

THE FREMANTLE HARBOUR TRUST ACT, 1902-1960.

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FIRST SCHEDULE.

SECOND SCHEDULE.

Approved for Reprint 19th June, 1962.

WESTERN AUSTRALIA.

FREMANTLE HARBOUR TRUST.

ANNO SECUNDO.

EDWARDI SEPTIMI REGIS.

No. 17 of 1902.

[Affected by Acts Nos. 38 of 1928, Sec. 2; 72 of 1948, Sec. 184; and 1 of 1952.]

[Amended by Acts:

- No. 35 of 1906, assented to 14th December, 1906;
- No. 25 of 1911, assented to 16th February, 1911;
- No. 4 of 1913, assented to 4th October, 1913;
- No. 54 of 1950, assented to 18th December, 1950;
- No. 17 of 1951, assented to 26th November, 1951;
- No. 39 of 1952, assented to 18th December, 1952;
- No. 73 of 1954,¹ assented to 14th January, 1955;
- No. 42 of 1957,² assented to 22nd November, 1957;
- No. 75 of 1960, assented to 12th December, 1960;

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

AN ACT to constitute the Fremantle Harbour Trust Commission; to regulate the appointment of Commissioners; to define their powers and authorities; and for other purposes incidental thereto.

[Assented to 11th December, 1902.]

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

1. This Act may be cited as the *Fremantle Harbour Trust Act, 1902-1960*, and shall come into force on the first day of January, One thousand nine hundred and three.

Short title
and com-
mencement.
Amended by
No. 75 of
1960, s. 1.

¹ Proclaimed to come into operation 1st March, 1955. See *Gazette* 18/2/55, p. 343.

² Proclaimed to come into operation 5th September, 1958. See *Gazette* 5/9/58, p. 2319.

Inter-
pretation.
See N.S.W.
Act, No. 1,
1901, s. 3.
Amended by
No. 75 of
1960, s. 2.

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

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

“Commissioners.”—The Fremantle Harbour Trust Commissioners constituted under this Act.

“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.

“Minister” means the responsible Minister of the Crown charged with the administration of this Act.

“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, 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 harbour.”—So much of the harbour of Fremantle 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 Commission.

3. There shall be five commissioners for carrying this Act into execution, who shall be a body corporate by the name of the Fremantle Harbour Trust Commissioners, with perpetual succession, a common seal, and power to hold land.

The Fremantle Harbour Trust Commissioners. See N.S.W. Act, No. 1, 1901, s. 5.

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

Appointment of commissioners.

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

5. Judicial notice shall be taken of the incorporation and common seal of the commissioners, 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 commissioners. Deed, instrument, or writing, sealed, admissible in evidence.

6. Every commissioner 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.

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

Vacancies.

8. (1) In the case of illness, suspension, or absence of any commissioner, the Governor may appoint some person to act as the deputy of such commissioner 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 commissioner.

Deputy commissioners.

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

Tenure of office.
See N.S.W. Act, No. 1, 1901, ss. 9 and 10.

9. (1) The Governor may suspend a commissioner 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 or insolvent debtors; or
- (c) if he absents himself from three consecutive meetings of the commissioners (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 commissioners, 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.

(2) The Minister shall cause to be laid before Parliament a full statement of the grounds of suspension within seven days after such suspension, if Parliament is sitting, and, when Parliament is not sitting, within seven days after the next sitting.

(3) A commissioner suspended under this section shall not be restored to office, unless both Houses of Parliament, within thirty days from the time when such statement has been laid before them, declare by resolution that the said commissioner ought to be restored to office.

(4) If both Houses of Parliament within the said time so declare, the said commissioner shall be restored by the Governor accordingly and subject thereto may be removed from office.

(5) A commissioner shall not be removed from office except as hereinbefore provided.

Remuneration of commissioners.
Amended by No. 17 of 1951, s. 3.

10. Each commissioner, other than the chairman, may receive a fee prescribed by the regulations for every ordinary meeting of the commissioners at which he attends.

11. The chairman shall receive a fee prescribed by the regulations for every ordinary meeting of the commissioners at which he attends.

Remuneration of chairman.
Amended by No. 17 of 1951, s. 4.

12. [*Section 12 repealed by No. 17 of 1951, s. 5.*]

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

Quorum.

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

Acting chairman.

15. If, at any meeting at which four commissioners only are present, such commissioners shall be equally divided in opinion, the chairman or acting chairman shall have a casting as well as a deliberative vote.

Procedure on difference of opinion.

16. No act or proceeding of the commissioners 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 commissioner.

Acts of commissioners not invalidated by vacancy.

17. The commissioners shall—

Minutes of proceedings.

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

(2) make a yearly report of their 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.
No. 35 of 1906, s. 2.

Office of commissioner not to be deemed an office of profit.

18. The office of commissioner, and the office of any person employed or retained by the commissioners otherwise than at a salary, shall not be deemed an office of profit within the meaning of the Constitution Act, 1889, or any amendment thereof.

Officers.

Appointment of officers and servants. See N.S.W. Act, No. 1, of 1901, s. 17.

19. (1) The Governor, on the nomination of the commissioners may appoint a secretary, an engineer, a harbour master, assistant harbour masters, pilots, berthing masters, and such other officers and servants as may be necessary for the administration of this Act, and on the recommendation of the commissioners, may dismiss any such officer or servant.

(2) All persons so appointed shall be subject to the control of the commissioners.

(3) The appointment and dismissal of servants and labourers, at daily or weekly wages, shall be in the sole power of the commissioners.

Appointment of Special Constables. Inserted by No. 25 of 1911, s. 2.

(4) The commissioners may, from time to time, appoint and dismiss special constables, who, within the limits of the Harbour, shall have, exercise, and enjoy such powers, authorities, and immunities, and be subject to such duties and responsibilities as any police officer duly appointed now has or is subject to by law.

Provided that such special constables shall not be members of the police force, but shall be servants of the commissioners, and under their direction and control.

Certain officers to give security.

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

Harbour master.

21. The harbour master appointed under this Act may also hold the office of chief harbour master for the State.

Vesting of Property.

22. There shall be vested in the commissioners, for the purposes of this Act,—

Property vested in commissioners. See N.S.W. Act, No. 1 of 1901, s. 27.

- (1) all lands of the Crown within the boundaries of the harbour, as described in the Schedule to this Act, including the bed and shores of the harbour;
- (2) all harbour lights and beacons within the boundaries of the harbour, except the lighthouses on Rottnest Island and at Woodman's Point;
- (3) all wharfs, docks, landing stages, piers, jetties, wharf sheds, and railways belonging to the Government and within the boundaries of the harbour;
- (4) all such other property as the commissioners may acquire or the Governor may at any time think fit to vest in the commissioners 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 harbour;
- (b) withdraw any land or other property of any kind from the commissioners, and re-vest the same in His Majesty.

23. All lands vested in the commissioners 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 commissioners leased and occupied for private purposes, and by persons other than the commissioners, their officers and servants.

Lands vested in commissioners free from municipal rates. N.S.W. Act, No. 1 of 1901, s. 39.

Powers and Duties of Commissioners.

24. The commissioners shall have the exclusive control of the harbour, and shall be charged with the maintenance and preservation of all property vested in them under this Act.

Commissioners to control, maintain and preserve. See N.S.W. Act, No. 1, 1901, s. 33.

Harbour
extensions.

25. The completion and extension within the harbour of all harbour works shall be deemed Government work within the meaning of the Public Works Act, 1902,¹ and may be undertaken by the Minister for Works on the recommendation and under the advice of the commissioners.

No. 35 of
1906, s. 3.

Provided that the completion and extension within the harbour of harbour works may, with the approval of the Governor, be undertaken by the commissioners, who shall be deemed a local authority within the meaning of the Public Works Act, 1902.¹

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

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

Roadways
and ap-
proaches.
No. 35 of
1906, s. 4.

26. The commissioners—

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

¹ Now Public Works Act, 1902-1961.

- (d) may provide such depots and sheds for the reception of goods, and such engines, cranes, hoisting and weighing machines, and other apparatus for facilitating the loading and discharging of vessels, and provide such other conveniences upon or near the wharves, docks, piers, jetties, landing stages, slips, or platforms as they may think expedient for the trade of the port, and may make reasonable charges for the use of any such depots, sheds, engines, cranes, hoisting and weighing machines, and such other apparatus and conveniences.

27. The Governor may, upon the recommendation of the commissioners, grant leases of any land vested in them 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 Perth.

Power to lease lands for certain purposes.
N.S.W. Act, No. 1 of 1901, s. 41.

27A. Subject to this Act, wherever any land is required for the purposes of this Act such land may be entered upon, surveyed and taken under the powers contained in and in accordance with the procedure prescribed by the Public Works Act, 1902.¹

Power to acquire land compulsorily.
Added by No. 75 of 1960, s. 3.

28. The commissioners may, by their corporate name, enter into contracts with any persons for the execution of any work they 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 them to carry the

Commissioners may make contracts, etc.
N.S.W. Act, No. 1 of 1901, s. 48.

¹ Now Public Works Act, 1902-1961.

purposes of this Act into effect, in such manner, and upon such terms, and under such stipulations, regulations, and restrictions as they may think proper.

Goods left on wharfs, etc., may be advertised and sold.

See N.Z. Act No. 55, 1878, s. 73.
Amended by No. 25 of 1911, s. 3.

29. (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, or if any goods within the harbour shall be deemed by the commissioners in their absolute discretion to be injurious to, or to injuriously affect, or to be liable to injuriously affect, other goods, or any shed, store, or other premises or open yard or place within the harbour, any person authorised by the commissioners may remove the goods to a convenient place, within or outside the limits of the harbour, and keep the same until payment of the expenses of such removal and keeping.

(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 at the port, the commissioners 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.

Disputes between departments to be settled by Minister.
N.S.W. Act, No. 1, 1901, s. 31.

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

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

Commissioners may provide labourers, etc., for working cargo.
No. 35 of 1906, s. 31.

31A. (1) In this section,

Section 31A.
Added by
No. 42 of
1957, s. 3.

“casual work” means

- (a) work which is referred to in the constitution of The Federated Ship Painters and Dockers Union of Australia (West Australian Branch) Union of Workers, as registered pursuant to the provisions of the Industrial Arbitration Act, 1912¹; and
- (b) any other work which the Governor declares by proclamation to be casual work to which this section applies; and

“casual worker” means a person who carries out, or is willing to carry out casual work.

(2) Power is conferred on the Governor to declare by proclamation that work is casual work to which this section applies, and by subsequent proclamation to cancel, or, from time to time, vary any declaration so proclaimed.

(3) In order to render an additional service available, the commissioners shall take all reasonable steps to arrange with casual workers or their employers, subject to the regulations, that sufficient casual workers attend at places, within the boundaries of the harbour, for which purpose the slipways at the western end of the Fremantle inner harbour, known respectively as the South Slipway and the Rous Head Slipway shall be deemed to be included within the boundaries of the harbour, so as to be available to carry out casual work if required to do so.

¹ Now Industrial Arbitration Act, 1912-1961.

(4) In order to ensure attendance of casual workers so as to be available to carry out casual work, the commissioners shall prescribe for the service mentioned in subsection (3) of this section, a service charge assessed at such rate per man hour worked as the commissioners estimate to be necessary and to be paid by persons actually employing casual workers as defined in section thirty-one A of this Act

- (a) to pay attendance money required to be paid under any award or agreement duly made and effective under the Industrial Arbitration Act, 1912-1952¹; and
- (b) to pay administrative expenses of giving effect to this section.

Pilotage.

Pilotage.

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

See Merchant Shipping Act, 1894, s. 603.

(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 under this Act for the conduct of the ship.

Lights, Buoys, and Signals.

33. The commissioners—

- (1) shall not erect or place any harbour light, signals, buoys, or beacon within the boundaries of the harbour, or alter or remove the position of any light, signal, buoy, or beacon without the sanction of the Minister; and
- (2) shall replace, remove, or discontinue any harbour light, signals, buoys, or beacons, or make any variation in the character of

Harbour lights, buoys, and beacons not to be erected or removed without sanction of Minister. N.Z. Act, No. 35 of 1878, s. 96.

And may be controlled by Minister. *Ibid.*, s. 100.

¹ Now Industrial Arbitration Act, 1912-1961.

any such light or signals, or in the mode of exhibiting the same, as the Minister may from time to time require.

34. If the commissioners shall, for a reasonable time after being required by the Minister in that behalf, fail or neglect to do or perform or cease to do or perform any act or thing of the kind mentioned in the last preceding section, the Minister may take all such steps and do all such acts as may be necessary to give effect to his requirements, and the expense thereof shall be charged to the commissioners.

Minister may act on neglect of commissioners.
Ibid., s. 101.

Wrecks, Obstructions, and Damage.

35. If any vessel is sunk, stranded, or abandoned within the limits of the harbour 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:—

Removal of wreck.
See N.Z. Act, No. 35, 1878, s. 105.

- (1) The commissioners shall give notice in writing to the owner of such vessel, or to an agent of such owner, that he is required, within a time specified in such notice, either to remove the wreck in a manner satisfactory to the commissioners, or to undertake, under security satisfactory to the commissioners, to remove the wreck in a manner satisfactory to and within a time to be fixed by the commissioners.
- (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 commissioners, 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 commissioners 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 commissioners 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 themselves for the whole of the expenses of removal, and shall, after reimbursing themselves, 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 commissioners 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.

Responsibility for injury to works of harbour.
Ibid., s. 106.

36. Where 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 commissioners,—

- (1) the owner of such vessel, floating timber, and material; and
- (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 commissioners for the injury, but the commissioners shall not recover twice for the same cause of action.*

37. Where 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 commissioners 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.

Recovery
by owner
from master
of ship.
Ibid., s. 107.

38. If any damage is done to any submarine cable, the property of or vested in the commissioners, within or partly within the harbour, by any ship, or any part of the equipment of any ship, such damage shall forthwith be made good by and at the expense of the master, owner, or agent of such ship; and in default, the commissioners may cause such repairs to be effected, and may recover the expense thereof from the master or owner or agent in any court of competent jurisdiction.

Damage to
cables.
No. 35 of
1906, s. 6.

Actions against Commissioners and Officers.

39. The commissioners shall not be liable for any act or omission of any qualified pilot or of their harbour master in case he is a qualified pilot.

Commis-
sioners not
liable for
acts or
omissions of
pilots.
See N.Z.
Act, No. 34,
1894, s. 6.

40. [Section 40 Repealed by No. 73 of 1954, ss. 5 and 8.]

Harbour Dues and Wharfage Charges.

41. Harbour dues and wharfage and service charges shall be made and levied, and shall be payable in accordance with regulations under this Act.

Harbour
dues, etc.,
to be made
by regu-
lation.
See N.Z. Act,
No. 35 of
1878, s. 110.
Amended by
No. 42 of
1957, s. 4.

* By section two of the Harbours and Jetties Act, 1928, it is provided that the owner of a vessel, and the master of a vessel shall be answerable under the provisions of the Fremantle Harbour Trust Act, 1902, for any loss or damage caused by the vessel, or by any fault of the navigation of the vessel, notwithstanding that the vessel was in charge of a pilot and that pilotage was compulsory, unless it is proved by the owner or by the master that the damage was caused by the negligence of the pilot.

See 2 and 3
Geo. V., c. 31,
s. 15 (Imp.).

Provided that service charges prescribed under section thirty-one A of this Act shall be levied on and payable by only those persons who actually employ casual workers as defined by and provided under that section. Contributions shall be made as directed from time to time by such employers of casual workers after the employment of such workers.

Existing dues and charges to continue.
Ibid., s. 109.

42. Until such regulations are made, all harbour dues and wharfage charges now payable by law shall continue to be levied and charged, and shall be payable and paid to the commissioners as if the same had been made payable under this Act.

Power to levy harbour improvement rates.
N.Z. 1878, No. 35, s. 216.
No. 35 of 1906, s. 3.

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

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

Tonnage of British vessels.
Ibid., s. 113.

44. (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.

Foreign vessels.

(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.

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

Ascertainment of tonnage of other foreign vessels. See *ibid.*, s. 114. No. 35 of 1906, s. 7.

46. The commissioners shall at all times keep exhibited in front of their principal office, a board having painted or affixed thereon lists of all dues and charges payable for the time being.

List of dues to be exhibited. N.Z. Act, No. 35, 1878, s. 116.

47. Where a difference arises between any officer authorised to collect any such dues and 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. 117.

- (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 commissioners, 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 commissioners in any court of competent jurisdiction.

48. 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 by ship. *Ibid.*, s. 119.

49. 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,

Liability for dues payable for goods. *Ibid.*, s. 120.

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 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.

Ibid., s. 121.

50. 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. 122.

51. All dues may be recovered by the commissioners in any court of competent jurisdiction as a debt due to them.

Persons authorised to collect dues may distrain.
Ibid., s. 123.

52. 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.

Settlement of dispute concerning dues or charges occasioned by distress.
Ibid., s. 124.

53. 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 Fremantle, 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.

54. 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 ten pounds, or in case the amount of the dues which he has evaded or has attempted to evade exceeds ten pounds, then not exceeding such amount.

Penalty on evasion.
Ibid., s. 125.

55. If in the opinion of the Governor the commissioners shall not, in any year, have collected and received from dues, charges, rents, and other sources of revenue sufficient, or shall in any year have collected and received as aforesaid more than sufficient, to provide for the lawful expenditure of the commissioners, including interest and contribution to the sinking fund, in respect of the value of the property vested in and charged against them under sections fifty-six and fifty-seven, or if for any other reason the Governor thinks fit so to do, the Governor may revise the harbour dues, harbour improvement rates, wharfage charges, and other dues, tolls, rates, fees, and charges prescribed by the regulations under this Act, and it shall be the duty of the commissioners to impose and collect such dues and charges in accordance with such revision until the Governor shall otherwise order.

Power to Governor to revise harbour dues.
No. 35 of 1906, s. 10.

Finance.

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

Minister to declare value of property vested in commissioners.
N.S.W. Act, No. 1, 1901, s. 73.

57. 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 commissioners during the preceding financial year, to be charged as aforesaid.

Subsequent works.
See *ibid.*, s. 74.

Funds.
Amended by
No. 42 of
1957, s. 5.
Substituted
by No. 75 of
1960, s. 4.

58. (1) Except to the extent that section fifty-eight A of this Act provides otherwise, the funds necessary for the effectual exercise by the commissioners 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 commissioners from all dues, charges, rents and other levies under the authority of this Act; and
- (c) such moneys as the commissioners 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 "The Fremantle Harbour Trust Account", and shall be applied to the purposes of this Act.

(3) The moneys from time to time in the said 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 commissioners under this Act;
- (b) the fees or remuneration and allowances payable to the commissioners;
- (c) the salaries and wages of officers and servants employed in or in connection with the activities carried on by the commissioners; and
- (d) all other expenditure lawfully incurred by the commissioners in the exercise of their powers or the discharge of their duties or obligations under this Act.

58A. (1) Service charges collected by the commissioners for attendance money and administration expenses under section thirty-one A of this Act shall be paid by the commissioners into the Treasury to the credit of an account to be called "Fremantle Harbour Trust Attendance Money Account", and shall be used for payment of attendance money payable under an award or agreement referred to in that section.

Collection of service charges. Added by No. 75 of 1960, s. 5.

(2) Where there is, or is likely to be a deficiency in the Account referred to in subsection (1) of this section, the commissioners may, in order to make good or to avoid the deficiency, borrow from the Treasurer, who may lend to the commissioners from the Public Account, such sums, on such terms and conditions as to repayment, and as to payment of interest, as the Treasurer specifies, and is hereby authorised to specify.

58B. (1) The commissioners in addition to the powers conferred on them by sections fifty-eight C and fifty-eight D 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 commissioners out of moneys appropriated by Parliament to such purpose to enable the commissioners to defray expenditure incurred by them under this Act at any time when the moneys in The Fremantle Harbour Trust Account are not sufficient to meet that expenditure in full.

Power of commissioners to borrow money from Treasurer. Added by No. 75 of 1960, s. 5.

(2) The commissioners 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 Fremantle Harbour Trust Account from time to time, and upon any works, undertakings and other assets vested in the commissioners.

Power of commissioners to borrow money on issue of debentures or inscribed stock.

Added by No. 73 of 1960, s. 5.

58C. (1) Subject to subsection (2) of this section, the commissioners 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 commissioners for the effectual exercise by them of the powers conferred by this Act;
- (b) create and issue debentures and inscribed stock in exchange for any debentures and inscribed stock respectively issued in respect of moneys previously borrowed by the commissioners, and not repaid;
- (c) create, issue and sell debentures and inscribed stock for the purpose of borrowing money for redeeming any loans owing by the commissioners, 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 commissioners 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 commissioners to, and approved by, the Minister.

(3) Any moneys borrowed by the commissioners 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 Fremantle Harbour Trust 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.

58D. For the purpose of making provision to repay either the whole or any part of any loan raised by the commissioners under the provisions of this Act, the commissioners may with the consent of the Governor, and subject to subsection (2) of section fifty-eight C 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. 75 of 1960, s. 5.

58E. (1) Due payment of debentures and inscribed stock respectively issued or created under the provisions of section fifty-eight C of this Act and sold by the commissioners, with all interest thereon, shall be charged on and secured upon the revenues of the commissioners.

Moneys borrowed charged on revenues of commissioners and guaranteed by the State. Added by No. 75 of 1960, s. 5.

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

(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 commissioners under the provisions of section fifty-eight C 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 commissioners 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. 75 of
1960, s. 5.

58F. (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 commissioners under the provisions of section fifty-eight C 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-eight C of this Act.

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

Debentures
and inscribed
stock
authorised
trustee
investments.
Added by
No. 75 of
1960, s. 5.

58G. (1) Debentures and inscribed stock created and issued by the commissioners under the provisions of section fifty-eight C 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.

58H. (1) There shall be entered and debited each year in The Fremantle Harbour Trust 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 commissioners of any of the powers conferred upon them or the discharge of the duties imposed upon them by this Act.

Contribution of interest and sinking fund.
Added by No. 75 of 1960, s. 5.

(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 commissioners in relation to the exercise by them of the powers conferred upon them by this Act.

58I. (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 commissioners in relation to the exercise of their powers and the discharge of their 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. 75 of 1960, s. 5.

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

58J. All moneys standing to the credit of The Fremantle Harbour Trust Account may, until required by the commissioners in connection with the exercise of their powers or the discharge of their duties under this Act, be temporarily invested as

Moneys may be temporarily invested.
Added by No. 75 of 1960, s. 5.

the Treasurer may direct, and all interest derived from the investment shall be paid to the credit of that account.

Application
of profit.
Added by
No. 75 of
1960, s. 5.

58K. Any profit at the end of any financial year resulting from the activities carried on by the commissioners 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 commissioners for any of the purposes of this Act, unless the Treasurer requires payment to be made to the credit of the Public Account.

Commis-
sioners to
determine
depreciation.
Added by
No. 75 of
1960, s. 5.

58L. The commissioners shall determine the amount of the depreciation and obsolescence of the assets in relation to the exercise by the commissioners of their powers and the discharge of their duties under this Act, and that amount shall apply for the purpose of section fifty-eight K 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.

59. [*Repealed by No. 17 of 1951, s. 5.*]

Accounts.
No. 35 of
1960, s. 11.

60. The commissioners shall cause books to be provided and kept, and true and regular accounts to be entered therein—

- (a) of all moneys received and paid by them, and of all moneys owing to and by them under this Act, and of the several purposes for which such moneys shall have been received and paid, and owing; and
- (b) of all the assets and liabilities of the commissioners under this Act.

Reserve
accounts.
Added by
No. 75 of
1960, s. 6.

60A. The commissioners may in respect of their works and undertakings establish in their books such reserve accounts as they think fit subject to the approval of the Treasurer, and may in every year credit to each reserve account so established such sums as they think fit.

61. (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. See N.S.W. Act, No. 1, 1901, s. 76.

(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 five pounds.

62. The commissioners shall cause their accounts to be balanced every year on the thirtieth day of June.

Accounts to be balanced No. 35 of 1906, s. 12.

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

Accounts to be audited. No. 35 of 1906, s. 13.

(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, 1904,¹ and any amendment thereof.

¹ Now Audit Act, 1904-1957.

Copies of accounts as audited to be furnished. No. 35 of 1906, s. 14.

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

Regulations.

Power to make regulations. Amended by No. 54 of 1950, s. 3. No. 17 of 1951, s. 6. No. 39 of 1952, s. 2. No. 42 of 1957, s. 6.

65. The commissioners may make regulations under this Act for all or any of the following purposes:—

Proceedings of the Board.

- (1) The general conduct of their business and proceedings.
- (2) Prescribing the days upon which the ordinary meetings of the commissioners shall be held.
- (2a) Prescribing the fees payable to the chairman and each commissioner for every ordinary meeting of the commissioners at which he attends, and the total amount of fees which may be paid to the chairman and each commissioner in any one year.
- (3) The control, supervision, and guidance of their officers and servants.
- (3a) Regulating, controlling, and prohibiting—
 - (a) the entering, or remaining, within the boundaries of the harbour or any specified part or parts of the harbour by any person or class of persons, or any thing or class of thing;
 - (b) the doing or omission of any thing or class of thing within the boundaries of the harbour or any specified part or parts of the harbour,

Cf. s. 24 ante and paragraph (53) post.

either at all times and on all occasions or at any time or times, or on any occasion or occasions, the intention being that the

generality of the authority delegated by this paragraph is not affected by authority delegated by any other paragraph of this section.

- (4) Regulating all matters relating to the protection of life and property, and the safe navigation of the harbour. Harbour control.
See N.Z. Act,
No. 35, 1878,
s. 212.
- (5) The prevention of overloading or overcrowding of vessels.
- (6) Regulating the landing, shipping, transshipping, deposit, removal, and keeping of gunpowder and other explosive substances and compounds, or other dangerous goods.
- (7) Regulating the mode and place of mooring and anchoring of ships, and their position and government in the harbour, and their unmooring and removal out of the harbour.
- (8) Enabling the harbour master to insure the observance of such by-laws, in case of non-compliance therewith, by mooring, unmooring, placing, or removing a ship, and for that purpose casting off or loosing any warp or rope, or unshackling or loosing any chain by which the ship is moored or fastened, first putting on board a sufficient number of persons for the protection of the ship in case there is no person on board to protect it.
- (9) 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 delivery of ballast.
- (10) Imposing, levying, and receiving all harbour dues, including tonnage dues, light dues, berthing dues, and other tolls, rates, or charges. Harbour dues.
See N.S.W.
Act, No. 1,
1901, s. 79 (4).
- (11) 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 harbour dues.

Wharfs, etc.
See N.Z.
Act, No. 35,
1878, s. 212.

(12) Regulating the use of wharfs or docks, quays, landing stages, and other landing places, and generally regulating the traffic on the same.

(13) Fixing scales of dues, tolls, and charges to be paid for the use thereof.

(14) 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 commissioners.

(15) Regulating the use of cranes, weighing and other machines, weights and measures, conveniences or appliances belonging to the commissioners, and fixing charges to be paid for the use of the same.

(16) 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.

Duties of
employees.

(17) Regulating the duties and conduct of all persons, as well the servants of the commissioners as others not being officers of customs, who are employed in the harbour.

Ferries.

(18) Providing for the control and management of steam or other ferry boats plying for hire at wharves or public thoroughfares.

Tugs.

(19) The granting of licenses for tugs to conduct vessels into or out of port, and the fees to be paid for such licenses.

Ballast and
other boats.

(20) Providing for the registration and licensing of all ballast boats, tank boats, cargo boats, lighters, and other vessels and boats plying for hire either for goods or passengers within the harbour, and for the registration and licensing of master boatmen and others, and to prevent unlicensed boatmen plying for hire.

- (21) Providing for the inspection of all such boats or vessels and preventing the use of such as are unseaworthy or insufficient.
- (22) Providing for the name of each boat or vessel and the name of its owner being shown thereon.
- (23) Fixing the fees to be paid for licensing any such boats or vessels as aforesaid, and the fares and charges for the carriage of persons and goods in licensed boats of the several kinds hereinbefore mentioned, or any of them, according to either time or distance. License fees for boats, etc.
- (24) Regulating the conduct, and for the punishment of misconduct, of licensed boatmen when practising their calling.
- (25) 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.
- (26) Prescribing pilotage rates and determining the nature of the services for which such rates respectively shall be payable. Pilotage. See N.Z. Act, No. 35, 1878, s. 212.
- (27) The time of payment for pilotage services rendered to any vessel.
- (28) The amount to be paid for detention of pilots on board vessels under quarantine or otherwise.
- (29) The conditions of exemption from compulsory pilotage.
- (30) The granting of exemption certificates: Provided that every exemption certificate shall be revocable in the absolute discretion of the commissioners. No. 35 of 1906, s. 15.
- (31) The government of pilots, and for ensuring the effectual performance of their duties.

Collection
of rates
and dues.
N.Z. Act,
No. 35, 1878,
s. 212.

(32) 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.

(33) Requiring the master of every ship to report his arrival within a specified time after his arrival.

(34) Requiring the master of every ship to produce the certificate of registry to any officer on demand.

No. 35 of
1906, s. 15.

(35) Requiring the master of every ship to give as many copies as may be required by the commissioners 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 commissioners of all alterations in or additions to such bill of lading, manifest, or other proper account.

(36) Requiring the master of every ship to give notice of the intended time of unshipment.

(37) Requiring the shippers of goods to furnish accounts of the goods intended to be shipped.

(38) Regulating the time when dues on goods shipped or unshipped are to be payable.

Limitation
of liability.
No. 35 of
1906, s. 15.

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

(40) Limiting the amount of liability on each package of goods coming into the custody of the commissioners and enabling the commissioners to rely upon, and the owner of goods to be bound by all statements,

exceptions, and conditions indorsed on ships' receipts, bills of lading, or ships' manifests for goods, as to declarations of value.

- (41) Providing that in any case of discharge and landing of goods outside what may be fixed by the commissioners as the ordinary working hours of the harbour, the commissioners shall not be liable to any person for the condition of such goods.
- (42) Providing that the commissioners shall in no case be liable for the contents of packages of goods which are so packed or secured that the contents are not plainly visible, or the character thereof not ascertainable on receipt of the goods without the goods being unpacked or opened.
- (43) Exempting the commissioners from liability for damage to goods caused or contributed to by insufficient protection or packing.
- (44) Exempting the commissioners from liability for damage to or loss of goods which may have been delivered on their premises, but for which the commissioners or their servants have not given a receipt.
- (45) Exempting the commissioners from liability for damage suffered by any person in consequence of delay in or the wrongful delivery of goods.
- (46) Exempting the commissioners from liability for damage to goods if landed or otherwise handled in wet weather, and authorising the wharf manager to decide in his absolute discretion when the weather is wet.
- (47) Limiting the time within which claims in respect of goods damaged or lost must be made against the commissioners, and exempting the commissioners from liability in case claims are not made in accordance with such regulations.

Loading and
unloading.
No. 35 of
1906, s. 15.

- (48) Regulating the working and the provision of servants and labourers for the working of cranes, weighing machines, and other machines and conveniences erected or provided by the commissioners for use in the loading and unloading of goods on any of the wharves of the commissioners, and prescribing the rates or charges for the same, and for the handling and storing of goods.
- (48a) Any purpose necessary or desirable for giving effect to section thirty-one A of this Act, including without derogating from the generality of this paragraph—
- (a) the registration of casual workers and their employers;
 - (b) the discipline of casual workers and their employers;
 - (c) the attendance, roster, quota, and direction of casual workers;
 - (d) the direction of employers of casual workers;
 - (e) the administration of all matters related or incidental to giving effect to that section;
 - (f) any matter related or incidental to a service charge mentioned in that section; and
 - (g) any matter related or incidental to any of the matters referred to in subparagraphs (a) to (f) inclusive of this paragraph;

but so that any regulation made under this paragraph is not inconsistent with any award or agreement referred to in subsection (4) of section thirty-one A of this Act and effective under the Industrial Arbitration Act, 1912.¹

Licensed
boatmen,
etc.
1906, No.
35, s. 15.

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

¹ Now Industrial Arbitration Act, 1912-1961.

- (50) Prohibiting persons from acting as boatmen, plying for hire, porters, cab-drivers, carters, carmen, or otherwise in the carriage of goods or passengers without previously obtaining and continuing to hold the license of the commissioners, and prescribing the duration of and the fees for such licenses, and providing that the issue of any such license and the cancellation thereof shall be at the absolute discretion of the commissioners.
- (51) Authorising and empowering the commissioners, in their discretion, to adopt the weight or measurement of goods set forth in the bill of lading or manifest of the goods, for the purpose of levying, imposing, charging, and collecting harbour dues, wharfage, and handling and storage charges. Weight and measurement. 1906, No. 35, s. 15.
- (52) Regulating and limiting the speed of vessels within the harbour. Speed of vessels. 1906, No. 35, s. 15.
- (52a) Authorising and empowering the commissioners to cause the removal from the harbour to some other place or places within or outside the limits of the harbour of goods which the commissioners or their wharf manager shall, in their or his absolute discretion, consider to be injurious to or which may injuriously affect other goods or any shed, store, or other premises or open yard or place within the harbour. Amendment of Section 65. Removal and storage of goods. Inserted by No. 2 of 1911, s. 4.

Any such regulation may provide for and authorise the storage of such goods in any shed or store, or in or on any exposed or open place, and in any and every case at the risk and expense of the owner of the goods; and such shed, store or place may be within or outside the limits of the harbour as the commissioners or their wharf manager may think fit.

The cost of such removal and the keeping and storage of the goods, whether within or outside the said limits shall be

chargeable against the owner of the goods, and may be recovered from him by the commissioners in an action in the Local Court of Western Australia held at Fremantle.

Any such regulation shall be additional to the provisions contained in section twenty-nine, and shall not be deemed *ultra vires* of the commissioners in consequence of the same being in excess of the powers therein contained.

Cf. 14 and
15 Geo. V.
c. 22, s. 1,
Sched.
Art. IV, par
2, U.K.

(52b) Limiting or exempting the commissioners from liability for damage or loss suffered by any person in consequence of—

- (i) act of God;
- (ii) act of war;
- (iii) act of public enemies;
- (iv) strikes, lock-outs or stoppage or restraint of labour from whatever cause, whether partial or general;
- (v) riots and civil commotions;
- (vi) the use for purposes of war or defence or training or preparation for war or defence of any of the property vested in the commissioners.

Generally.

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

Penalties
for breach
of regula-
tions.

66. Every regulation—

- (1) may impose a penalty not exceeding one hundred pounds for the breach thereof; and
- (2) may provide that, in addition to the penalty, any expense incurred by the commissioners in consequence of the breach of such regulation shall be paid by the person committing such breach.

67. Every regulation shall, upon approval by the Governor and publication in the *Government Gazette*, have the force of law; and shall be laid before Parliament within fourteen days after such publication, if Parliament is then in session, and if not, then within fourteen days after the commencement of the next ensuing session.

Regulations to be approved by the Governor and published in *Government Gazette*.

68. It shall be lawful for the Councils of the Municipalities of Fremantle, East Fremantle, and North Fremantle, with the approval of the commissioners, to make by-laws under subsection thirty-five of section one hundred and sixty-seven of the Municipal Institutions Act, 1900,¹ or the corresponding provision of any Act amending the same, having the force of law within the boundaries of the harbour; and for such purpose the harbour shall be deemed to be within the respective municipal districts to such extent as may be prescribed by such by-laws:

Municipal Councils may make by-laws under 64 Vict., No. 8, s. 167 (35). No. 35 of 1906, s. 17.

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

Miscellaneous.

69. When the day on which anything is by this Act or the regulations required to be done falls on a Sunday, Good Friday, Christmas Day, New Year's Day, or any public holiday, such thing shall be done on the day next following.

Provision for Sundays and holidays. No. 35 of 1906, s. 18.

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

Governor may rectify irregularities. No. 35 of 1906, s. 19.

¹ Repealed by Municipal Corporations Act, 1906, and corresponding provisions enacted by Section 179 (30) of that Act. Section 179 (30), except (e) and (x) repealed by Traffic Act, 1919-1961. Municipal Corporations Act, 1906, repealed by Local Government Act, 1960-1961.

Penalty for not complying with directions of harbour master.

See N.S.W. Act, No. 1 of 1901, s. 22.

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

Power of harbour master to remove vessels.
Ibid., s. 23.

72. If the master of any vessel within the harbour does not moor, unmoor, place, or remove such vessel according to the directions of the harbour master in writing given to the said master, the harbour master may cause such vessel to be moored, unmoored, placed, or removed according to the directions aforesaid, and employ a sufficient number of persons for that purpose; and the expenses attending such mooring, unmooring, placing, or removing shall be paid by the master of such vessel.

Penalty on master or person on board for obstructing harbour master.
— See *ibid.*, s. 24.

73. If the master of any vessel, or any person on board, hinders the harbour master or any person employed by him in mooring, unmooring, placing, or removing such vessel, such master or other person shall, on conviction for every such offence, be liable to a penalty not exceeding fifty pounds.

Harbour master may slacken ropes.
Ibid., s. 25.

74. If any master or other person on board any vessel moored or fastened within the harbour does not, upon demand of the harbour master, unloose or slacken the rope or chain by which such vessel is moored or fastened, or if there is no person on board of any such vessel so moored or fastened, it shall be lawful for the harbour master to unloose or slacken the rope or chain by which such vessel is so moored or fastened, and to cause, if necessary, a sufficient number of persons to be put on board for the protection of the vessel, and all expenses thereby incurred shall be paid by the master of such vessel.

Restriction on deposit of ballast or rubbish.
N.Z. Act, No. 35, 1878, s. 217.

75. 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 harbour, 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 harbour 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 harbour 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 twenty pounds, and to pay the expenses of the removal to a proper position of any such substance or thing.

76. Any act shall be deemed to tend to the injury or 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.
N.Z. Act, No. 35 of 1878, s. 102.

77. If any person wilfully or negligently commits any of the following offences, that is to say—

- (1) injures any harbour light, or the lights exhibited therein, or any buoy or beacon;
- (2) removes, alters, or destroys any harbour light, light-ship, buoy, or beacon;
- (3) rides by, makes fast to, or runs foul of any harbour light, light-ship, buoy, or beacon;
- (4) removes, alters, injures, or destroys any signal or signal staff used for purposes in aid of vessels navigating,

Penalties for damaging lights, buoys, or beacons.
Ibid., s. 218.

he shall, in addition to the expenses of making good any damage so occasioned, be liable, on conviction, to a penalty not exceeding one hundred pounds, or imprisonment not exceeding twelve calendar months, with or without hard labour.

Penalty for wilfully cutting moorings.
Ibid., s. 219.

78. Any person excepting the harbour master, or persons acting under his authority, who wilfully cuts, breaks, or destroys the mooring or fastening of any vessel in the harbour shall, for every such offence, incur a penalty not exceeding fifty pounds, or imprisonment not exceeding twelve calendar months, with or without hard labour.

Penalty for wilful damage to works.
Ibid., s. 220.

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

Penalty for wilful damage to lights.
Ibid., s. 221.

80. 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 twenty pounds.

Offence incurring penalty.
Ibid., s. 222.

81. 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, harbour 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 commissioners; or
- (d) in any other respect offends against any of the provisions of this Act or any regulation thereunder,

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 twenty pounds.

82. Any person who gives or offers any reward or bribe to any officer or servant of the commissioners 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 one hundred pounds, or to imprisonment not exceeding twelve calendar months, with or without hard labour.

Penalty for offering bribes to officers.
Ibid., s. 224.

83. 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, 1902.¹

Summary procedure for breach of by-laws.
Ibid., s. 225.

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

What shall be sufficient averment.
Ibid., s. 226.

85. All penalties recovered for offences against this Act, or against any regulation thereunder, shall be paid to the commissioners, and the proceeds of such penalties are hereby appropriated for the purposes of this Act.

Application of penalties.
N.S.W. Act, No. 1, 1901, s. 104.

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

Police officers to report breaches of Act.
No. 35 of 1906, s. 20.

87. 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.

Offenders may be prosecuted under other Acts.

¹ Now Justices Act, 1902-1961.

Security to
Customs.
Inserted
by No. 4 of
1913, ss. 2
and 3.

88. The commissioners may give, by bond or otherwise, such security as the Customs may require under the provisions of the Customs Act, 1901.

Section 2.
Heading
amended by
No. 75 of
1960, s. 7.

FIRST SCHEDULE.

[As amended by the Governor by notification in the *Government Gazette* on the 26th day of August, 1932.]¹

Description
of inner
harbour and
of outer
harbour.

That portion of the said Harbour, which shall be known as the Inner Harbour, shall be bounded as follows:—

By a line starting from the intersection of the North side of Lukin Road and the prolongation Northwards of the fence on the West side of the Railway Reserve, North Fremantle, and extending Southerly along the fence on the Western boundary of the Railway Reserve and along the Railway Bridge; thence along the Railway fence to the Western abutment of the Overhead Bridge; thence following the North-Western foot of the embankment of the approach to the Overhead Bridge to a point opposite 92 feet North-Easterly from the South-East corner of "H" Shed; thence South-Easterly to the angle in the Railway fence; thence South-Westerly along the said fence to the Eastern side of Cliff Street; thence Southerly along the said side of Cliff Street for a distance of about two chains; thence Westerly crossing Cliff Street and following along the South-Eastern boundary fences of the Fremantle Harbour Trust offices and Harbour Works Depot to the South-Western corner of the said depot; thence South about four chains; thence on a bearing of 106 deg. 30 min. for about eleven chains; thence South to the sea-coast and generally Westerly along same and the Southern side of the South Mole to its Western extremity; thence West-North-Westerly to the Western extremity of the North Mole; thence Easterly and North-Easterly along the North side of the said North Mole and the sea-coast to a point due West of a point on the Western boundary of the Vacuum Oil Company's lease, seven chains from the South-West corner of the said lease; thence due East to the point aforesaid on the Western boundary of the Vacuum Oil Company's lease; thence South-Westerly along the said boundary to the South-West corner; thence South-Easterly along the Southern boundary of the Vacuum Oil Company's lease to the South-East corner; thence North-Easterly along the Eastern boundary of the Vacuum Oil Company's lease to its

¹ See Footnote next page.

intersection with a line parallel to and fifty links distant from the fence on the prolongation Easterly of the Southern boundary of the Vacuum Oil Company's lease; thence along the said line to its intersection with the North Fremantle Store site fence; thence North-Easterly along the said fence on the South-Easterly side to its intersection with the prolongation of the North side of Lukin Road; thence North-Easterly along the said prolongation and the North side of Lukin Road to the starting point; but there shall be excluded from the said Inner Harbour all that piece of land at Arthur's Head contained in a lease to the Fremantle and the North Fremantle Councils for the purpose of a Tramway Electric Power House, and known as Fremantle Town Lot Number 1524, and as described in the *Government Gazette* of the 16th September, 1904.

That portion of the said Harbour, which shall be called the Outer Harbour, shall be:—

Bounded by a line starting at a point on the sea-coast of the mainland in Lat. 31 deg. 56 min. 22 sec. S. and extending South of Westerly to Duck Rock Beacon; thence Southerly to Bathurst Point, Rottnest Island, and along the Eastern and Southern shores of Rottnest Island in a generally Southerly direction to Parker Point; thence South-Easterly to Entrance Point, Garden Island; thence Easterly, Southerly, and Westerly passing along the Northern, Eastern, and Southern shores of the said island to South-West Head; thence Southerly to John Point on the Mainland; thence Easterly and Northerly along the sea-coast of the mainland to a point due Easterly of the Southern extremity of the Fishing Boat Harbour Mole; thence due Westerly to the Southern extremity of the said Mole; thence Northerly along the Western side of the Fishing Boat Harbour Mole; thence Northerly and Westerly along the sea-coast of the mainland and the Southern side of the South Mole to the latter's Western extremity; thence West-North-Westerly to the Western extremity of the North Mole, and thence Easterly and North-Easterly along the Northern side of the said North Mole and Northerly along the sea-coast of the mainland to the starting point; but there shall be excluded from the said Outer Harbour any lands which have heretofore been and remain alienated from the Crown in fee simple.

And the said Harbour shall comprise the areas included in the said Inner and Outer Harbours.

¹ Further amended by notices in *Government Gazette* 26/8/38 p. 1350, 24/1/41 pp. 113-4, 2/10/42 pp. 922-3, 7/1/43 p. 7, 23/2/45 p. 228, 8/3/46 p. 231, 17/6/49 pp. 1324-5, 20/3/53 pp. 513-4, 27/8/54 p. 1501, 25/11/60 p. 3790, 12/5/61, p. 1159.

Second
Schedule.
Added by
No. 75 of
1960, s. 8.

SECOND SCHEDULE.

PART I.—DEBENTURES AND INSCRIBED STOCK.

The following provisions shall apply to debentures and inscribed stock issued by the commissioners under the provisions of section fifty-eight C of this Act:—

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 commissioners 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.
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 commissioners determine.
3. The commissioners 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 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.
4. The commissioners 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-eight C of this Act.
5. (1) The commissioners shall set aside half-yearly by way of a sinking fund for the purpose of redeeming any loans raised by them pursuant to section fifty-eight C 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 commissioners 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.
6. No notice of any trust, express, implied or constructive, shall be received by the commissioners or by an officer of the commissioners in relation to a debenture or inscribed stock issued or created pursuant to this Act, and the commissioners 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.

Interest.

Debentures
and stock
payable
before due
date.

When
interest
payable.

Debentures
and stock
interchange-
able.

Brokerage.

Sinking
Fund.

Notice of
trust not
receivable.

7. A person advancing money to the commissioners 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.

Owners of securities not responsible for application of moneys.

PART II.—DEBENTURES.

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

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

Form of debenture.

2. A debenture shall—

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

Seal.

(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 commissioners 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—

(a) may be inspected at all reasonable times by a person on payment of one shilling for each inspection; and

Inspection.

(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 commissioners 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 two shillings and sixpence and twopence for every folio of seventy-two words; and any copy or extract so certified shall be admissible in evidence.

Copies to be supplied.

Provision
for lost
debentures.

7. Upon proof being made before a judge in chambers by affidavit of any credible person that a debenture issued by the commissioners 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 commissioners may after the expiration of six months cause a new debenture with interest coupons attached to be made having the like currency 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 commissioners to indemnify the commissioners against any double payment.

Provision
for defaced
debentures.

8. If a debenture is defaced by accident—

- (a) the commissioners 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 secretary; and
- (b) be burnt in the presence of the 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 commissioners with a certificate particularising the debenture so burnt; and the secretary shall file that certificate in the office of the commissioners.

PART III.—STOCK.

The following provisions shall apply to The Fremantle Harbour Trust Inscribed Stock issued in Perth, Western Australia (in this Part called "stock") :—

Establish-
ment of
registry and
appointment
of registrar.

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

2. Stock may be sold by the commissioners for ready money in parcels or amounts of ten pounds or some multiple of ten pounds. Parcels of stock.

3. (1) The commissioners shall cause to be provided and kept at the office of the commissioners books to be called "stock ledgers." 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 pound or any smaller sum than ten pounds 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 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 approves 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 transmission.

(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 transfer 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 commissioners 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.

Receipt of registered stock-holders to discharge without regard to trust.

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 commissioners 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 commissioners have had notice of the trusts, and the commissioners shall not be bound to see to the application of the money paid upon such receipt.

(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 commissioners 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.