

FREMANTLE PORT AUTHORITY ACT, 1902-1969.

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FIRST SCHEDULE.
SECOND SCHEDULE.

Approved for Reprint, 23rd July, 1973.

WESTERN AUSTRALIA.

FREMANTLE PORT AUTHORITY.

ANNO SECUNDO.

EDWARDI SEPTIMI REGIS.

No. 17 of 1902.

(Affected by Acts Nos. 38 of 1928, Sec. 2; 72 of 1948, Sec. 184; 1 of 1952; 46 of 1952 and 3 of 1961.)

[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;
No. 35 of 1964,³ assented to 12th November, 1964;
No. 113 of 1965,⁴ assented to 21st December, 1965;
No. 80 of 1969, assented to 7th November, 1969;

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

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

[Assented to 11th December, 1902.]

BE it enacted—

1. This Act may be cited as the *Fremantle Port Authority Act, 1902-1969*, 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. 80 of
1969, 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.

³ Proclaimed to come into operation 27th November, 1964. See *Gazette* 27/11/64, p. 3821.

⁴ Decimal Currency Act, 1965, s. 4 (1). Came into operation 14/2/66.

Change of
name of
body
corporate.
Added by
No. 35 of
1964, s. 4.

1A. (1) On and after the commencement of this section the body corporate constituted under this Act by the name "Fremantle Harbour Trust Commissioners" is preserved and continues in existence as a body corporate under and subject to the provisions of this Act by the name "Fremantle Port Authority", but so that the corporate identity of the body corporate and its rights, powers, functions, duties and liabilities shall not be affected.

(2) A reference to the Fremantle Harbour Trust Commissioners, whether by use of that name or a similar or abbreviated form of that name,—

- (a) in a law of the State passed or made before the commencement of this section;
- (b) in any document or other instrument made, executed, entered into or done before the commencement of this section; and
- (c) made before the commencement of this section in any other manner,

shall, unless the context is such that it would be incorrect or inappropriate, be read and construed as a reference to the Fremantle Port Authority.

(3) For the purposes of this section the term "law of the State" means—

- (a) an Act;
- (b) regulations, rules or by-laws having effect by virtue of an Act; and
- (c) an instrument having effect by virtue of an Act or of any regulations, rules or by-laws referred to in paragraph (b) of this subsection.

Inter-
pretation.
[See N.S.W.
Act, No. 1,
1901, s. 3.]
Amended by
No. 75 of
1960, s.2;
No. 35 of
1964, s. 5.

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.

“Commissioner” means a commissioner of the Port Authority 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.

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

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

“The port.”—So much of the port 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.

*Fremantle Port Authority.**Constitution of the Port Authority.*

Heading amended by No. 35 of 1964, s. 6. Fremantle Port Authority constituted. Substituted by No. 35, of 1964, s. 7.

3. (1) For the purposes of this Act and for carrying this Act into execution there shall be a Port Authority to be known as the "Fremantle Port Authority" consisting of five commissioners appointed as provided by this Act.

(2) The Port Authority is a body corporate with perpetual succession and a common seal and in its corporate name is capable of suing and being sued, and subject to this Act has power to acquire, hold and dispose of real and personal property, and may do and suffer all such acts and things as bodies corporate may do and suffer.

Appointment of commissioners.

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

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

Seal of Port Authority. Deed, instrument, or writing sealed, admissible in evidence. Amended by No. 35 of 1964, s. 8.

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

Term of office.

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.

Vacancies.

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.

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.

9. (1) The Governor may suspend a commissioner from his office—

Tenure of office.
[See N.S.W. Act, No. 1, 1901, ss.9 and 10.]
Amended by No. 35 of 1964, s. 8.

- (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 Port Authority (except on leave granted by the Governor) or becomes incapable of performing his duties;
- or
- (d) if he becomes concerned or interested in any written contract made by or on behalf of the Port Authority, or participates or claims to be entitled to participate in the profits thereof, or in any benefit or emolument arising therefrom.

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

(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. Substituted by No. 35 of 1964, s. 9.

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

11. [*Repealed by No. 35 of 1964, s. 10.*]

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

Quorum. Amended by No. 35 of 1964, s. 11.

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

Acting chairman. Amended by No. 35 of 1964, s. 11.

14. In the absence of the chairman from any meeting of the Port Authority, 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.

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 Port Authority shall be invalidated or prejudiced by reason only of the fact that at the time when such proceeding or act was taken, done, or commenced, there was a vacancy in the office of any commissioner.

Acts of Port Authority not invalidated by vacancy. Amended by No. 35 of 1964, s. 11.

17. The Port Authority shall—

Minutes of proceedings. Amended by No. 35 of 1964, s. 12.

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

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

Yearly report. No. 35 of 1906, s. 2.

18. The office of commissioner, and the office of any person employed or retained by the Port Authority 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.

Office of commissioner not to be deemed an office of profit. Amended by No. 35 of 1964, s. 13.

Officers.

19. (1) The Port Authority may—

Appointment of officers and servants. [See N.S.W. Act, No. 1, of 1901, s. 17.] Amended by No. 25 of 1911, s. 2; No. 35 of 1964, s. 14.

(a) with the approval of the Governor, appoint a general manager, an assistant general manager, a wharf manager, a harbour master, and a secretary, and with such approval dismiss any of those officers; and

(b) from time to time appoint such other officers and such servants as may be necessary for the administration of this Act, and at any time dismiss any of those officers and servants.

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

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

Appointment
of Special
Constables.

(4) The Port Authority 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 Port Authority, and under its direction and control.

Certain
officers
to give
security.
Amended by
No. 35 of
1964, s. 15.

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

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.

Property
vested
in Port
Authority.
[See N.S.W.
Act, No. 1,
of 1901,
s. 27.]
Amended by
No. 35 of
1964, s. 16.

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

- (1) all lands of the Crown within the boundaries of the port, as described in the First Schedule to this Act, including the bed and shores of the port;
- (2) all harbour lights and beacons within the boundaries of the port, except the light-houses on Rottnest Island;

- (3) all wharves, wharf loading areas, docks, landing stages, piers, jetties, wharf sheds, and railways belonging to the Government and within the boundaries of the port;
- (4) all such other property as the Port Authority may acquire or the Governor may at any time think fit to vest in the Port Authority for the purposes of this Act.

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

- (a) alter the boundaries of the port;
- (b) withdraw any land or other property of any kind from the Port Authority, and re-vest the same in Her Majesty.

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

Lands vested in Port Authority free from municipal rates.
[See N.S.W. Act, No. 1, of 1901, s. 39.]
Amended by No. 35 of 1964, s. 17.

Powers and Duties of the Port Authority.

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

Heading amended by No. 35 of 1964, s. 18.
Port Authority to control, maintain and preserve.
[See N.S.W. Act, No. 1, of 1901, s. 33]
Amended by No. 35 of 1964, s. 19.

25. (1) The construction, completion and extension within the port of port works may, with the approval of the Minister, be undertaken by the Port Authority, which shall be deemed a local authority within the meaning of the Public Works Act, 1902.

Construction of port works.
Substituted by No. 35 of 1964, s. 20.

(2) In this section the term "port works" 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 port.

Roadways
and
approaches.
No. 35 of
1906, s. 4.
Amended by
No. 35 of
1964, s. 21.

26. The Port Authority—

- (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 it; and
- (b) shall cause such wharves, docks, piers, jetties, landing stages, slips, platforms, depots, and sheds, and the roads and approaches thereto, to be kept in good repair; 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
- (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 the Port Authority 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; and

- (e) may erect or place any harbour light, signal, buoy or beacon within the boundaries of the port, or alter the position of any harbour light, signal, buoy or beacon; and
- (f) may remove, discontinue or replace any harbour light, signal, buoy or beacon, or vary the character of, or the mode of exhibiting, any harbour light, signal, buoy or beacon as may from time to time be required.

27. (1) The Port Authority may, with the approval of the Minister, grant leases of any of the lands vested in it by or under this Act, as yards or sites for shipbuilding, boat building, storage of timber, coal, merchandise or other property, or for the erection of workshops or foundries or for any other purpose approved by the Minister.

Power of Port Authority to lease certain lands. Repealed and Re-enacted by No. 80 of 1969, s. 2.

(2) Subject to subsections (3) and (4) of this section, every lease granted pursuant to this section—

- (a) shall be granted on such terms and conditions as the Port Authority thinks fit; and
- (b) shall not be granted for a longer term than twenty-one years.

(3) When the Minister is of opinion that because of the special circumstances of the case the granting of a lease for a term exceeding twenty-one years is justified, the Minister may, by instrument in writing under his hand and containing such conditions, if any, as he thinks fit, authorize the Port Authority to grant the lease for such term exceeding twenty-one years but not exceeding fifty years as the Minister specifies in the instrument.

(4) No lease for a term exceeding three years shall be granted under this section unless applications therefor have first been advertised twice in the *Government Gazette* and twice in a daily newspaper circulating generally in the State.

Power to
acquire land
compul-
sorially.
Added by
No. 75 of
1960, s. 3.

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.

Port
Authority
may make
contracts,
etc.
[N.S.W. Act,
No. 1 of
1901, s.48.]
Amended by
No. 35 of
1964, s. 23.

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

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;
No. 35 of
1964, s. 24.

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 Port shall be deemed by the Port Authority in its 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 port, any person authorised by the Port Authority may remove the goods to a convenient place, within or outside the limits of the port, 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 Port Authority may sell such goods by public auction; provided that goods, if perishable, may be sold without demand after twenty-four hours.

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

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

Disputes between departments to be settled by Minister. [N.S.W. Act, No. 1, 1901, s. 31.] Amended by No. 35 of 1964, s. 25.

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

Port Authority may provide labourers, etc., for working cargo. No. 35 of 1906, s. 31. Amended by No. 35 of 1964, s. 25.

31A. (1) In this section,

“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, 1912; and
- (b) any other work which the Governor declares by proclamation to be casual work to which this section applies; and

Casual work and casual worker. Added by No. 42 of 1957, s. 3. Amended by No. 35 of 1964, s. 26.

“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.

Fremantle Port Authority.

(3) In order to render an additional service available, the Port Authority 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 port, 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 port, so as to be available to carry out casual work if required to do so.

(4) In order to ensure attendance of casual workers so as to be available to carry out casual work, the Port Authority 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 Port Authority estimates to be necessary and to be paid by persons actually employing casual workers as defined in subsection (1) of this section

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

Pilotage.

Pilotage.
Amended by
No. 35 of
1964, s. 27.

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

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. [*Repealed by No. 35 of 1964, s. 28.*]

34. [*Repealed by No. 35 of 1964, s. 28.*]

Wrecks, Obstructions, and Damage.

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

Removal
of wreck.
(See N.Z.
Act, No. 35,
1878, s. 105.)
Amended by
No. 35 of
1964, s. 29.

- (1) The Port Authority shall give notice in writing to the owner of such vessel, or to an agent of such owner, that he is required, within a time specified in such notice, either to remove the wreck in a manner satisfactory to the Port Authority, or to undertake, under security satisfactory to the Port Authority, to remove the wreck in a manner satisfactory to and within a time to be fixed by the Port Authority.
- (2) In case the owner or agent cannot be found within the State, or fails within the time specified in the notice to remove the whole of the wreck in a way satisfactory to the Port Authority, or to enter into such undertaking as aforesaid to remove the same, or having undertaken to remove the wreck, fails to remove it in accordance with his undertaking, then the Port Authority may remove the wreck, and may recover from the owner, in any court of competent jurisdiction, the expenses incurred in removing it (in this section referred to as "the expenses of removal").
- (3) The Port Authority may, for the purpose of removal, destroy the wreck or any part of it, and may remove and take possession of the wreck or any part of it, and may sell

the same, and may, out of the proceeds, if any, of such sale, without any reference to the part of the wreck from the sale of which such proceeds may accrue, reimburse itself for the whole of the expenses of removal, and shall, after reimbursing itself, render the surplus, if any, to the owner.

- (4) If the proceeds of such sale are insufficient to pay the whole expenses of removal, the Port Authority may recover the balance from the owner of the vessel, if such vessel was stranded or sunk by his fault or negligence, or from any other person by whose fault or negligence the vessel was stranded or sunk.

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

Responsibility for injury to works of port.
Ibid., s. 106.
Amended by No. 35 of 1964, s. 30.

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 Port Authority,—

- (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 Port Authority for the injury, but the commissioners shall not recover twice for the same cause of action.*

* 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 Port Authority 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.

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 Port Authority by any master or other person, or pays any pecuniary penalty by reason of any act or omission of any master or other person, he shall be entitled to recover the money so paid with costs from such master or other person.

Recovery by owner from master of ship.
Ibid., s. 197.
Amended by No. 35 of 1964, s. 30.

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

Damage to cables.
No. 35 of 1906, s. 6.
Amended by No. 35 of 1964, s. 31.

Actions against Port Authority and Officers.

39. The Port Authority 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.

Heading amended by No. 35 of 1964, s. 32.
Port Authority not liable for acts or omissions of pilots.
[See N.Z. Act, No. 34, 1894, s. 6.]
Amended by No. 35 of 1964, s. 32.

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

Heading amended by No. 35 of 1964, s. 33.

Port Dues and Wharfage Charges.

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

Port dues, etc., to be made by regulation.
[See N.Z. No. 35 of 1878, s. 110.]
Amended by No. 42 of 1957, s. 4; No. 35 of 1964, s. 33.

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.

42. [*Repealed by No. 35 of 1964, s. 34.*]

Power to
levy port im-
provement
rates.
[N.Z. 1878,
No. 35,
s. 216.]
No. 35 of
1906, s. 8.
Amended by
No. 35 of
1964, s. 35;
No. 113 of
1965, s. 4(1).

43. (1) The Port Authority may, from time to time, make regulations providing that port improvement rates, not exceeding in any case ten cents 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 port.

(2) In and by such regulations the Port Authority 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 Port Authority or other person authorised by it 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 Port Authority may measure such vessel according to the regulations for the measurement of shipping for the time being in force in the State; or the Port Authority may, in its discretion, accept as the measurement of the vessel the measurement appearing in the latest edition of Lloyd's Register in the possession of the Port Authority.

Ascertainment of tonnage of other foreign vessels. See *ibid.*, s. 114. No. 35 of 1906, s. 7. Amended by No. 35 of 1964, s. 36.

46. [Repealed by No. 35 of 1964, s. 37.]

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

In case of difference, power to weigh or measure goods. *Ibid.*, s. 117. Amended by No. 35 of 1964, s. 38.

- (1) The officer authorised to collect such dues or charges may cause the goods to be weighed or measured.
- (2) If the weight or quantity exceeds that alleged by the owner, the expenses of the weighing or measuring shall be paid to the Port Authority, and shall be recoverable as dues are recoverable.
- (3) If the weight or quantity does not exceed that alleged as aforesaid, the expenses of the weighing or measuring shall be paid by and shall be recoverable from the Port Authority in any court of competent jurisdiction.

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.

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

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, 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 re-
ceived on
account of
master or
owner of
ship for such
payments.
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.
Amended by
No. 35 of
1964, s. 38.

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

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 two hundred dollars, or in case the amount of the dues which he has evaded or has attempted to evade exceeds two hundred dollars, then not exceeding such amount, and such penalty shall be in addition to the dues payable by him.

Penalty on evasion.
Ibid., s. 125.
Amended by No. 35 of 1964, s. 39; No. 113 of 1965, s. 4.

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

Power to Governor to revise Port dues.
No. 35 of 1906, s. 10.
Amended by No. 35 of 1964, s. 40.

Finance.

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

Minister to declare value of property vested in Port Authority.
[N.S.W. Act, No. 1, 1901, s. 73.]
Amended by No. 35 of 1964, s. 41.

Subsequent
works.
See *ibid.*,
s. 74.
Amended by
No. 35 of
1964, s. 41.

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 Port Authority during the preceding financial year, to be charged as aforesaid.

Funds.
Substituted
by No. 75 of
1960, s. 4.
Amended by
No. 35 of
1964, s. 42.

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 Port Authority of the powers conferred by this Act shall be—

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

(2) All moneys referred to in subsection (1) of this section shall be paid into, and be placed to the credit of an account at the Treasury, or at a bank carrying on business within the State approved by the Treasurer, to be called "The Fremantle Port Authority 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 Port Authority 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 Port Authority; and
- (d) all other expenditure lawfully incurred by the Port Authority in the exercise of its powers or the discharge of its duties or obligations under this Act.

58A. (1) Service charges collected by the Port Authority for attendance money and administration expenses under section thirty-one A of this Act shall be paid by the Port Authority into the Treasury to the credit of an account to be called "Fremantle Port Authority 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. Amended by No. 35 of 1964, s. 43.

(2) Where there is, or is likely to be a deficiency in the Account referred to in subsection (1) of this section, the Port Authority may, in order to make good or to avoid the deficiency, borrow from the Treasurer, who may lend to the Port Authority 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) When at any time the funds of the Port Authority are not sufficient to defray expenditure incurred by it under this Act, the Port Authority may borrow from the Treasurer, or from a bank carrying on business within the State approved by the Treasurer, moneys for the purpose of enabling the Port Authority to defray such expenditure, and where advances are made by the Treasurer under this subsection, such advances may be so made out of moneys appropriated by Parliament for the purposes of this Act.

Power of Port Authority to borrow. Substituted by No. 35 of 1964, s. 44.

(2) In respect of moneys borrowed from the Treasurer pursuant to this section, the Port Authority shall pay to the Treasurer interest at such rate and at such times as the Treasurer shall determine.

(3) Any moneys borrowed by the Port Authority under this section and the interest payable in respect thereof shall be a charge upon the moneys from time to time standing to the credit of the Port Authority at the Treasury or in any account of the Port Authority at any bank, and upon any works, undertakings, and other assets vested in the Port Authority, and the due repayment of the principal moneys so borrowed and the payment of all interest payable in respect thereof is hereby guaranteed by the Government of the State.

Power of
Port
Authority
to borrow
money on
issue of
debentures
or inscribed
stock.
Added by
No. 75 of
1960, s. 5.
Amended by
No. 35 of
1964, s. 45.

58C. (1) Subject to subsection (2) of this section, the Port Authority, in addition to the powers conferred on it by section fifty-eight B of this Act, may at any time, and from time to time, with the approval of the Governor—

- (a) borrow and reborrow moneys by the issue and creation and sale of debentures and of inscribed stock for the purpose of raising the funds of the Port Authority for the effectual exercise by it of the powers conferred by this Act;
- (b) 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 Port Authority, 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 Port Authority, and for paying the expenses incurred in the issue and creation of the debentures and inscribed stock and otherwise carrying out the provisions of this Act;

- (d) effect any conversion authorised by this section either by arrangement with the holders of the existing debentures or registered owners of inscribed stock, or by the purchase of the debentures or inscribed stock out of moneys raised by the sale of debentures and inscribed stock, or partly in the one way and partly in the other.

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

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

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

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

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

Power to borrow to repay loan. Added by No. 75 of 1960, s. 5. Amended by No. 35 of 1964, s. 46.

58D. For the purpose of making provision to repay either the whole or any part of any loan raised by the Port Authority under the provisions of this Act, the Port Authority may with the consent of the Governor, and subject to subsection (2) of section fifty-eight C of this Act, borrow the moneys necessary for that purpose before the loan or part of it becomes payable.

Moneys borrowed charged on revenues of Port Authority and guaranteed by the State. Added by No. 75 of 1960, s. 5. Amended by No. 35 of 1964, s. 46.

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 Port Authority, with all interest thereon, shall be charged on and secured upon the revenues of the Port Authority.

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

(3) The due repayment of the principal moneys and the payment of all interest secured by debentures or inscribed stock issued or created by the Port Authority under the provisions of section fifty-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 Port Authority or otherwise in respect of a sum so paid by the Treasurer shall be paid into the Public Account.

Provisions of Second Schedule to apply to debentures and inscribed stock. Added by No. 75 of 1960, s. 5. Amended by No. 35 of 1964, s. 46.

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 Port Authority 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.

58G. (1) Debentures and inscribed stock created and issued by the Port Authority 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.

Debentures and inscribed stock authorised trustee investments.
Added by No. 75 of 1960, s. 5.
Amended by No. 35 of 1964, s. 46.

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

Contribution of interest and sinking fund.
Added by No. 75 of 1960, s. 5.
Amended by No. 35 of 1964, s. 47.

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

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

Interest on daily balance. Added by No. 75 of 1960, s. 5. Amended by No. 35 of 1964, s. 48.

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

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

Moneys may be temporarily invested. Added by No. 75 of 1960, s. 5. Amended by No. 35 of 1964, s. 49.

58 J. All moneys standing to the credit of the Port Authority, whether at the Treasury or in any account of the Port Authority at any bank, may, until required by the Port Authority in connection with the exercise of its powers or the discharge of its duties under this Act, be temporarily invested as 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. Amended by No. 35 of 1964, s. 50.

58 K. Any profit at the end of any financial year resulting from the activities carried on by the Port Authority under this Act which is available in cash after making full allowance for interest and sinking fund contributions, and depreciation, obsolescence and maintenance of plant, may be used by the Port Authority for any of the purposes of this Act, unless the Treasurer requires payment to be made to the credit of the Public Account.

Port Authority to determine depreciation. Added by No. 75 of 1960, s. 5. Amended by No. 35 of 1964, s. 51.

58 L. The Port Authority shall determine the amount of the depreciation and obsolescence of the assets in relation to the exercise by the Port Authority of its powers and the discharge of its

duties under this Act, and that amount shall apply for the purpose of section fifty-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.]

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

Accounts.
No. 35 of
1906, s. 11.
Amended by
No. 35 of
1964, s. 52.

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

60A. The Port Authority may in respect of its works and undertakings establish in its books such reserve accounts as it thinks fit subject to the approval of the Treasurer, and may in every year credit to each reserve account so established such sums as it thinks fit.

Reserve
accounts.
Added by
No. 75 of
1960, s. 6.
Amended by
No. 35 of
1964, s. 53.

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.
Amended by
No. 113
of 1965, s. 4
(1).

(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 ten dollars.

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

Accounts to
be balanced
No. 35 of
1906, s. 12.
Amended by
No. 35 of
1964, s. 54.

Accounts to
be audited.
No. 35 of
1906, s. 13.
Amended by
No. 35 of
1964, s. 55.

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

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

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

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

Copies of
accounts as
audited to
be furnished.
No. 35 of
1906, s. 14.
Amended by
No. 35 of
1964, s. 55.

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

Regulations.

Power to
make regu-
lations.
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;
No. 35 of
1964, s. 56.

Proceedings
of the
Board.

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

- (1) The general conduct of its business and proceedings.

(2) Prescribing the days upon which the ordinary meetings of the Port Authority shall be held.

(2a) [*Deleted by No. 35 of 1964, s. 56.*]

(3) The control, supervision, and guidance of its officers and servants.

(3a) Regulating, controlling, and prohibiting—

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

(a) the entering, or remaining, within the boundaries of the port or any specified part or parts of the port 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 port or any specified part or parts of the port,

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 port.

Port
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 port, and their unmooring and removal out of the port.

(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.

Port dues.
See N.S.W.
Act, No. 1,
1901, s 79 (f).

(10) Imposing, levying, and receiving all port dues, including tonnage dues, light dues, berthing dues, and other tolls, rates, or charges.

(11) The exemption of ships in the service of Her Majesty or of any British possession, or in the naval service of any foreign power, and of other vessels from port dues.

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

(12) Regulating the use of wharves, wharf loading areas 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 Port Authority.

- (15) Regulating the use of cranes, weighing and other machines, weights and measures, conveniences or appliances belonging to the Port Authority, and fixing charges to be paid for the use of the same.
- (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.
- (17) Regulating the duties and conduct of all persons, as well the servants of the Port Authority as others not being officers of customs, who are employed in the port. Duties of employees.
- (18) Providing for the control and management of steam or other ferry boats plying for hire at wharves or public thoroughfares. Ferries.
- (19) The granting of licenses for tugs to conduct vessels into or out of port, and the fees to be paid for such licenses. Tugs.
- (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 port, and for the registration and licensing of master boatmen and others, and to prevent unlicensed boatmen plying for hire. Ballast and other boats.
- (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.

License fees
for boats,
etc.

(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.

(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.

Pilotage.
See N.Z.
Act. No. 35,
1878, s. 212.

(26) Prescribing pilotage rates and determining the nature of the services for which such rates respectively shall be payable.

(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.

No. 35 of
1906, s. 15.

(30) The granting of exemption certificates: Provided that every exemption certificate shall be revocable in the absolute discretion of the Port Authority.

(31) The government of pilots, and for ensuing 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.
- (35) Requiring the master of every ship to give as many copies as may be required by the Port Authority of the bill of lading or manifest of the cargo, or other proper account of goods intended to be unshipped, and the name of the consignee or other person to whom they are intended to be delivered, and as many copies as may be required by the Port Authority of all alterations in or additions to such bill of lading, manifest, or other proper account. No. 35 of 1906, s. 15.
- (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.
- (39) Limiting the liability of the Port Authority for goods deposited, stored, in transit, warehoused, landed, lodged, or left on any part of the property of the Port Authority, including all wharves and sheds, in case of damage to or loss of such goods from any cause whatever. Limitation of liability. No. 35 of 1906, s. 15.
- (40) Limiting the amount of liability on each package of goods coming into the custody of the Port Authority and enabling the Port Authority 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 Port Authority as the ordinary working hours of the port, the Port Authority shall not be liable to any person for the condition of such goods.
- (42) Providing that the Port Authority 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 Port Authority from liability for damage to goods caused or contributed to by insufficient protection or packing.
- (44) Exempting the Port Authority from liability for damage to or loss of goods which may have been delivered on its premises, but for which the Port Authority or its servants have not given a receipt.
- (45) Exempting the Port Authority from liability for damage suffered by any person in consequence of delay in or the wrongful delivery of goods.
- (46) Exempting the Port Authority 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 Port Authority, and exempting the Port Authority from liability in case claims are not made in accordance with such regulations.

(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 Port Authority for use in the loading and unloading of goods on any of the wharves of the Port Authority, and prescribing the rates or charges for the same, and for the handling and storing of goods.

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

(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.

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

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

(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 Port Authority, and prescribing the duration of and the fees for such licenses, and providing that the issue of any such license and the cancellation thereof shall be at the absolute discretion of the Port Authority.

Weight and
measure-
ment.
1906, No. 35,
s. 15.

(51) Authorising and empowering the Port Authority, in its discretion, to adopt the weight or measurement of goods set forth in the bill of lading or manifest of the goods, for the purpose of levying, imposing, charging, and collecting port dues, wharfage, and handling and storage charges.

Speed of
vessels.
1906, No. 35,
s. 15.

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

Removal and
storage of
goods.
Inserted by
No. 2 of
1911, s. 4.

(52a) Authorising and empowering the Port Authority to cause the removal from the port to some other place or places within or outside the limits of the port of goods which the Port Authority or its wharf manager shall, in its 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 port.

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 port as the Port Authority or its 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 Port Authority 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 Port Authority in consequence of the same being in excess of the powers therein contained.

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

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

- (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 Port Authority.

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

Generally.

Penalties
for breach
of regula-
tions.
Amended by
No. 35 of
1964, s. 57;
No. 113 of
1965, s. 4 (1).

66. Every regulation—

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

Regulations
to be ap-
proved by
the governor
and pub-
lished in
*Government
Gazette*.

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.

Municipal
Councils
may make
by-laws,
under 64
Vict., No. 8,
s. 167 (35).
No. 35 of
1906, s. 17.
Amended by
No. 35 of
1964, s. 58.

68. It shall be lawful for the Councils of the Municipalities, having boundaries contiguous to the port, with the approval of the Port Authority, 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 port; and for such purpose the port shall be deemed to be within the respective municipal districts to such extent as may be prescribed by such by-laws:

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

Miscellaneous.

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

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.

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. Municipal Corporations Act, 1906, repealed by Local Government Act, 1960.

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.

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 one hundred dollars.

Penalty for not complying with direction of harbour master.
[See N.S.W. Act, No. 1 of 1901, s. 22.]
Amended by No. 113 of 1965, s. 4 (1).

72. If the master of any vessel within the port 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.

Power of harbour master to remove vessels.
Ibid., s. 23.
Amended by No. 35 of 1964 s. 59.

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 one hundred dollars.

Penalty on master or person on board for obstructing harbour master.
See *ibid.*, s. 24.
Amended by No. 113 of 1965, s. 4 (1).

74. If any master or other person on board any vessel moored or fastened within the port 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

Harbour master may slacken ropes.
Ibid., s. 25.
Amended by No. 35 of 1964, s. 59.

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.]

Amended by
No. 113 of
1865, s. 4 (1).

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 forty dollars, and to pay the expenses of the removal to a proper position of any such substance or thing.

Series of
acts tending
to the injury
of naviga-
tion.

N.Z. Act,
No. 35 of
1878, s. 102.

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

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

Penalties for damaging lights, buoys, or beacons. *Ibid.*, s. 218. Amended by No. 113 of 1965, s. 4 (1).

- (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,

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

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 port shall, for every such offence, incur a penalty not exceeding one hundred dollars, or imprisonment not exceeding twelve calendar months, with or without hard labour.

Penalty for wilfully cutting moorings. *Ibid.*, s. 219. Amended by No. 35 of 1964, s. 59; No. 113 of 1965, s. 4 (1).

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

Penalty for wilful damage to works. *Ibid.*, s. 220. Amended by No. 35 of 1964, s. 59; No. 113 of 1965, s. 4 (1).

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

Penalty for wilful damage to lights. *Ibid.*, s. 221. Amended by No. 113 of 1965, s. 4 (1).

place, or wilfully extinguishes any light, every person so offending shall be liable to a penalty not exceeding forty dollars.

Offence
incurring
penalty.
Ibid., s. 222.
Amended by
No. 35 of
1964, s. 60.

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 Port Authority; 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 forty dollars.

Penalty for
offering
bribes to
officers.
Ibid., s. 224.
Amended by
No. 35 of
1964, s. 60,
No. 113 of
1965, s. 4 (1).

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

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

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.

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

What shall be sufficient averment. *Ibid.*, s. 226. Amended by No. 35 of 1964, s. 61.

85. All penalties recovered for offences against this Act, or against any regulation thereunder, shall be paid to the Port Authority, 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. Amended by No. 35 of 1964, s. 62.

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 Port Authority.

Police officers to report breaches of Act. No. 35 of 1906, s. 20. Amended by No. 35 of 1964, s. 62.

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.

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

Security to Customs. Added by No. 4 of 1913, ss. 2 and 3. Amended by No. 35 of 1964, s. 62.

FIRST SCHEDULE.

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

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

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

Description of inner harbour and of outer harbour. Amended by No. 35 of 1964, s. 63.

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

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. 1324-55; 20/3/53 pp. 513-4; 27/8/54 p. 1501; 25/11/60 p. 3780; 12/5/61, p. 1159; 29/6/62 pp. 1673-4; 7/5/65 p. 1435; 23/1/70 p. 165 and 8/4/71 p. 1133.

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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 Port Authority 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 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 Port, 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 Port shall comprise the areas included in the said Inner and Outer Harbours.

SECOND SCHEDULE.

PART I.—DEBENTURES AND INSCRIBED STOCK.

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

Second
Schedule.

Added by
No. 75 of
1960, s. 8.
Amended by
No. 35 of
1964, s. 64,
No. 113 of
1965, s. 4 (1).

1. All debentures and inscribed stock—

Interest.

(a) shall bear interest at such rate and be redeemable on such date and at such place as the Port Authority may, with the approval of the Governor, determine; and

(b) may with the consent of the holder or the registered owner thereof, as the case may be, be paid off at any time before the due date for repayment, at not more than the face value thereof.

Debentures
and stock
payable
before due
date.

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

When
interest
payable.

Fremantle Port Authority.

Debentures
and stock
interchange-
able.

3. The Port Authority may, at the request of the holder of a debenture or of the registered owner of inscribed stock issued or created pursuant to this Act, in lieu thereof issue to him inscribed stock or debentures as the case may be in respect of the same loan, and of the same amount, and of the same currency, and bearing the same interest.

Brokerage.

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

Sinking
Fund.

5. (1) The Port Authority shall set aside half-yearly by way of a sinking fund for the purpose of redeeming any loans raised by it 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 Port Authority may sell any securities in which the fund is invested, or may obtain an advance thereon from any bank or from the Treasurer of the State.

Notice of
trust not
receivable.

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

Owners of
securities
not
responsible
for applica-
tion of
moneys.

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

PART II—DEBENTURES.

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

Form of
debenture.

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

2. A debenture shall—

Seal.

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

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

Fremantle Port Authority.

Provision
for defaced
debentures.

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

Discharged
debentures
to be
destroyed.

9. (1) A debenture paid off discharged exchanged or converted into stock shall—
- (a) be cancelled by the 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 Port Authority with a certificate particularising the debenture so burnt; and the secretary shall file that certificate in the office of the Port Authority.

PART III.—STOCK.

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

Establish-
ment of
registry and
appointment
of registrar.

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

Parcels of
stock.

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

Stock
ledgers.

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

Inscription
of stock.

- (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.

Joint
purchasers.

- (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.

Evidence.

- (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.

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

Stock how transferable.

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

Restrictions on amount of stock which may be transferred.

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

Execution of transfer.

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

Registration of transfer.

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

Application for transmission (other than transfer) of stock.

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

Verification of application for transmission.

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

(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.

Registration of transmission.

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 Port Authority shall cause the amount of the stock respectively standing to the credit of the several registered owners thereof to be ascertained and the balances to be struck and carried forward in the proper stock ledger.

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

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 Port Authority for any interest payable in respect of the stock, notwithstanding any trusts to which the stock may then be subject and whether or not the Port Authority has had notice of the trusts, and the Port Authority shall not be bound to see to the application of the money paid upon such receipt.

Receipt where one of joint holders dies, etc.

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