person to the vacant office, whose term of office shall be for his predecessor's unexpired term of office.

Deputy  
members.  
See No. 17 of  
1962, s. 8.

8. (1) In the case of illness, suspension, or absence of any member, the Governor may appoint some person to act as the deputy of such member during such illness, suspension or absence, and until such appointment is terminated by notice in the *Government Gazette*. Every person so appointed shall, while so acting, have all the powers and perform all the duties of such member.

(2) If such member is the chairman, the Governor may temporarily appoint another member acting chairman, who while so acting shall have all the powers and perform all the duties of the chairman.

Tenure of  
office.  
*Ibid.*, s. 9.  
Amended by  
No. 5 of 1967,  
s. 9.

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

- (a) for misbehaviour or incompetence; or
- (b) if he becomes bankrupt, or applies to take the benefit of any Act for the relief of bankrupt debtors; or
- (c) if he absents himself from three consecutive meetings of the Port Authority (except on leave granted by the Governor) or becomes incapable of performing his duties; or
- (d) if he becomes concerned or interested in any written contract made by or on behalf of the Port Authority, or participates or claims to be entitled to participate in the profits thereof, or in any benefit or emolument arising therefrom.

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

10. The chairman and the other members of the Port Authority shall be paid such remuneration respectively as the Governor shall from time to time determine.

Remuneration of members of Port Authority. Substituted by No. 9 of 1965, s. 2. Amended by No. 5 of 1967, s. 10.

11. [*Repealed by No. 9 of 1965, s. 3.*]

12. [*Repealed by No. 51 of 1957, s. 2.*]

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

Quorum. See *Ibid.*, s. 13. Amended by No. 5 of 1967, s. 11.

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

Acting chairman. No. 17 of 1902, s. 14. Amended by No. 5 of 1967, s. 12.

15. If, at any meeting the members are equally divided in opinion, the chairman or acting chairman shall have a casting as well as a deliberative vote.

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

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

Acts of Port Authority not invalidated by vacancy. *Ibid.*, s. 16. Amended by No. 5 of 1967, s. 13.

17. The Port Authority shall—

(1) keep minutes of its proceedings in such manner and form as the Governor shall direct; and

Minutes of proceedings. Amended by No. 5 of 1967, s. 14.

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

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

## Officers.

Appointment of officers and servant employees. Vide s. 15 No. 30 of 1918. See *Ibid.*, s. 19. Repealed and Re-enacted by No. 5 of 1967, s. 15.

18. (1) The Governor, on the nomination of the Port Authority may appoint a managing secretary, berthing master (who shall be the person appointed as harbour master of the port), and wharf manager and on recommendation of the Port Authority may dismiss the managing secretary, berthing master or wharf manager.

(2) The Port Authority may appoint such other officers and servants as may be necessary for the administration of this Act and may dismiss any of those officers or servants.

(3) All persons appointed pursuant to subsection (1) or (2) of this section are subject to the control of the Port Authority.

Certain officers to give security. *Ibid.*, s. 20. Amended by No. 5 of 1967, s. 16.

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

## Vesting of Property.

Property vested in Port Authority. No. 17 of 1902, s. 22. Amended by No. 8 of 1963, s. 3; No. 5 of 1967, s. 17.

20. There shall be vested in the Port Authority for the purposes of this Act—

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

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

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

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

Lands vested in Port Authority free from municipal rates.  
*Ibid.*, s. 23.  
Amended by No. 5 of 1967, s. 18.

*Powers and Duties of the Port Authority.*

22. The Port Authority shall have the exclusive control of the port and shall be charged with the maintenance and preservation of all property vested in it under this Act.

Heading. Repealed and re-enacted by No. 5 of 1967, s. 19.

23. (1) The completion and extension within the port of all port works and the construction therein of all new works shall be deemed Government work within the meaning of the Public Works Act, 1902, and may be undertaken by the Minister for Works.

Port Authority to control, maintain, and preserve.  
*Ibid.*, s. 24.  
Amended by No. 5 of 1967, s. 20.

(2) Without affecting the operation of subsection (1) of this section, the Port Authority may with the prior approval of the Governor, undertake the construction, completion and extension within the port of any port works, the total cost of which does not exceed ten thousand dollars; and for the purpose the Port Authority is a local authority within the meaning of that expression as defined in the Public Works Act, 1902.

Port extensions.  
*Ibid.*, s. 25.  
Amended by No. 5 of 1967, s. 21.

(3) In this section the expression "port works" includes pier, quay, wharf, jetty, dock, landing stage, slip, bridge, viaduct, embankment or drain or the reclamation of land from the sea or a river, or exca-

vation, deepening, dredging or widening of any channel, basin or other part of the port.

Roadways and approaches.  
No. 35 of 1906, s. 4.  
Amended by No. 5 of 1967, s. 22.

**24. The Port Authority—**

- (a) shall maintain the roads and approaches to all wharves, docks, piers, jetties, landing stages, slips, platforms, depots, and sheds that are now or may hereafter be erected on the lands vested in it; and
- (b) shall cause such wharves, docks, piers, jetties, landing stages, slips, platforms, depots, and sheds, and the roads and approaches thereto, to be kept in good repair.

Power to lease lands for certain purposes.  
See No. 17 of 1902, s. 27.  
Amended by No. 5 of 1967, s. 23.

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

Port Authority may make contracts, etc.  
*Ibid.*, s. 28.  
Amended by No. 5 of 1967, s. 24.

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

Power of Authority to acquire land compulsorily.  
Added by No. 5 of 1967, s. 25.

**26A. Subject to this Act, when and as often as land is required for the purposes of this Act, the land may be taken or resumed by the Port Authority under and subject to the provisions of the Public Works Act, 1902.**



27. (1) If any goods remain upon any wharf or the approaches thereto, or in any store or warehouse, for a longer time than allowed by the regulations, any person authorised by the Port Authority may remove the goods to a convenient place, and keep the same until payment of the expenses of such removal and keeping.

Goods left on wharves, etc., may be advertised and sold. *Ibid.*, s. 29. Amended by No. 5 of 1967, s. 26.

(2) If such expenses are not paid within seven days after demand thereof made upon the owner, or if the owner is unknown or cannot be found, then after public notice by advertisement, at least once in each of two consecutive weeks, in a newspaper circulating in Bunbury, the Port Authority may sell such goods by public auction; provided that goods, if perishable, may be sold without demand after twenty-four hours.

(3) The proceeds of sale shall be applied in payment of all dues and charges payable in respect of such goods, and the expenses of removal, keeping, and sale thereof, and the surplus shall be rendered to the owner on demand, and in the meantime shall be paid into the Treasury.

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

Disputes between departments to be settled by Minister. *Ibid.*, s. 30. Amended by No. 5 of 1967, s. 27.

### *Pilotage.*

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

Pilotage No. 17 of 1902, s. 31. Amended by No. 5 of 1967, s. 28.

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

*Bunbury Port Authority.**Lights, Buoys, and Signals.*

Harbour lights, etc., not to be erected or removed without sanction of Chief Harbour Master.  
*Ibid.*, s. 32.  
 Amended by No. 5 of 1967, s. 29.

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

Chief Harbour Master may erect and maintain harbour lights, etc.

31. The Chief Harbour Master may, with the approval of the Minister, erect, maintain, replace, remove, or discontinue any harbour lights, signals, buoys, or beacons, or make any variation in the character of any such lights or signals, or in the mode of exhibiting the same, as he may from time to time consider necessary.

*Wrecks, Obstructions, and Damage.*

Removal of wreck.  
*Ibid.*, s. 34.  
 Amended by No. 5 of 1967, s. 30.

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

- (1) The Port Authority shall give notice in writing to the owner of such vessel, or to an agent of such owner, that he is required, within the time specified in such notice, either to remove the wreck in a manner satisfactory to the Port Authority, or to undertake, under security satisfactory to the Port Authority to remove the wreck in a manner satisfactory to and within a time to be fixed by the Port Authority.
- (2) In case the owner or agent cannot be found within the State, or fails within the time specified in the notice to remove the whole of the wreck in a way satisfactory to the

Port Authority or to enter into such undertaking as aforesaid to remove the same, or, having undertaken to remove the wreck, fails to remove it in accordance with his undertaking, then the Port Authority may remove the wreck, and may recover from the owner, in any Court of competent jurisdiction, the expenses incurred in removing it (in this section referred to as "the expenses of removal").

- (3) The Port Authority may, for the purpose of removal, destroy the wreck or any part of it, and may remove and take possession of the wreck or any part of it, and may sell the same, and may, out of the proceeds, if any, of such sale, without any reference to the part of the wreck from the sale of which such proceeds may accrue, reimburse itself for the whole of the expenses of removal, and shall, after reimbursing itself, render the surplus, if any, to the owner.
- (4) If the proceeds of such sale are insufficient to pay the whole expenses of removal, the Port Authority may recover the balance from the owner of the vessel, if such vessel was stranded or sunk by his fault or negligence, or from any other person by whose fault or negligence the vessel was stranded or sunk.

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

33. When any injury is done by a vessel, floating timber, or material, or by any person employed about the same, to any part of the works or property of the Port Authority—

- (1) The owner of such vessel, floating timber, and material; and

Responsibility for injury to works of Port Authority.  
No. 17 of 1902, s. 35.  
Amended by No. 5 of 1967, s. 31.

- (2) In case the injury is caused through the act or negligence of the master of such vessel, or of the person having charge of such timber or material, the owner and also such master or person,

shall be answerable in damages to the Port Authority for the injury, but the Port Authority shall not recover twice for the same cause of action.

Recovery by  
owner from  
master of  
ship.  
*Ibid.*, s. 36.  
Amended by  
No. 5 of 1967,  
s. 32.

34. When the owner of any vessel, floating timber, or material pays any money in respect of any injury done to any part of the works or property of the Port Authority by any master or other person, or pays any pecuniary penalty by reason of any act or omission of any master or other person, he shall be entitled to recover the money so paid with costs from such master or other person.

Damage to  
cables.  
No. 35 of 1906,  
s. 6.  
Amended by  
No. 5 of 1967,  
s. 33.

35. If any damage is done to any submarine cable, the property of or vested in the Port Authority, within or partly within the port, 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 Port Authority 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.

### *Actions against Port Authority and Officers.*

Heading.  
Repealed  
and  
re-enacted  
by No. 5 of  
1967, s. 34.

Port  
Authority  
not liable  
for acts or  
omissions  
of pilots.  
No. 17 of 1902,  
s. 37.  
Amended by  
No. 5 of 1967,  
s. 35.

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

37. [*Repealed by No. 73 of 1954 s. 5.*]

*Port Dues and Wharfage Charges.*

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

Heading.  
Amended by  
No. 5 of 1967,  
s. 38.  
Port dues,  
etc., to be  
made by  
regulation.  
*Ibid.*, s. 39.  
Amended by  
No. 5 of 1967,  
s. 38.

39. [*Repealed by No. 5 of 1967, s. 37.*]

40. (1) Where any vessel has been registered at a port in the United Kingdom, or any British possession, the amount of tonnage specified in the certificate of such registry shall, for the purposes of this Act, be deemed to be the tonnage of such vessel.

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

(2) In the case of vessels belonging to any foreign country which has adopted the provisions of the Merchant Shipping Act, 1894, in respect of tonnage, such vessels shall be deemed to be of the tonnage denoted in the certificate of registry or other national papers.

Foreign  
vessels.

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

Ascertain-  
ment of  
tonnage of  
other  
foreign  
vessels.  
*Ibid.*, s. 42.  
No. 35 of  
1966, s. 7.  
Amended by  
No. 5 of 1967,  
s. 38.

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

List of dues  
to be  
exhibited.  
No. 17 of  
1962, s. 43.  
Amended by  
No. 5 of 1967,  
s. 39.

43. Where a difference arises between any officer authorised to collect any such dues or charges and the owner of goods respecting the weight or quantity of any goods—

In case of  
difference,  
power to  
weigh or  
measure  
goods.  
*Ibid.*, s. 44.  
Amended by  
No. 5 of 1967,  
s. 40.

(1) The officer authorised to collect such dues or charges may cause the goods to be weighed or measured.

- (2) If the weight or quantity exceeds that alleged by the owner, the expenses of the weighing or measuring shall be paid to the Port Authority and shall be recoverable as dues are recoverable.
- (3) If the weight or quantity does not exceed that alleged as aforesaid, the expenses of the weighing or measuring shall be paid by and shall be recoverable from the Port Authority in any Court of competent jurisdiction.

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

44. The owner and master of any ship, and such consignee or agent thereof as may have paid or made himself liable to pay any charge on account of the ship, shall be liable to pay the dues payable in respect of such ship.

Liability  
for dues  
payable for  
goods.  
*Ibid.*, s. 46.

45. The following persons shall be liable to pay the dues payable in respect of any goods carried in any ship, that is to say, the owner of such goods, and also any consignor, consignee, shipper, or agent for the sale of or custody of such goods, and also any person entitled, either as owner or agent for the owner, to the possession of such goods.

Persons  
other than  
master or  
owner of  
ship liable  
for dues  
may retain  
moneys  
received on  
account of  
master or  
owner of ship  
for such  
payments.  
*Ibid.*, s. 47.

46. Every consignor, consignee, shipper, or agent, not being the owner or master of any ship or goods, by this Act made liable for the payment of any dues in respect of any ship or goods, as the case may be, may, out of any moneys in his hands received on account of such ship or goods, or belonging to the owner thereof, retain the amount of dues so paid by him, together with any reasonable expenses he may have incurred by reason of payment and liability.

Recovery  
of dues.  
*Ibid.*, s. 48.  
Amended by  
No 5 of 1967.  
s. 41.

47. All dues may be recovered by the Port Authority in any Court of competent jurisdiction as a debt due to it.

48. Any officer authorised to collect dues may distrain any ship and the tackle thereof, or any goods in respect of which dues are payable, and may keep such ship and tackle or goods respectively until such dues are paid; and if the same are not paid within seven days after the distress, may cause the property distrained or any part thereof to be sold, and out of the proceeds of the sale may pay the amount of such dues and the expenses of the distress, keeping, and sale.

Persons authorised to collect dues may distrain.  
*Ibid.*, s. 49.

49. Where a difference arises concerning the amount of any dues payable, or of the charges occasioned by any distress, the person distraining may detain the ship, tackle, or goods distrained until such amount is ascertained by the Local Court at Bunbury, or until he is satisfied that sufficient security has been given for the payment of such amount when ascertained, and of the expenses arising from non-payment thereof. The Court shall, upon application made for that purpose, determine the amount, and award such costs to be paid by either party to the other as the Court thinks reasonable.

Settlement of dispute concerning dues or charges occasioned by distress.  
*Ibid.*, s. 50.

50. If any master, owner, consignor, consignee, shipper, or agent evades, or attempts to evade, the payment of any dues, he shall incur a penalty either not exceeding two hundred dollars, or in case the amount of the dues which he has evaded or has attempted to evade, exceeds two hundred dollars, then not exceeding such amount, and the penalty is in addition to the dues payable by him.

Penalty on evasion.  
*Ibid.*, s. 51.  
Amended by No. 113 of 1965, s. 4 (1).  
No. 5 of 1967, s. 42.

51. If in the opinion of the Governor the Port Authority 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 Port Authority, including interest and contribution to the sinking fund, in respect of the value of the property vested in and charged against it under sections fifty-two and fifty-three, or if for any other reason the Governor thinks fit so to do, the Governor may revise the port dues, port improvement rates, wharfage charges, and other dues, tolls, rates, fees,

Power to Governor to revise port dues.  
No. 35 of 1966, s. 10.  
Amended by No. 5 of 1967, s. 43.

and charges prescribed by the regulations under this Act, and it shall be the duty of the Port Authority to impose and collect such dues and charges in accordance with such revision until the Governor shall otherwise order.

*Finance.*

Minister to declare value of property vested in Port Authority.  
No. 17 of 1902, s. 52.  
Amended by No. 5 of 1967, s. 44.

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

Subsequent works.  
*Ibid.*, s. 53.  
Amended by No. 5 of 1967, s. 45.

53. After the determination of such value, the Minister shall at the end of each financial year, cause a schedule to be made of the cost of all additional works and improvements constructed, and the proportionate cost of works in course of construction, and of all property acquired by the Port Authority during the preceding financial year, to be charged as aforesaid.

Funds.  
No. 17 of 1902, s. 54.  
No. 35 of 1906, s. 9.  
Repealed and re-enacted by No. 8 of 1963, s. 4.  
Amended by No. 5 of 1967, s. 46.

54. (1) The funds necessary for the effectual exercise by the Port Authority of the powers conferred by this Act shall be—

- (a) such moneys as are from time to time appropriated by Parliament for that purpose;
- (b) the income derived by the Port Authority from all dues, charges, rents and other levies under the authority of this Act; and
- (c) such moneys as the Port Authority may borrow under and subject to the provisions of this Act.

(2) All moneys referred to in subsection (1) of this section shall be paid into and be placed to the credit of an account at the Treasury to be called "Bunbury Port Authority Account", and shall be applied to the purposes of this Act.



(3) The moneys from time to time in the Bunbury Port Authority Account shall be chargeable with—

- (a) all capital expenditure incurred in connection with the acquisition by purchase or compulsory taking of land or land and buildings or other property, or in connection with the establishment and maintenance of any works or undertakings vested in or to be carried on by the Port Authority under this Act;
- (b) the fees or remuneration and allowances payable to the chairman and other members of the Port Authority;
- (c) the salaries and wages of officers and servants employed in or in connection with the activities carried on by the Port Authority; and
- (d) all other expenditure lawfully incurred by the Port Authority in the exercise of its powers or the discharge of its duties or obligations under this Act.

54A. (1) The Port Authority in addition to the powers conferred on it by sections fifty-four B and fifty-four C of this Act may, with the approval of the Governor, borrow from the Treasurer, and in such case the Treasurer shall make advances to the Port Authority out of moneys appropriated by Parliament to such purpose to enable the Port Authority to defray expenditure incurred by it under this Act at any time when the moneys in the Bunbury Port Authority Account are not sufficient to meet that expenditure in full.

Power of Port Authority to borrow money from Treasurer. Added by No. 8 of 1963, s. 5. Amended by No. 5 of 1967, s. 47.

(2) The Port Authority shall pay to the Treasurer in respect of moneys borrowed pursuant to subsection (1) of this section interest at such rate and at such times as the Governor shall determine.

(3) The moneys borrowed and the interest payable in respect thereof shall be a charge upon the moneys in the Bunbury Port Authority Account from time to time, and upon any works, undertakings and other assets vested in the Port Authority.

Power of  
Port  
Authority to borrow  
money on  
issue of  
debentures  
or inscribed  
stock.  
Added by  
No. 8 of 1963,  
s. 5.  
Amended by  
No. 5 of 1967,  
s. 48.

**54B.** (1) Subject to subsection (2) of this section, the Port Authority may at any time, and from time to time, with the approval of the Governor—

- (a) borrow and reborrow moneys by the issue and creation and sale of debentures and of inscribed stock for the purpose of raising the funds of the Port Authority for the effectual exercise by it of the powers conferred by this Act;
- (b) issue and create debentures and inscribed stock in exchange for any debentures and inscribed stock respectively issued in respect of moneys previously borrowed by the Port Authority and not repaid;
- (c) issue, create and sell debentures and inscribed stock for the purpose of borrowing money for redeeming any loans owing by the Port Authority, and for paying the expenses incurred in the issue and creation of the debentures and inscribed stock and otherwise carrying out the provisions of this Act;
- (d) effect any conversion authorised by this section either by arrangement with the holders of the existing debentures or registered owners of inscribed stock, or by the purchase of the debentures or inscribed stock out of moneys raised by the sale of debentures and inscribed stock, or partly in the one way and partly in the other.

(2) The Governor shall not approve of the borrowing by the Port Authority of moneys under the provisions of this section, unless a proposal in writing showing—

- (a) the term and particulars of the proposed loan;
- (b) the rate of interest to be paid on the loan;
- (c) the purposes to which the money proposed to be borrowed is to be applied; and

- (d) the manner in which the loan is to be repaid,

is first submitted by the Port Authority to, and approved by, the Minister.

(3) Any moneys borrowed by the Port Authority under the provisions of this section—

- (a) may be raised as one loan or as several loans; and
- (b) may be raised—
  - (i) by the issue of debentures with or without interest coupons attached;
  - (ii) by the creation and issue of inscribed stock to be called “The Bunbury Port Authority Inscribed Stock”;
  - (iii) partly as provided by subparagraph (i), and partly as provided by subparagraph (ii) of this paragraph; or
  - (iv) in such other manner as the Governor may approve.

54C. For the purpose of making provision to repay either the whole or any part of any loan raised by the Port Authority under the provisions of this Act, the Port Authority may with the consent of the Governor, and subject to subsection (2) of section fifty-four B of this Act, borrow the moneys necessary for that purpose before the loan or part of it becomes payable.

Power to borrow to repay loan.  
Added by No. 8 of 1963, s. 5.  
Amended by No. 5 of 1967, s. 49.

54D. (1) Due payment of debentures and inscribed stock respectively issued or created under the provisions of section fifty-four B of this Act and sold by the Port Authority, with all interest thereon, shall be charged on and secured upon the revenues of the Port Authority.

Moneys borrowed charged on revenues of Port Authority and guaranteed by the State.  
Added by No. 8 of 1963, s. 5.  
Amended by No. 5 of 1967, s. 50.

(2) For the purposes of subsection (1) of this section “revenues” of the Port Authority means all dues, charges, rents and other levies authorised to be collected and received by the Port Authority.

(3) The due repayment of the principal moneys and the payment of all interest secured by debentures or inscribed stock issued or created by the Port Authority under the provisions of section fifty-four B of this Act is hereby guaranteed by the Government of the State.

(4) Any sums required by the Treasurer for fulfilling any guarantee given by this Act shall be paid out of the Public Account which is hereby to the necessary extent appropriated accordingly, and any sums received or recovered by the Treasurer from the Port Authority or otherwise in respect of a sum so paid by the Treasurer shall be paid into the Public Account.

Provisions of Second Schedule to apply to debentures and inscribed stock.  
Added by No. 8 of 1963, s. 5.  
Amended by No. 5 of 1967, s. 51.

54E. (1) The provisions of Part I of the Second Schedule to this Act shall apply with respect to debentures and inscribed stock issued by the Port Authority under the provisions of section fifty-four B of this Act.

(2) The provisions of Part II of that Schedule shall apply with respect to debentures issued under the provisions of section fifty-four B of this Act.

(3) The provisions of Part III of that Schedule shall apply with respect to inscribed stock issued in Bunbury in the State under the provisions of section fifty-four B of this Act.

Debentures and inscribed stock authorised trustee investments.  
Added by No. 8 of 1963, s. 5.  
Amended by No. 5 of 1967, s. 52.

54F. (1) Debentures and inscribed stock issued and created by the Port Authority under the provisions of section fifty-four B of this Act shall—

- (a) be securities authorised by the laws relating to the investment of trust moneys; and
- (b) have the status of Government securities within the meaning of any Act in force for the time being relating to friendly societies.

(2) Unless he is expressly forbidden by the instrument, if any, creating the trust, a trustee may invest trust funds in his hands in the debentures and inscribed stock referred to in subsection (1) of this section.

(3) The debentures and inscribed stock shall be a lawful investment for moneys which a body corporate is authorised or directed to invest, in addition to any other investments expressly authorised for the investment of the moneys.

(4) A trustee or body corporate may pursuant to this Act convert the debentures in his or its hands into inscribed stock.

54G. (1) There shall be entered and debited each year in the Bunbury Port Authority Account such amounts as shall be fixed by the Treasurer as the interest and sinking fund contributions payable for the year in respect of such portion of the General Loan Fund as shall have been applied to the exercise by the Port Authority of any of the powers conferred upon it or the discharge of the duties imposed upon it by this Act.

Contribution of interest and sinking fund.  
Added by No. 8 of 1963, s. 5.  
Amended by No. 5 of 1967, s. 53.

(2) Such contributions shall be paid to the Treasurer.

(3) The accrued interest in the sinking fund contributions as certified by the Under Treasurer shall be incorporated in the accounts of the Port Authority in relation to the exercise by it of the powers conferred upon it by this Act.

54H. (1) Interest on the daily balance of money provided out of the Public Account for the purposes of this Act shall be charged in the books of account of the Port Authority in relation to the exercise of its powers and the discharge of its duties under this Act, and the amount of that interest shall be paid to the credit of the Public Account half-yearly or at such other times as the Treasurer may direct.

Interest on daily balance.  
Added by No. 8 of 1963, s. 5.  
Amended by No. 5 of 1967, s. 54.

(2) The rate of interest shall be fixed from time to time by the Treasurer.

54I. Any profit at the end of any financial year resulting from the activities carried on by the Port Authority under this Act which is available in cash after making full allowance for interest and sinking fund contributions, and depreciation, obsolescence and maintenance of plant, may be used by the Port

Application of profit.  
Added by No. 8 of 1963, s. 5.  
Amended by No. 5 of 1967, s. 55.

Authority for any of the purposes of this Act, unless the Treasurer requires payment to be made to the credit of the Public Account.

Port Authority to determine depreciation. Added by No. 8 of 1963, s. 5. Amended by No. 5 of 1967, s. 56.

**54J.** The Port Authority shall determine the amount of the depreciation and obsolescence of the assets in relation to the exercise by the Port Authority of its powers and the discharge of its duties under this Act, and that amount shall apply for the purpose of section fifty-four I of this Act unless in the opinion of the Auditor General that amount should be increased, in which case the amount determined by the Auditor General shall apply.

Signatures on drafts and cheques. No. 17 of 1902, s. 55. Repealed and re-enacted by No. 48 of 1959, s. 2.<sup>1</sup> Amended by No. 5 of 1967, s. 57.

**55.** All drafts upon the Treasury or cheques drawn for expenditure by the Port Authority shall be signed by one member and countersigned by the managing secretary to the Port Authority.

Accounts. No. 35 of 1906, s. 11. Amended by No. 5 of 1967, s. 58.

**56.** The Port Authority 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 it, and of all moneys owing to and by it 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 Port Authority under this Act.

Reserve accounts. Added by No. 8 of 1963, s. 6. Amended by No. 5 of 1967, s. 59.

**56A.** The Port Authority may in respect of its works and undertakings establish in its books such reserve accounts as the Port Authority thinks fit subject to the approval of the Treasurer, and may in every year credit to each reserve account so established such sums as the Port Authority thinks fit.

<sup>1</sup> Operative from 1/12/59: See Act 48 of 1959, s. 2 (1).

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

Books may be inspected. No. 17 of 1902, s. 58. Amended by No. 113 of 1965, s. 4(1); No. 5 of 1967, s. 60.

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

58. The Port Authority shall cause its accounts to be balanced every year on the thirtieth day of June.

Accounts to be balanced. No. 17 of 1902, s. 57. No. 35 of 1906, s. 12. Amended by No. 5 of 1967, s. 61.

59. (1) The Port Authority shall cause a full and true balance sheet of the assets and liabilities, together with a revenue account or profit and loss account for each year, and such other statements as may be necessary to be compiled from the books and submitted to the Auditor General for Audit.

Accounts to be audited. No. 35 of 1906, s. 13. Amended by No. 5 of 1967, s. 62.

(2) The Auditor General shall certify that he has found the accounts in order, or otherwise, as the case may be; that, in his opinion, the accounts are properly drawn up so as to present a true and correct view of the transactions for the period under review as shown by the books; that all items of receipts and payments and all known liabilities and assets have been brought into account and that the value of all assets has in all cases been fairly stated.

(3) The Auditor General may express an opinion upon the necessity of reserve or renewal funds of amounts set aside to meet depreciation and obsolescence of plant in addition to the statutory sinking fund, and of the adequacy of such amounts.

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

Copies of accounts as audited to be furnished.

*Ibid.*, s. 14.

Amended by No. 5 of 1967, s. 63.

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

### *Regulations.*

Power to make regulations.  
No. 17 of 1902, s. 60.  
No. 35 of 1906, s. 15.

Amended by No. 51 of 1957, s. 3;  
No. 48 of 1959, s. 2;  
No. 8 of 1963, s. 6;  
No. 9 of 1965, s. 4;  
No. 5 of 1967, s. 64.

Proceedings of the Port Authority.

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

- (1) The general conduct of its business and proceedings.
- (2) Prescribing the days upon which the ordinary meetings of the Port Authority shall be held.
- (2a) [*Deleted by No. 9 of 1965, s. 4.*]
- (3) The control, supervision, and guidance of its officers and servants.
- (4) Regulating all matters relating to the protection of life and property.
- (5) Regulating the landing, shipping, transshipping, deposit, removal, and keeping of gunpowder and other explosive substances and compounds, or other dangerous goods.
- (6) Regulating the times, places, order, and mode of the shipping, unshipping, landing, warehousing, stowing, and depositing of goods (with special regulations and restrictions in the case of dangerous goods), and the landing and embarking of passengers, and the taking in and discharge of ballast.
- (7) Imposing, levying, and receiving all berthing dues, wharfage dues, and other tolls, rates, or charges.

Port control.



- (8) The exemption of ships in the service of His Majesty or of any British possession, or in the naval service of any foreign power, and of other vessels from port dues.
- (9) Regulating the use of wharfs or docks, quays, landing stages, and other landing places, and generally regulating the traffic on the same. Wharfs, etc.  
See N.Z.  
Act, No. 35,  
1878, s. 212.
- (10) Fixing scales of dues, tolls, and charges to be paid for the use thereof.
- (11) Fixing scales of dues for the storage of goods and charges to be paid for taking into and delivering the same from warehouses or buildings belonging to or in the occupation of the Port Authority.
- (12) Regulating the use of cranes, weighing and other machines, weights and measures, conveniences or appliances belonging to the Port Authority, and fixing charges to be paid for the use of the same.
- (13) Regulating the cleansing, repair, and effectual preservation of docks and wharves and providing for the keeping and maintenance of the same in a fit state for the convenience of persons walking upon or landing on or embarking from any such wharf.
- (14) Regulating the duties and conduct of all persons, as well the servants of the Port Authority as others not being officers of customs, who are employed or engaged in the port. Duties of  
employees.
- (15) The guidance of porters, cabdrivers, carters, carmen, and others carrying goods or driving horses, cabs, carriages, wagons, carts, drays, trucks, or other vehicles for conveying passengers or goods, and other commodities on any wharf.

Collection  
of rates  
and dues.

- (16) Empowering a collector of dues, either alone or with other persons, to enter a ship in order to ascertain the dues payable in respect of the ship or of the goods therein.
- (17) Requiring the master of every ship to report his arrival within a specified time after his arrival.
- (18) Requiring the master of every ship to produce his certificate of registry to any officer on demand.
- (19) Requiring the master of every ship to give as many copies as may be required by the Port Authority of the bill of lading or manifest of the cargo, or other proper account of goods intended to be unshipped, and the name of the consignee or other person to whom they are intended to be delivered, and as many copies as may be required by the Port Authority of all alterations in or additions to such bill of lading, manifest, or other proper account.
- (20) Requiring the master of every ship to obtain permission to discharge cargo before doing so.
- (21) Requiring the shippers of goods to furnish accounts of the goods intended to be shipped.
- (22) Regulating the time when dues on goods shipped or unshipped are to be payable.

Limitation  
of liability.

- (23) Limiting the liability of the Port Authority for goods deposited, stored, in transit, warehoused, landed, lodged, or left on any part of the property of the Port Authority, including all wharves and sheds, in case of damage to or loss of such goods from any cause whatever.
- (24) Prohibiting persons from acting as porters, cab-drivers, carters, carmen or otherwise in the carriage of goods or passengers without previously obtaining and continuing to hold the license of the Port Authority

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 Port Authority.

(25) Authorising and empowering the Port Authority in its discretion, to adopt the weight or measurement of goods set forth in the bill of lading or manifest of the goods, for the purpose of levying, imposing, charging, and collecting dues, and charges under this Act.

Weight and measurement.

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

Speed of vessels.

(26a) Prescribing all matters and things which are required to be prescribed or which it may be necessary or convenient to prescribe with respect to debentures and inscribed stock issued and created by the Port Authority under this Act.

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

Generally.

62. Every regulation—

(1) May impose a penalty not exceeding two hundred dollars for the breach thereof; and

(2) May provide that, in addition to the penalty, any expense incurred by the Port Authority in consequence of the breach of such regulation shall be paid by the person committing such breach.

Penalties for breach of regulations. No. 17 of 1902, s. 61. Amended by No. 113 of 1965, s. 4 (1). No. 5 of 1967, s. 65.

63. [Repealed by No. 5 of 1967, s. 66.]

*Miscellaneous.*

64. [Repealed by No. 5 of 1967, s. 67.]

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

65. Whenever by any misadventure or accident anything is at any time done after the time required by this Act or the regulations, or is otherwise irregularly done in matter of form, the Governor may, from time to time, make provision for any such case, or may extend the time within which anything is required to be done, or may validate anything so done after the time required, or irregularly done in the matter of form, so that the true intent and purpose of this Act and the regulations may have effect.

Penalty for  
not  
complying  
with  
directions of  
berthing  
master.  
See No. 17 of  
1902, s. 63.  
Amended by  
No. 113 of  
1965, s. 4 (1);  
No. 5 of 1967,  
s. 68.

66. The master of any vessel who, after the service on him of notice in writing signed by the berthing master or any officer acting on behalf of the berthing master, does not forthwith regulate such vessel according to such directions, shall be liable to a penalty not exceeding two hundred dollars.

Restriction  
on deposit  
of ballast  
or rubbish.  
*Ibid.*, s. 67.  
Amended by  
No. 113 of  
1965, s. 4 (1);  
No. 5 of 1967,  
s. 69.

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

- (1) casts, or causes to be cast, or suffers to fall, either from on board ship or from land, any ballast, rock, stone, slate, shingle, gravel, sand, earth, cinders, rubbish, or other substance or thing, on any tidal land, or into the port, or tidal water, or into the sea below low water-mark; or
- (2) casts, or causes to be cast, or suffers to fall, any such substance or thing on land, in a position where the same may be liable to fall or descend, or be carried or washed down by ordinary or high tides, or by any stream or flow of water, or by any storm or flood, or otherwise, into the port or tidal water, or into the sea; or
- (3) casts, or places or leaves, or causes to be cast, placed, or left, any ship or boat laid by or neglected as unfit for sea service, any floating or other timber, or any other thing on any tidal lands, or in the port or tidal water, or in the sea,

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

68. Any act shall be deemed to tend to the injury of navigation, within the meaning of this Act, in any case where a series of like acts has produced or would produce injury to navigation.

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

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

Penalty for wilful damage to works.  
*Ibid.*, s. 71.  
Amended by No. 113 of 1965, s. 4 (1); No. 5 of 1967, s. 70.

70. If any person wilfully or negligently breaks or damages or takes away any lamp or other appliance used for the purpose of lighting any wharf, quay, pier, or any road or dock, or other place, or wilfully extinguishes any light, every person so offending shall be liable to a penalty not exceeding one hundred dollars.

Penalty for wilful damage to lights.  
*Ibid.*, s. 72.  
Amended by No. 113 of 1965, s. 4 (1); No. 5 of 1967, s. 71.

71. If any person—

- (a) fails, refuses, or neglects to do, or in any manner obstructs, impedes, or interferes with the doing of anything enjoined or authorised to be done; or
- (b) wilfully does anything prohibited by this Act; or
- (c) molests or makes use of any threatening language to any engineer, surveyor, berthing master, pilot, or other officer or person acting in the execution of his duty, and whether under the authority of the Governor or the Minister, or of the Port Authority; or
- (d) in any other respect offends against any of the provisions of this Act or any regulation thereunder,

Offence incurring penalty.  
No. 17 of 1902, s. 73.  
Amended by No. 113 of 1965, s. 4 (1); No. 5 of 1967, s. 72.

every such person in any such case so offending shall, where no other penalty is in that behalf specifically provided, be liable to a penalty not exceeding one hundred dollars.

Penalty for offering bribes to officers.  
*Ibid.*, s. 74.  
Amended by No. 113 of 1965, s. 4 (1); No. 5 of 1967, s. 73.

72. Any person who gives or offers any reward or bribe to any officer or servant of the Port Authority for the purpose of gaining an undue preference in the execution of his office, or for the purpose of inducing him to do or omit to do anything relating to his office, shall, for every such offence, be liable to a penalty not exceeding three hundred dollars, or to imprisonment not exceeding twelve calendar months, with or without hard labour.

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

73. Any offence against this Act, and any breach of any of the provisions thereof or of any regulation thereunder, may be heard and determined summarily by any two or more Justices of the Peace in the manner provided by the Justices Act, 1902.

What shall be sufficient averment.  
*Ibid.*, s. 76.  
Amended by No. 5 of 1967, s. 74.

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

Application of penalties.  
*Ibid.*, s. 77.  
Amended by No. 5 of 1967, s. 75.

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

Police officers to report breaches of Act.  
No. 35 of 1906, s. 20.  
Amended by No. 5 of 1967, s. 76.

76. It shall be the duty of every police officer and constable who is aware or has reason to believe that any of the provisions of the Act or the regulations thereunder are being contravened, to forthwith report the matter to the managing secretary to the Port Authority.

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

77. When an offender is punishable under the provisions of this Act, and also under the provisions of some other Act, he may be prosecuted and convicted under the provisions of either Act, so that he is not punished twice for the same offence.

FIRST SCHEDULE.

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

Heading substituted by No. 8 of 1963, s. 8. Section 2.

SECOND SCHEDULE.

PART I.—DEBENTURES AND INSCRIBED STOCK.

The following provisions shall apply to debentures and inscribed stock issued by the Port Authority under the provisions of section fifty-four B of this Act:—

Added by No. 8 of 1963, s. 9.

Amended by No. 113 of 1965, s. 4 (1); No. 5 of 1967, s. 77.

1. All debentures and inscribed stock—

- (a) shall bear interest at such rate and be redeemable on such date and at such place as the Port Authority may, with the approval of the Governor, determine; and
- (b) may with the consent of the holder or the registered owner thereof, as the case may be, be paid off at any time before the due date for repayment, at not more than the face value thereof.

Debentures and stock payable before due date.

2. Interest secured by any debentures or inscribed stock issued or created pursuant to this Act shall be payable half-yearly on such days at such places as the Port Authority determines.

When interest payable.

3. The Port Authority may, at the request of the holder of a debenture or of the registered owner of inscribed stock issued or created pursuant to this Act, in lieu thereof issue to him inscribed

Debentures and stock interchangeable.

*Bunbury Port Authority.*

stock or debentures, as the case may be, in respect of the same loan, and of the same amount, and of the same currency, and bearing the same interest.

Brokerage.

4. The Port Authority may pay moneys by way of brokerage for the making, procuring, negotiating, or obtaining the loan of any money borrowed under the authority conferred by section fifty-four B of this Act.

Sinking Fund.

5. (1) The Port Authority shall set aside half-yearly by way of a sinking fund for the purpose of redeeming any loans raised by the Port Authority pursuant to section fifty-four B of this Act an amount calculated at a rate approved by the Treasurer and sanctioned by the Governor.

(2) When it is necessary to have resort to any sinking fund referred to in subclause (1) of this clause for the purpose of paying off either the whole or any part of any loan in respect of which the fund is provided, the Port Authority may sell any securities in which the fund is invested, or may obtain an advance thereon from any bank or from the Treasurer of the State.

Notice of trust not receivable.

6. No notice of any trust, express, implied or constructive, shall be received by the Port Authority or by an officer of the Port Authority in relation to a debenture or inscribed stock issued or created pursuant to this Act, and the Port Authority or the officer shall not be bound to see to the execution of the trust to which the debenture or inscribed stock may be subject.

Owners of securities not responsible for application of moneys.

7. A person advancing money to the Port Authority and receiving in consideration of the advance a debenture or inscribed stock issued under this Act shall not be bound to inquire into the application of the money advanced or be in any way responsible for the non-application or mis-application thereof.

## PART II.—DEBENTURES.

The following provisions shall apply to debentures issued by the Port Authority under this Act:—

Form of debenture.

1. A debenture shall be in the form prescribed by the regulations.

2. A debenture shall—

Seal.

(a) be sealed with the common seal of the Port Authority in the manner prescribed by the regulations; and



- (b) be numbered consecutively beginning with the number one and proceeding in an arithmetical progression whereof the common difference is one. Number.
3. A debenture with the interest coupons annexed thereto and every interest coupon after being detached therefrom shall pass by delivery and without any assignment or endorsement. Pass by delivery.
4. The bearer of a debenture or detached interest coupon shall have the same rights as if he were expressly named as payee therein. Rights of bearer.
5. No interest shall be payable in respect of a debenture except to the holder of the coupon representing the interest claimed and upon delivery of the same. Payment of interest.
6. (1) The Port Authority shall cause to be kept in one or more books a register of debentures, and within a reasonable time after the date of a debenture shall cause to be made an entry in the register specifying the number, date and amount of the debenture. Register of debentures.
- (2) The register of debentures— Inspection.
- (a) may be inspected at all reasonable times by a person on payment of ten cents for each inspection; and
- (b) shall be evidence of any matters required or authorised by or under this Act to be inserted therein. Register to be evidence.
- (3) A person shall be entitled to obtain from the Port Authority copies or extracts certified by the officer in whose custody the register is kept to be true copies of or extracts from such register upon payment for each copy or extract of a fee of twenty-five cents and two cents for every folio of seventy-two words; and any copy or extract so certified shall be admissible in evidence. Copies to be supplied.
7. Upon proof being made before a judge in chambers by affidavit of any credible person that a debenture issued by the Port Authority under this Act and held by such person the number and sum whereof is specified by him has been lost or accidentally burnt or otherwise destroyed before the same has been paid off, and after the insertion of such advertisements as the judge directs and upon the judge certifying that he is satisfied with the proof, the Port Authority may after the expiration of six months cause a new debenture with interest coupons attached to be made having the like cur- Provision for lost debentures.

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rency and bearing the same number, date principal sum and rate of interest as the debenture so lost or destroyed and to be delivered to the person upon his giving sufficient security to the Port Authority to indemnify it against any double payment.

Provision  
for defaced  
debentures.

8. If a debenture is defaced by accident—

- (a) the Port Authority may cancel the same and cause a new debenture to be made in lieu thereof; and
- (b) the new debenture shall have the like currency and be in all respects subject to the same provisions and bear the same number, date and principal sum and rate of interest as the cancelled debenture.

Discharged  
debentures  
to be  
destroyed.

9. (1) A debenture paid off, discharged, exchanged or converted into stock shall—

- (a) be cancelled by the managing secretary to the Port Authority; and
- (b) be burnt in the presence of the managing secretary and the Auditor General or one of his officers thereto authorised by him in writing.

(2) The Auditor General or such officer (as the case may be) before the debenture is burnt shall audit the same and allow the accounts thereof and furnish the Port Authority with a certificate particularising the debenture so burnt; and the managing secretary shall file that certificate in the office of the Port Authority.

## PART III.—STOCK.

The following provisions shall apply to The Bunbury Port Authority Inscribed Stock issued at Bunbury, Western Australia (in this Part called "stock") :—

Establish-  
ment of  
registry and  
appointment  
of Registrar.

1. The Port Authority may establish at its office a registry for the inscription of stock created and issued under the authority of this Act and appoint an officer of the Port Authority to be registrar of stock.

Parcels of  
stock.

2. Stock may be sold by the Port Authority for ready money in parcels or amounts of twenty dollars or some multiple of twenty dollars.

Stock  
ledgers.

3. The Port Authority shall cause to be provided and kept at the office of the Port Authority books to be called "stock ledgers".

(2) All stock issued shall be inscribed in the stock ledgers by entering the names of the purchasers of stock and the amount of stock purchased by them respectively.

Inscription of stock.

(3) In the case of joint purchasers of stock the names of not more than four of them shall be inscribed as the joint purchasers.

Joint purchasers.

(4) The stock ledgers shall be evidence of any matters appearing therein and required or authorised by or under this Act to be inserted therein.

Evidence.

4. (1) Stock or any share therein shall be transferable in the manner prescribed by the regulations from one person to another by instrument in the form so prescribed and not otherwise.

Stock how transferable.

(2) A person shall not be entitled or allowed to transfer any fraction of one dollar or any smaller sum than twenty dollars unless that smaller sum is the full amount of the balance standing to his credit in the stock ledger.

Restrictions on amount of stock which may be transferred.

(3) An instrument of transfer of the stock or any share therein shall be executed by all parties and the signatures to the instrument shall be attested in the manner prescribed by the regulations.

Execution of transfer.

(4) An instrument of transfer when executed shall be delivered to the registrar who shall register the same by entering a memorial of it in the stock ledger and shall inscribe the name of the transferee in the stock ledger as the owner of the stock.

Registration of transfer.

5. (1) A person to whom stock is transmitted in consequence of the death or bankruptcy or insolvency of the registered owner of the stock or by any other lawful means than by a transfer in accordance with this Act may apply in the form prescribed by the regulations to the registrar at the registry to be inscribed as the owner of the stock.

Application for transmission (other than transfer) of stock.

(2) An application for transmission shall be verified by statutory declaration or in such other manner as is so prescribed, and—

Verification of application for transmission.

(a) in the case of a transmission consequent on death—the probate of the will or the letters of administration shall be produced to the registrar or in the case of transmission to a survivor or the survivors of a joint owner a certificate of the death of the owner who has died accompanied by

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a statutory declaration identifying the person named in the death certificate with the person who is shown as the registered owner of the stock may if the registrar approved be produced to him in lieu of probate or letters of administration; and

- (b) in the case of a transmission consequent on bankruptcy or insolvency—an office copy of the adjudication or order of sequestration shall be delivered to the registrar.

Registration  
of trans-  
mission.

(3) The registrar shall if he is satisfied that the provisions of this Act have been complied with register any such transmission by entering a memorial of it in the stock ledger and inscribe the name of the person to whom the stock has been transmitted in the stock ledger as the registered owner of the stock.

Power of  
attorney.

6. (1) A person may by power of attorney under his hand and seal and attested by two or more credible witnesses appoint some person to be his attorney for any purpose in relation to stock (including an application for conversion or to receive interest or redemption money).

(2) A power of attorney shall be valid and effectual for all purposes therein mentioned until notice of its revocation or of the bankruptcy, insolvency, lunacy, unsoundness of mind or death of the principal has been received by the registrar at the registry.

When trans-  
fer books to  
be closed and  
ledgers  
balanced.

7. (1) An instrument of transfer of stock or of any part thereof shall not be registered on any Saturday or holiday or within the period of fourteen days or within such period (not exceeding twenty-one days) as is prescribed next before any of the days on which the interest thereon is payable.

(2) During the periods referred to in the last preceding subclause the Port Authority shall cause the amount of the stock respectively standing to the credit of the several registered owners thereof to be ascertained and the balances to be struck and carried forward in the proper stock ledger.

(3) An instrument of transfer of stock or of any part thereof shall not be registered during the period of twenty-one days immediately preceding the date of maturity of stock.

8. (1) The receipt of the person in whose name stock stands in the stock ledger, or if it stands in the names of more persons than one the receipt of one of the persons named in the stock ledger shall be a sufficient discharge to the Port Authority for any interest payable in respect of the stock, notwithstanding any trusts to which the stock may then be subject and whether or not the Port Authority has had notice of the trusts, and the Port Authority shall not be bound to see to the application of the money paid upon such receipt.

Receipt of registered stockholders to discharge without regard to trust.

(2) If stock is held in joint names and one or more of the registered owners of the stock dies, becomes bankrupt, insolvent or otherwise legally incapable, the receipt of any one of the other joint owners or survivors shall be a sufficient discharge to the Port Authority for any interest payable in respect of the stock, notwithstanding that a transmission has not been registered as required by this Act.

Receipt where one of joint holders dies, etc.