

SOUTH AUSTRALIA

HARBORS ACT, 1936

*This Act is reprinted pursuant to the Acts Republication Act, 1967, and incorporates all amendments in force as at **15 August 1991**.*

It should be noted that the Act was not revised (for obsolete references, etc.) by the Commissioner of Statute Revision prior to the publication of this reprint.

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HARBORS ACT, 1936

being

Harbors Act, 1936, No. 2290 of 1936
[Assented to 8 October 1936]¹

as amended by

Explosives Act, 1936, No. 2306 of 1936 [Assented to 19 November 1936]²
Marine Act, 1936, No. 2337 of 1936 [Royal Assent proclaimed 24 March 1937]³
Harbors Act Amendment Act, 1943, No. 12 of 1943 [Assented to 9 December 1943]
Harbors Act and Marine Act Amendment Act, 1947, No. 17 of 1947 [Assented to 24 October 1947]
Harbors Act Amendment Act, 1950, No. 52 of 1950 [Assented to 7 December 1950]
Harbors Act Amendment Act, 1953, No. 34 of 1953 [Assented to 17 December 1953]
Harbors Act Amendment Act, 1955, No. 50 of 1955 [Assented to 8 December 1955]
Harbors Act Amendment Act, 1962, No. 36 of 1962 [Assented to 8 November 1962]
Harbors Act Amendment Act, 1965, No. 30 of 1965 [Assented to 2 December 1965]
Harbors Act Amendment Act, 1966, No. 89 of 1966 [Royal Assent proclaimed 2 March 1967]⁴
Harbors Act Amendment Act, 1967, No. 53 of 1967 [Assented to 9 November 1967]
Harbors Act Amendment Act, 1968, No. 63 of 1968 [Assented to 23 January 1969] (as amended by Statute Law Revision Act, 1973, No. 77 of 1973 [Assented to 6 December 1973])
Harbors Act Amendment Act, 1969, No. 73 of 1969 [Assented to 11 December 1969]
Harbors Act Amendment Act, 1970, No. 67 of 1970 [Assented to 17 December 1970]
Harbors Act Amendment Act, 1971, No. 97 of 1971 [Assented to 3 December 1971]
Statute Law Revision Act, 1973, No. 77 of 1973 [Assented to 6 December 1973]
Harbors Act Amendment Act, 1973, No. 87 of 1973 [Assented to 13 December 1973]⁵
Harbors Act Amendment Act, 1974, No. 10 of 1974 [Assented to 28 March 1974]
Harbors Act Amendment Act, 1978, No. 109 of 1978 [Assented to 7 December 1978]⁶
Harbors Act Amendment Act, 1981, No. 16 of 1981 [Assented to 19 March 1981]
Harbors Act Amendment Act (No. 2), 1981, No. 95 of 1981 [Assented to 23 December 1981]

¹ Came into operation 1 April 1937: *Gaz.* 25 March 1937, p. 641.

² Came into operation 1 July 1937: *Gaz.* 25 March 1937, p. 644.

³ Came into operation 1 July 1937: *Gaz.* 25 March 1937, p. 641

⁴ Came into operation 20 March 1967: *Gaz.* 2 March 1967, p. 681.

⁵ Came into operation 20 May 1974: *Gaz.* 16 May 1974, p. 1777.

⁶ Came into operation 21 December 1978: *Gaz.* 21 December 1978, p. 2303.

Note: Asterisks indicate repeal or deletion of text. For further explanation see Appendix.

An Act to consolidate certain Acts to provide for the acquisition by the Crown of wharves and water frontages and similar properties, and to provide for the management and control of harbors, and other purposes.

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

PART I

PRELIMINARY

Short title

1. This Act may be cited as the *Harbors Act, 1936*.

Commencement

2. This Act shall come into operation on a day to be fixed by proclamation.

Consolidation and repeal

3. This Act is a consolidation of the Acts mentioned in the first schedule, and the said Acts are hereby repealed to the extent therein mentioned.

Savings and transitional provisions

3a. (1) Every legal proceeding, or remedy instituted, or sought to be enforced by or against The South Australian Harbors Board under any provision of this Act as in force before the commencement of the *Harbors Act Amendment Act, 1966*, or under any other Act may, after the commencement of the *Harbors Act Amendment Act, 1966*, be continued, completed and enforced by or against the Minister under the appropriate provisions of this Act or such other Act as if the Minister were substituted for such board.

(2) Except as in this Act expressly or by necessary implication provided, the repeal or amendment by the *Harbors Act Amendment Act, 1966*, of any provisions of this Act or any other Act shall not disturb the continuity of status, operation or effect of any proclamation, regulation, rule, order, complaint, summons, warrant, instrument, document, application, appeal, determination, decision, conviction, committal, endorsement, direction, licence, certificate, consent, conveyance, contract, agreement, approval, disapproval, exemption, confirmation, objection, appointment, registration, condition, recognizance, notice, fee, liability, or right made, effected, given, received, issued, incurred or acquired or existing or continuing by or under those provisions before such repeal or amendment.

(3) Except as in this Act expressly or by necessary implication provided, every order made under any provision of this Act as in force before the commencement of the *Harbors Act Amendment Act, 1966*, or under any provision of an Act amended by the *Harbors Act Amendment Act, 1966*, shall be deemed to be an order made under the corresponding provisions of this Act or such other Act and the appropriate provisions of this Act or such other Act as in force after such amendment relating to the enforcement, suspension, revival, variation or discharge of orders of such a kind or governing further proceedings in relation thereto shall apply to and in relation to all such orders made as aforesaid.

(4) Except where inconsistent with this or any other section of this Act, the provisions of the *Acts Interpretation Act, 1915-1957*, relating to the effect of repeals shall apply to and in relation to every repeal enacted by virtue of this Act or any amendment thereof.

(5) Where any moneys which were payable to The South Australian Harbors Board under any order of a court or any instrument of any kind have not been paid, such order or instrument shall for all purposes be deemed to provide and to have provided that payment of those moneys to be made to the Minister at his office at Adelaide, and the moneys shall be payable accordingly, notwithstanding that any of such moneys became due or payable before the commencement of the *Harbors Act Amendment Act, 1966*.

Arrangement of Act

4. The provisions of this Act are arranged as follows:—

PART I—Preliminary.

PART II—Acquisition of property for the purposes of this Act—

DIVISION I—Preliminary:

DIVISION II—Power to acquire and properties which may be acquired:

* * * * *

DIVISION V—Resumption of reserves and roads:

DIVISION VI—Miscellaneous.

PART III—Management and control of harbors—

DIVISION I—Preliminary:

DIVISION II—The Minister and Department:

DIVISION III—Vesting of property in the Minister:

DIVISION IV—Powers and duties of the Minister:

DIVISION IVA—Certain powers relevant to administration and enforcement of this Part:

DIVISION V—Pilots and pilotage:

DIVISION VI—Wrecks, obstruction, and damage:

DIVISION VII—Dues, charges, and rates:

DIVISION VIII—Finance:

DIVISION IX—Regulations:

* * * * *

DIVISION XI—Offences:

DIVISION XII—Legal procedure:

DIVISION XIII—Miscellaneous.

PART IV—Miscellaneous provisions.

PART II

ACQUISITION OF PROPERTY FOR THE PURPOSES OF THIS ACT

DIVISION I—PRELIMINARY

Interpretation

5. (1) In this Part, unless inconsistent with the context or some other meaning is clearly intended—

* * * * *

"compensation" includes purchase-money and any compensation to be paid in respect of the acquisition of property:

"convey" means convey, transfer, release, assign, surrender, or otherwise assure:

"conveyance" means conveyance, transfer, release, assignment, surrender, or other assurance:

"Crown lease" means—

- (a) any agreement under the *Crown Lands Act, 1929*, or any other Act dealing with Crown lands containing a covenant to purchase; and
- (b) any lease or agreement for a lease, and any licence, permit, right to occupy or use, or similar right or interest, or agreement therefor, whether the same is in perpetuity or for a term of years or otherwise, and whether containing or not containing a right to purchase, and under whatever Act or other authority the same may have been granted or made,

before or after the commencement of this Act, granted or made by or on behalf of the Crown, or by or on behalf of any person or authority holding lands belonging to the Crown, or in whom or which lands belonging to the Crown were or are vested:

"interest", used with reference to property, includes any estate or interest (legal or equitable) in the property, and any easement, right, power, or privilege in, under, over, affecting, or in connection with, the property, and also includes a Crown lease of the property, or any interest in such a lease:

"lessee" means the person to or with whom any Crown lease is granted or made, and includes his executors or administrators or assigns:

"Minister" means the Minister of the Crown to whom the administration of this Part is for the time being committed by the Governor:

"owner" includes, with respect to any property, any person having any interest in the property, or by the *Compulsory Acquisition of Land Act, 1925*, enabled to sell and convey such interest:

"property" means any of the properties mentioned in section 8, and includes any interest in any such property:

"Registrar-General" means the Registrar-General of Deeds:

"repealed Act" means any Act repealed by this Act:

"the State" means the State of South Australia, and includes the dependencies thereof:

"wharf" includes—

- (a) any wharf, quay, jetty, pier, landing place or stage, platform, slip, basin, siding, dock, or other place at which goods can be landed, loaded, or unloaded, whether situated on or near the shore of the sea or of any arm or inlet thereof, or on or near the shore of any inland river or other inland water;
- (b) all buildings, railways, tramways, and other erections, works, and conveniences on the wharf, and the appurtenances of the wharf, and the approaches thereto; and
- (c) a wharf only partly constructed as well as a completed wharf.

(2) In administering this Part property shall not be deemed not to adjoin other property merely because separated therefrom by a public or other road, street, or way, or by a stream or watercourse, or arm or inlet of the sea: Provided that the stream, watercourse, arm, or inlet does not exceed forty metres in width at the separation.

(3) Every reference in this Part to the acquiring or acquisition of property shall be deemed to include a reference to the acceptance on surrender or the resumption of a Crown lease of property. For the purposes of anything to be done under this Part, in a case where the property is subject to a Crown lease, the provisions of this Part shall be read as varied in such a manner as may be appropriate for dealing with property subject to a Crown lease.

* * * * *

Part to apply notwithstanding Real Property Act

7. The provisions of this Part shall apply notwithstanding anything contained in *The Real Property Act, 1886*.

DIVISION II—POWER TO ACQUIRE AND PROPERTIES WHICH MAY BE ACQUIRED

Power to acquire wharves and water frontages and other properties

8. (1) Subject to section 9, any property of any kind or kinds mentioned in subsection (2), which is situated anywhere in the State, may at any time be taken and acquired by the Minister as provided by this Part.

(2) The kinds of properties to which this section applies are—

- (a) any wharf, together with the land whereon the same stands, whether the land is or is not wholly or partly overflowed by the waters of the sea, or of any arm or inlet thereof, or of any inland river or other inland water:

6.

- (b) any land being a wharf frontage or water frontage, whether the land consists wholly or partly of foreshore or contains no foreshore:
- (c) any land which has been excavated for use as a dock or wharf, whether so used or not, or so much thereof as may be required for the purposes of a wharf or dock:
- (d) any land adjoining any property of any of the kinds in this subsection before mentioned, which land may be required for the purposes of any wharf or other works wholly or partly constructed or in course of construction at the time when such land is taken, or which it may be intended to construct at any time, or which land may be required for the extension or more convenient use of any wharf or other works;
- (e) any land that is reasonably required for commercial or industrial development related to a port or wharf;
- (f) any other land that is reasonably required for the purposes of this Act,

together in any case with all buildings and other improvements on the property proposed to be taken and acquired.

(3) Notwithstanding anything in this section, any land taken as being a wharf frontage or water frontage shall not include more than the land situated between the low-water mark and the nearest public street or road or Government road running parallel or approximately parallel with the said water mark, but may comprise the whole or any part of the land so situated.

(4) The *Land Acquisition Act, 1969-1972*, shall apply to the acquisition of land under this Act.

All wharves in a harbor to be taken simultaneously

9. (1) No property of the kind mentioned in paragraph (a) of subsection (2) of section 8 which is situated within the limits of any harbor shall be taken and acquired under this Part unless, at the same time, all other properties of the said kind which are then—

- (a) situated within the limits of the harbor; and
- (b) not vested in the Crown or in some person or authority on behalf of the Crown or as a Minister or other officer or servant of the Crown,

are also taken and acquired under this Part.

(2) Within one month after the day of the acquisition under this Part of any property of the kind mentioned in subsection (1), an application may be made to a Judge of the Supreme Court to determine the question what properties of the said kind are situated within the limits of the harbor (if any) in which the property so acquired is situated.

(3) The application may be made by—

- (a) the Minister; or
- (b) any person claiming to have been an owner of the property or a lessee thereof at the time of the acquisition thereof as aforesaid; or

7.

- (c) any person claiming to be an owner or lessee of any other property of the said kind, which he alleges is situated within the limits of the harbor (if any) in which the first-mentioned property is situated.

(4) The determination of the Judge as to the question aforesaid shall, for the purposes of this section, be final, and he may make any order as to the costs of and incidental to the application and determination which to him appears just. There shall be no appeal from any determination or order made under this section.

(5) Except as provided and within the time limited by this section, the title of the Crown, or of its successors in title, to any property of the said kind shall not be questioned in any proceedings in any court or tribunal or before any person, or in any other way, on the ground that the same was acquired contrary to the provisions of this section.

(6) For the purposes of this section a property shall be deemed to be acquired on the day when the conveyance thereof, duly executed by all necessary parties, is delivered to the Minister or the proclamation in respect thereof is published in the *Government Gazette*, according to the circumstances of the case.

* * * * *

DIVISION V—RESUMPTION OF RESERVES AND ROADS

Power to resume reserves, roads, etc., adjoining acquired property

31. Notwithstanding anything contained in the *Local Government Act, 1934*, or in any other Act, the Governor may, without the consent of any municipal council or district council, or any other road or other authority, by proclamation, resume any public reserves, streets, roads, or ways which—

- (a) are wharf frontages or water frontages; or
- (b) are situated between properties acquired under this Part or Part I of *The Harbors Act, 1913*, or between parts of properties so acquired; or
- (c) adjoin any property or properties so acquired.

No compensation for closing public streets, etc.

32. (1) When any public reserve, street, road, or way, not being a street end abutting on the sea or any arm or inlet thereof, is resumed under this Part, no compensation shall be payable to any municipal council or district council or other authority, for or in respect of the resumption, closing, or obstructing of the public reserve, street, road, or way, but compensation shall be paid to the owners, lessees, and other persons having interests in any land abutting on the resumed, closed, or obstructed reserve, street, road, or way, for the injury sustained by the owner, lessee, or person by reason of the resumption, closing, or obstruction.

(2) Any such compensation shall be determined by agreement or, in default of agreement, by the Land and Valuation Court.

DIVISION VI—MISCELLANEOUS

Preliminary notice of intention to acquire

33. (1) When the Minister considers it advisable to acquire any property under this Part he may direct an inspection and valuation thereof to be made, and he shall, not less than one week prior to the date of the proposed inspection of the property, give a notice in writing to the owner in occupation thereof of his intention to inspect and value the property, and of the date when the valuers will commence to inspect the same.

(2) After any such notice has been given as to any property the valuers directed by the Minister to inspect and value the same may, with such assistants as they deem necessary, enter at any time or times upon the property and inspect the same and the improvements thereon, and may remain thereon for any reasonable time to acquire all information necessary for the purpose of making their inspection and valuation.

Power to deal with and dispose of property

34. Subject to this Act, the Minister may, deal with, or dispose of, property acquired, or vested in him, under this Act as he thinks fit.

Vesting of Rapid Bay Jetty in the Minister

35. (1) In this section—

"the Company" means the Broken Hill Proprietary Company Limited:

"the Indenture" means the Indenture set out in the schedule to the *Broken Hill Proprietary Company's Indenture Act, 1937-1940*:

"the Jetty" means the jetty constructed at Rapid Bay under clause 7(b) of the Indenture.

(2) On the first day of January, 1982, the Jetty shall vest in the Minister freed and discharged from any mortgage, charge or other interest.

(3) As from the first day of January, 1982, no provision of the Indenture shall apply in relation to the Jetty.

(4) The fact that the Company has requested and consented to the vesting of the Jetty in the Minister is acknowledged and shall be recognised for any relevant purpose of the law of the State.

* * * * *

Saving of powers independent of this Act

38. Nothing in this Part shall be deemed to in any way limit or qualify any right or power of the Governor, or the Minister, or any other person, to acquire any lands or property independently of this Part.

Property acquired to continue ratable, with limitations in certain cases

39. (1) When any property situated in any municipality or district council district is acquired under this Part or Part I of *The Harbors Act, 1913*, notwithstanding any Act or other law to the contrary, the property shall, for the purposes of assessment for and liability to and recovery of rates, continue to be ratable property within the meaning of the *Local Government Act, 1934*:

Provided that—

- (i) as regards any such properties situated within the Municipality of the City of Port Adelaide, the total amount payable for rates of all kinds declared in any one financial year of the council thereof shall not exceed the sum of eight thousand dollars; and
- (ii) as regards any such properties situated within the Municipality of the Town of Port Pirie, the total amount payable for rates of all kinds declared in any one financial year of the council thereof shall not exceed the sum of three thousand dollars.

(2) Notwithstanding the provisions of subsection (1), in case any such property as mentioned in that subsection which is situated within the Municipality of the City of Port Adelaide is, whilst the property of the Crown or whilst vested in the Minister or any other authority having the control or management of harbors, let to any person otherwise than for the purposes of the Crown or of the Minister or authority, the property so let shall during the tenancy be ratable to the same extent as if for the time being it were privately owned. In any such case the amount of the rates declared on such property shall be set off against the sum of eight thousand dollars mentioned in subsection (1), and shall thus be a discharge, entirely or to the extent thereof, as the case may be, of the said sum.

(3) The provisions of subsection (2) shall apply, *mutatis mutandis*, to properties situated within the Municipality of the Town of Port Pirie and to the sum of three thousand dollars mentioned in subsection (1).

* * * * *

Service of notices

41. (1) Any notice to be given under this Part to the Minister shall be deemed to be validly given when delivered to the Minister personally, or left with some officer of the Minister at the Minister's office.

(2) Any notice to be given or sent under this Part to an owner of any property shall be deemed to be validly given or sent—

- (a) if the owner is not a body corporate, when delivered to the owner personally or left at his last usual place of abode in the State; or if such place of abode cannot after diligent inquiry be ascertained or the owner is absent from the State, when left with the occupier of the property, or, in case there is no occupier, when affixed upon some conspicuous part of the property:

10.

- (b) if the owner is a body corporate, when left with some officer or member of the said body at the registered or other office or place of business of the said body in the State; or, if there is no office or place of business of the said body in the State or no such office or place can after diligent inquiry be ascertained, when left with the occupier of the property, or, in case there is no occupier, when affixed upon some conspicuous part of the property.

Money for the purposes of Part

42. The moneys required for the purposes of this Part shall be paid out of moneys supplied by the Treasurer out of moneys provided by Parliament.

PART III

MANAGEMENT AND CONTROL OF HARBORS

DIVISION I—PRELIMINARY

Interpretation

43. (1) In this Part, and in all proceedings taken and all regulations, rules, and documents made under this Part or Part II of *The Harbors Act, 1913*, unless inconsistent with the context or some other meaning is clearly intended—

* * * * *

"boat" includes every vessel, not being a ship as herein defined, which is used in navigation:

* * * * *

"carriage" includes any wagon, cart, truck, vehicle, balloon, airship, aeroplane, or other means of conveying goods or passengers on or over land, in whatever manner the same may be propelled:

* * * * *

* * * * *

* * * * *

"financial year" means year ending with the thirtieth day of June:

"goods" includes all wares and merchandise, and all chattels, livestock, and other things of whatsoever description:

"harbor" includes—

- (a) any port, haven, roadstead, channel, creek, or navigable river, being part of the sea or any arm or inlet thereof; and
- (b) any inland river or water or part thereof or other place declared by proclamation to be a harbor for the purposes of this Part,

but does not include—

- (i) any inland river or water or any part thereof, unless so declared; nor
- (ii) any place declared by proclamation not to be a harbor for the purposes of this Part:

"harbormaster" means any person holding office under the *Public Service Act, 1967-1978*, as a harbormaster or assistant harbormaster and includes any person authorized in writing by the Minister to exercise the powers and functions of a harbormaster:

"harbor works" includes any breakwater, training wall, dock, dockyard, wharf, bridge, viaduct, embankment, or dam, any dredging or reclamation of land from the sea or from any river within a harbor, and any excavation, deepening, dredging, or widening of any channel, basin, or other part of any harbor, and also includes any buildings, railways, or other works used or to be used in connection with any of the before-mentioned works:

"high water mark" means high water mark at ordinary spring tides:

* * * * *

"master" includes every person (except a pilot) having the command, charge, or management of a vessel for the time being:

"mile" means a nautical mile of 1 852 metres:

"Minister" means the Minister of the Crown to whom the administration of this Part is for the time being committed by the Governor:

"navigable river" includes any river, creek, or stream in which the tide ebbs and flows, and also any river, creek, or stream capable, whether in its natural state or otherwise, of navigation by such vessels as are ordinarily employed, whether on the river, creek, or stream, or elsewhere, for the purpose of conveying merchandise or other goods:

"navigational aid" means—

- (a) any lighthouse, lightship, beacon, buoy, or other mark or structure (whether equipped with a light or not);
- (b) any device (including a radio beacon),

intended to be an aid to marine navigation:

"owner" includes any person who is owner jointly or in common with any other person, and also includes a corporate body; and when used in relation to goods, includes any consignor, consignee, shipper, or agent for the sale or custody, importing or exporting, loading or unloading of goods:

"pilot" means any person not belonging to a ship who has the conduct thereof:

"qualified pilot" means any person duly licensed to conduct ships to which he does not belong:

* * * * *

"ship" includes every description of vessel used in navigation and not propelled exclusively by oars:

"tackle", used in relation to a ship, includes all furniture and apparel thereof:

"the State" means the State of South Australia, and includes the dependencies thereof:

"this Part" includes this Part of this Act and all licences and certificates granted and all regulations and rules gazetted or made under this Part of this Act and Part II of *The Harbors Act, 1913*:

"tidal water" means any part of the sea, or any arm or inlet thereof, or any river within the ebb and flow of the tide at ordinary spring tides:

"vessel" means—

- (a) a floating structure of any description;
 - (b) a structure designed or intended to traverse water, or to float in or upon water;
- or
- (c) a hovercraft or other air cushion vehicle,

and includes any part of any such vessel, or the wreck or any part of the wreck of any such vessel:

"wharf" includes any wharf, quay, jetty, pier, landing place or stage, platform, slip, basin, siding, dock, or other place at which goods can be landed, loaded, or unloaded; and the term also includes all buildings, railways, tramways, and other erections, works, and conveniences on the wharf, and the appurtenances of the wharf, and the approaches thereto:

"within the limits of the jurisdiction of the Minister" means within any harbor in the State, or within the distance of three miles to seaward from low water mark along any coastline of the State, or within any other territorial water of the State, or within any foreshore under the care, control, and management of the Minister as provided by section 44:

"wreck" includes jetsam, flotsam, lagan, and derelict found in or upon the shores of the sea or of any navigable river, lake, or tidal water.

(2) Where in this section it is stated that any word or expression includes as in this section mentioned, that statement shall not be taken to limit the meaning of the word or expression or necessarily to be exhaustive of its meaning.

(3) When any Act is referred to in this Part, that reference shall be deemed to include all regulations for the time being in force made thereunder.

Care, control and management of foreshore, etc.

44. (1) Subject to subsection (2) and subsection (3) of this section—

- (a) the foreshore of the sea;
- (b) any water or other reserve, wharf or breakwater situated within any harbor, in the sea, or upon the foreshore of the sea,

shall be under the care, control and management of the Minister.

(2) Subject to subsection (3) of this section, any part of the foreshore of the sea (not being within a harbor) that is within the area of a municipal or district council shall be under the care, control and management of that council.

(3) Notwithstanding the provisions of subsection (1) and subsection (2) of this section, the Governor may, by proclamation, place—

(a) any part of the foreshore of the sea;

or

(b) any water or other reserve, wharf or breakwater situated within any harbor, in the sea, or upon the foreshore of the sea,

under the care, control and management of—

(c) any Minister of the Crown;

(d) a council;

or

(e) the Coast Protection Board.

(4) Where—

(a) any part of the foreshore of the sea is under the care, control and management of a council or the Coast Protection Board;

and

(b) land comprising, or comprised within, that part of the foreshore—

(i) is declared by proclamation to be land to which this subsection applies;

or

(ii) forms a strip of land lying under, and extending five metres beyond each side of, a wharf that is under the care, control and management of the Minister,

the council or the Coast Protection Board (as the case may require) shall not—

(c) erect, or permit to be erected, on that land, any permanent structure;

(d) remove, or permit to be removed, from that land, any sand, shells, seaweed or other material;

(e) alter that land, or permit it to be altered, in a manner that may prejudice the exercise by the Minister of his powers and functions;

or

- (f) make any by-law, or seek the making of any regulation, affecting the occupation, management, use or control of the land,

without having first obtained the consent in writing of the Minister.

(5) The Governor may, by subsequent proclamation, vary or revoke a proclamation under subsection (3) or (4) of this section.

(6) In this section—

"the foreshore of the sea" means the land extending from low water mark to the nearest road or section boundary, or to a distance of thirty metres from high water mark (whichever is the lesser distance) but does not include land alienated in fee simple from the Crown or subject to any agreement, lease or licence granted by or on behalf of the Crown.

* * * * *

By-laws in conflict with jurisdiction of the Minister

46. No by-law made before or after the commencement of this Act by any municipal council or district council shall have any validity so far as it conflicts or is inconsistent with the exercise or performance of any of the powers or duties vested in or imposed upon the Minister by this Part.

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DIVISION II—THE MINISTER AND DEPARTMENT

Incorporation of Minister of Marine

49. (1) The Minister of Marine and his successors in office are hereby constituted a body corporate under the name of "Minister of Marine" with perpetual succession and a common seal.

(2) The Minister shall in his corporate name be capable of suing and being sued and of acquiring, holding and disposing of real and personal property of any kind and submitting to arbitration any cases, suits, causes and disputes and of doing, exercising and suffering all such other acts, powers and things as by this Act or by law the Minister and bodies corporate may by law do, exercise or suffer and of doing and exercising such further acts and powers as may be necessary or convenient for carrying into effect any of the purposes of this Act or any other Act.

Judicial notice to be taken of seal and incorporation of Minister

50. All courts, judges and persons acting judicially shall take judicial notice of the incorporation and common seal of the Minister and the production of any deed, instrument or writing sealed with that seal shall, in the absence of proof to the contrary, be sufficient evidence of the due making and execution of that deed, instrument or writing.

Abolition of The South Australian Harbors Board

51. On the commencement of the *Harbors Act Amendment Act, 1966*, the body corporate known as "The South Australian Harbors Board" and the offices of chairman, commissioners and secretary of that board shall be abolished and, subject to this Act, all property, rights, powers, functions, duties and liabilities of The South Australian Harbors Board shall be transferred to and vested in the Minister.

Provisions consequential to abolition of former board

52. Subject to this Act—

- (a) in any proceeding or transaction of any kind to which immediately before the commencement of the *Harbors Act Amendment Act, 1966*, The South Australian Harbors Board or the chairman thereof was a party, the Minister shall be substituted for the said board or chairman, as the case may be;
- (b) any reference to The South Australian Harbors Board or the chairman thereof in any Act, regulation, rule or other law or in any order of a court, instrument, agreement or document of any kind shall be read as a reference to the Minister;

and

- (c) any reference to an officer of The South Australian Harbors Board in any Act, regulation, rule or other law or in any order of a court, instrument, agreement or document of any kind shall be read as a reference to an officer of the Department of Marine and Harbors.

The department

53. For the purposes of this Act there shall be—

- (a) a department under the Minister to be called the "Department of Marine and Harbors" which shall be established and declared pursuant to the *Public Service Act, 1936-1966*;
- (b) a Director of Marine and Harbors;

and

- (c) such other offices and positions in the department as are necessary.

Departmental officers and employees

54. (1) Subject to subsections (2) and (3) of this section all officers of the department shall be appointed in accordance with the *Public Service Act, 1936-1966*.

(2) The officer who immediately before the commencement of the *Harbors Act Amendment Act, 1966*, was holding the office of General Manager of the Harbors Board Department shall, on and after the commencement of that Act and without any further formality of appointment, be known, and be deemed to have been appointed, as the Director of Marine and Harbors subject to such conditions of appointment and employment as applied in relation to the office of General Manager of the Harbors Board Department.

(3) All persons who immediately before the commencement of the *Harbors Act Amendment Act, 1966*, were officers or employees of The South Australian Harbors Board or of the Harbors Board Department except the General Manager of the said department, shall, upon such commencement, without any further formality of appointment, become officers and employees of the department subject to the same conditions of appointment and employment and with such titles and status as they had in the Harbors Board Department.

Power of Minister to delegate powers, functions, etc.

55. (1) The Minister may from time to time, generally or in each particular case, delegate to the Director or any other officer of the department, such powers, duties, responsibilities and functions as the Minister thinks fit and may at any time revoke such delegation.

(2) Any power, duty, responsibility or function vested in or delegated to the Director may, if he is absent or otherwise unable to perform the duties of his office, be exercised or discharged by the acting Director who in that behalf shall have all the powers, duties, responsibilities and functions of the Director.

Duties of Director

56. It shall be the duty of the Director under and in accordance with the directions of the Minister to administer and carry into effect the provisions of this Act.

Director's annual report

57. (1) The Director shall make an annual report to the Minister on the administration of this Act and the work of the department and such other matters as the Minister directs.

(2) The Minister shall cause such report to be laid before both Houses of Parliament within three weeks after receiving the same if Parliament is then sitting or, if Parliament is not then sitting, within two weeks after the commencement of the next sitting of Parliament.

* * * * *

DIVISION III—VESTING OF PROPERTY IN THE MINISTER

Property vested in Minister

64. (1) The Governor may from time to time, on the recommendation of the Minister, grant or lease unto the Minister in fee simple or for any term, any property of any kind whatsoever which is vested in the Crown or in any person or authority whomsoever on behalf of the Crown, or as a Minister or other officer or servant of the Crown. Any property so granted or leased shall thereupon vest in the Minister in fee simple or for the term of the lease (according to the circumstances of the case) for the purposes of this Part.

(1a) All the lands and properties of the Crown and the beds and shores which, by virtue of paragraph (a) of subsection (2) of this section as in force immediately before the commencement of the *Harbors Act Amendment Act, 1974*, were vested in the Minister shall, subject to this section, continue to be so vested.

(2) There shall also be vested in the Minister for the purposes of this Part—

* * * * *

- (b) all navigational aids within any harbor in the State;
- (c) all wharves, docks, breakwaters, training walls, causeways, canals, wharf sheds, and other harbor works, which are situated within any harbor in the State, except such as are private property;
- (d) all properties by or by the operation of any provision of this Part vested in the Minister; and

(e) all such other property as the Minister acquires for the purposes of this Part.

(3) The Governor may at any time and from time to time, by notice published in the *Government Gazette*, more particularly define the boundaries of any of the lands and properties vested in the Minister. Thereafter the boundaries of such land or property, as vested in the Minister, shall be as so defined, but without affecting the validity or curing the invalidity of anything done, or of the omission of anything, before the publication of the notice.

(4) The Governor may from time to time, by notice in writing delivered to the Minister, withdraw any land or other property of any kind from the Minister, and vest or re-vest the same in the Crown, or in any other person or authority, or determine any lease thereof granted by the Governor to the Minister.

(5) Notice of the grant or lease by the Governor of any land or property to the Minister, or of the withdrawal by the Governor of any land or property from the Minister, or the determination by the Governor of any lease so granted to the Minister, shall be published in the *Government Gazette*, but the grant, lease, withdrawal, or determination shall take effect independently of such publication.

* * * * *

Lands vested in Minister free from taxes

65. (1) Subject to the provisions of section 39, neither the property of the Minister, nor the Minister in respect thereof, shall be subject to general or special taxation, and all lands and other property vested in the Minister shall be exempt from all rates, taxes, and impositions of any local authority.

(2) Nothing herein contained shall preclude a municipal council or district council from levying and collecting rates and other lawful charges in respect of lands, houses, and buildings of the Minister which are for the time being let or occupied for private purposes.

DIVISION IV—POWERS AND DUTIES OF THE MINISTER

Powers of Minister to be exercised within three miles to seaward

66. (1) The powers, authorities, and jurisdiction of the Minister shall extend to and be exercisable within all harbors in the State and to the distance of three miles to seaward from low-water mark along the coastlines of the State, and within all other territorial waters of the State.

(2) The Minister may, at any place within the limits of the jurisdiction of the Minister or elsewhere within the State, do all such acts and things as may be necessary for the discharge or exercise of any of the duties, powers, authorities, or jurisdictions of the Minister.

Control of harbors

67. The Minister shall have the exclusive control and management of all harbors in the State, and of navigation therein, and of all such harbor works as are not private property.

Control and management of navigational aids

68. (1) The Minister shall have the exclusive control and management of navigational aids (other than navigational aids that are the property of the Commonwealth) within the limits of the jurisdiction of the Minister.

(2) No civil liability attaches to the Minister, or any person acting in the administration of this Act for an act or omission, in good faith, in relation to—

(a) the positioning;

or

(b) the operation,

of a navigational aid.

Harbor works to be carried out by Minister

69. The following works, namely, the construction or completion of all buildings and works for the purposes of the Minister, all harbor works (except on property privately owned), and the alteration, maintenance, and repair thereof and of all property vested in the Minister, and the extending, alteration, improvement, maintenance, and cleansing of all harbors, shall be undertaken and carried out by the Minister.

Deepening and dredging near private wharf

70. (1) The Minister may, by notice in writing, require the owner of any private wharf in any harbor within the time specified in the notice, to deepen to such depth as mentioned in the notice, or to dredge, or to deepen to such depth as so mentioned and dredge, in a manner satisfactory to the Minister, the whole or any part of the harbor lying within sixty metres of any part of the wharf.

(2) In case the owner fails within the time so specified to deepen or dredge, or to deepen and dredge, as so required, in a manner satisfactory to the Minister, the Minister may so deepen or dredge, or deepen and dredge, or complete the doing thereof, and may recover from the owner the cost of so doing, as a debt due to the Minister.

* * * * *

Arrangements for exchange of certain land

71b. (1) The Minister with the approval of the Governor may make an arrangement with the Commonwealth providing for—

(a) the transfer to the Minister by the Commonwealth of the land at Port Adelaide known as the Dean Rifle Range and other land of the Commonwealth adjacent thereto;

(b) the purchase or acquisition by the Minister and the transfer by the Minister to the Commonwealth of land to be used by the Commonwealth as a rifle range and the establishment of such a rifle range;

(c) any other matters connected with or incidental to those mentioned in paragraphs (a) and (b).

(2) The Minister may carry any such arrangement into effect and for that purpose may acquire land by agreement or compulsory process.

(2a) Where any of the land proposed to be transferred by the Minister to the Commonwealth pursuant to any such arrangement is comprised in land which, pursuant to any Act, has been dedicated or reserved for any purpose, the Governor may by proclamation resume such land and may, on payment by the Minister of such consideration as may be fixed by the Minister of Lands on the recommendation of The Land Board, grant the fee simple of such land to the Minister for the purpose of enabling the Minister to carry the arrangement into effect.

(2b) Where any of the land proposed to be transferred by the Minister to the Commonwealth pursuant to any such arrangement is comprised in a Crown lease as defined in section 147 of the *Crown Lands Act, 1929-1960*, the Minister of Lands may accept the surrender of the lease or any part or parts thereof or resume for the purposes of this section the land or any part thereof comprised in any such lease.

(2c) The Governor may, on payment by the Minister of such consideration as may be fixed by the Minister of Lands on the recommendation of The Land Board, grant the fee simple of any land surrendered or resumed under subsection (2b) of this section to the Minister for the purpose of enabling the Minister to carry the arrangement into effect.

(2d) The provisions of the *Crown Lands Act, 1929-1960*, shall, so far as they are applicable, apply to, and in relation to, any surrender or resumption referred to in this section and any resumption of land for the purposes of this section shall be deemed to be a resumption for a public purpose.

(3) In this section "Commonwealth" includes any person or body of persons representing the Commonwealth, and "transfer" includes convey, grant or vest in by statute or otherwise.

(4) The money required for carrying into effect any arrangement made under this section shall be paid out of money provided by Parliament for those purposes.

Lighting of wharves

72. (1) The Minister shall cause all wharves, docks, platforms, depots and sheds vested in him to be kept well and sufficiently lighted.

(2) No by-law of any municipal or district council shall apply to, or in relation to, the lighting of any wharf, dock, platform, depot, or shed vested in the Minister.

Depots for goods and facilities for loading

73. (1) The Minister 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 such other conveniences upon or near the wharves, docks, and platforms vested in the Minister as the Minister thinks expedient for the trade of the harbor.

(2) The Minister may make reasonable charges for the use of such depots, sheds, engines, cranes, hoisting and weighing machines, and other apparatus and conveniences.

Life-saving apparatus and assistance

74. The Minister—

- (a) may provide and maintain all such appliances and things as appear to the Minister to be necessary or expedient for the relief of vessels in danger, or for the saving of life or property in any water within the limits of the jurisdiction of the Minister, including life-boats, life-buoys, rockets, and rocket and other apparatus; and may appoint and pay or reward persons to superintend and assist in the use of the same;
- (b) may provide and maintain all such apparatus and things as appear to the Minister to be necessary or expedient for searching for drowned persons, and restoring animation to persons apparently drowned, and may employ and pay or reward persons for those purposes in such manner as to the Minister seems expedient; and
- (c) may maintain such appliances and things as appear to the Minister to be necessary or expedient for the purpose of extinguishing fires on vessels, or on any property vested in the Minister.

Powers of Minister

75. The Minister may, when funds are available—

- (a) for the purpose of maintaining and improving the navigation of any harbor, dredge, cleanse, and scour the same, and alter, deepen, cleanse, scour, dredge, cut, enlarge, and otherwise alter and improve the bed of the same:
- (b) abate and remove all impediments, obstructions, and annoyances, and all nuisances and abuses whatsoever in any harbor, or on the banks and shores thereof, which may, in the opinion of the Minister, be injurious to the harbor, or obstruct or tend to obstruct the free navigation thereof:
- (c) scour, reduce, or remove any shoal, bank, or accumulation which, in the opinion of the Minister, impedes the navigation of any harbor:
- (d) shorten any bend or remove any angle on the shore or the bed of any harbor:
- (e) cut the banks of any inlet of the sea, river, or other water within any harbor for the purpose of making, enlarging, or repairing any dock or canal, or any drain, sewer, or watercourse, or altering, laying down, or repairing any suction or other pipe, or for any other purpose whatsoever, and may authorize any person to cut the said banks for any of the purposes aforesaid, under such restrictions and upon such terms and conditions as the Minister thinks proper to impose:
- (f) establish, alter or remove navigational aids as the Minister considers necessary or expedient.

Leases and licences of shores and sea not to be granted without consent of the Minister

76. Notwithstanding any Act or law to the contrary, no lease or licence of, or permission to occupy or use, any portion of any sea beach or foreshore, or any land overflowed by the waters of the sea, within the limits of the jurisdiction of the Minister, which beach, foreshore, or land is not private property, shall be granted without the consent in writing of the Minister first obtained.

Power to lease lands

77. The Minister may grant a lease of any land vested in the Minister for such term, with such right of renewal (if any), and at such rent, and upon such other terms and conditions as the Minister thinks fit.

Power to authorize erection of wharves, etc.

78. (1) The Minister may grant to the owner or occupier of any land fronting and immediately adjoining any portion of any place within the limits of the jurisdiction of the Minister a licence to make any wharf, embankment, wall, or other work in any portion of any such place immediately in front of his land, upon payment of such fair and reasonable consideration, and subject to such other terms, conditions, reservations, and other provisions as the Minister thinks fit.

(2) Every licence granted pursuant to this section as amended and in force immediately prior to the commencement of the *Harbors Act Amendment Act, 1967*, to an owner or occupier of any land fronting and immediately adjoining any portion of the River Murray shall be and be deemed to be and at all times to have been valid and effectual for all purposes.

Power to lease sea beach for bathing purposes

79. (1) The Minister may grant a lease for any period not exceeding twenty-one years of any convenient portion of the foreshore at any place within the State, and of the adjoining land overflowed by the waters of the sea, together with the approaches thereto, for the purpose of the same being appropriated and maintained as and for a public bathing place.

(2) Any such lease shall be subject to such terms, conditions, reservations, and other provisions, and confer such powers as to the erection of fences, bathing-boxes, refreshment-rooms, and other conveniences on the premises, the formation of a harbor for boats thereon, and the admission or refusal of admission thereto, as to the Minister seems fit.

Power to lease public wharves

80. (1) The Minister may grant a lease of any wharf vested in the Minister, or any portion thereof, for such period, and on such conditions, as the Minister thinks proper.

* * * * *

Licences for use of wharves by ferryboats

81. (1) The Minister may grant to the proprietor of any ferryboat annual or other licences, to use in such manner as the Minister deems advisable, any wharf vested in the Minister, or portion thereof, for any period stated in the licence.

(2) All such licences shall be revocable by three months' notice given by the Minister.

Power of Minister to resume possession of lands the subject of a lease or licence

82. (1) Whenever the Minister during the currency of the term of any lease of, or licence to occupy or use, any of the lands or other properties vested in the Minister, or any portion of any harbor, sea beach or foreshore, or land overflowed by the waters of the sea, in any part of the State (all of which are hereafter in this section referred to as lands and properties), whether the lease or licence was granted or issued before or after the commencement of this Act, desires to take possession of any of the said lands or properties, or any part thereof, the Minister may serve on the person to whom the lease or licence was granted, his heirs, executors, administrators, or assigns, a notice that the Minister requires possession thereof.

(2) If within three months from the service of the notice possession is not given to the Minister, the Minister may issue his warrant to the Sheriff to deliver possession of the land or property, or part thereof, whereof possession is so required, to the person appointed in the warrant to receive the same. Upon receipt of the warrant the Sheriff shall deliver possession of the land or property, or part thereof, accordingly.

(3) The costs accruing by reason of the issuing and execution of the warrant, to be settled by the Sheriff, shall be paid by the person refusing or failing to give possession. The amount of the said costs shall be deducted and retained by the Minister from the compensation (if any) payable for dispossession under the powers hereinbefore contained, or if no such compensation is payable, or if the compensation is less than the amount of the said costs, then the costs, or the excess thereof beyond such compensation, if not paid on demand, shall be levied by distress, and, upon application to any justice for that purpose, he shall issue his warrant accordingly.

(4) Whenever any lessee or licensee, his executors, administrators, or assigns, is or are dispossessed under the powers by this section conferred on the Minister, the Minister shall, subject to subsection (3), pay to him or them compensation for dispossession, and the amount thereof shall be settled in the manner prescribed in the *Compulsory Acquisition of Land Act, 1925*, as to the taking of lands for undertakings of a public nature.

Power to make contracts, etc.

83. (1) The Minister may, in his corporate name, enter into contracts with any person for the execution of any work the Minister thinks proper to do, or to direct to be done, under the powers conferred by this Part, or for furnishing materials or labour, or for providing proper engines or other power, or for any other matters and things whatsoever necessary or convenient to enable the Minister to carry the purposes of this Part into effect, in such manner, and upon such terms, and upon such stipulations, regulations, and restrictions as the Minister thinks proper.

(2) Notwithstanding anything in this section the Minister shall be subject to the provisions of any Act providing for the control of the purchase of materials or other things by a Supply and Tender Board or other authority.

Contracts by the Minister

84. (1) The powers by this Act conferred upon the Minister to make contracts may lawfully be exercised as follows, that is to say:—

- I. Any contract which, if made between private persons, would be by law required to be in writing and under seal, the Minister may make in writing in his corporate name and under his common seal, and in the same manner may vary or discharge:
- II. Any contract which, if made between private persons, would be by law required to be in or to be evidenced by writing, signed by the parties to be charged therewith, the Minister may make in writing in his corporate name, signed by him, and in the same manner may vary or discharge.

(2) All contracts made according to the provisions of this section and duly executed by the parties thereto respectively shall be effectual in law, and shall be binding upon the Minister and all other parties thereto, and their successors, heirs, executors, or administrators, as the case may be. On any default in the performance of any such contract, such actions or suits may be brought thereon and damages and costs recovered against or by the Minister, or any other party failing in the execution thereof, as might be brought and recovered if the same contract had been made between private persons only.

Power to sell goods left on wharves

85. (1) If any goods remain upon any wharf vested in the Minister, or the approaches thereto, or in any store or warehouse so vested, for a longer time than allowed by the regulations, any person authorized by the Minister may remove the goods to a convenient place, and keep the same until payment has been made of the expenses of the removal and keeping.

(2) If the 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 notice by advertisement, at least once in each of two consecutive weeks, in a newspaper circulating at the harbor where the goods so remain, the Minister may sell the goods by public auction: Provided—

- (a) that if the value of any such goods does not exceed ten dollars the Minister may, after notice to the owner, or, if the owner is unknown or cannot be found, after notice by advertisement at least once in any newspaper circulating as aforesaid, sell or otherwise dispose of the goods in accordance with such notice:
- (b) that goods, if perishable, may be sold without demand or advertisement after being kept for twenty-four hours.

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

DIVISION IVA—CERTAIN POWERS RELEVANT TO ADMINISTRATION AND ENFORCEMENT OF THIS PART

Powers of authorization

86. (1) A member of the Police Force, a harbormaster or a person authorized in writing by the Minister may, for any purpose connected with the administration or enforcement of this Act, exercise any of the following powers:—

- (a) he may direct the master of a vessel—
 - (i) to manoeuvre the vessel in a specified manner;
 - or
 - (ii) to stop the vessel and secure it in a specified manner;
- (b) he may board a vessel for the purpose of investigating an offence that he reasonably suspects to have been committed by a person on board the vessel;

- (c) he may require any person—
- (i) whom he reasonably suspects of having committed an offence against this Act;
- or
- (ii) who is, in his opinion, in a position to give evidence relating to the commission of an offence,
- to state his name and address.

(2) A person who—

- (a) fails to obey a direction or requirement under subsection (1) of this section;
 - (b) hinders a member of the Police Force, a harbormaster or an authorized person acting in the exercise of powers conferred by subsection (1) of this section;
- or
- (c) when required to state his name and address states a false name or address,

shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars or imprisonment for three months.

(3) Where a person is charged with an offence consisting of a failure to obey a direction given under paragraph (a) of subsection (1) of this section, it shall be a defence to prove that compliance with the direction would have endangered life or property.

DIVISION V—PILOTS AND PILOTAGE

Application of Part

87. This Part shall apply—

- (a) to Port Adelaide;
- (b) to such other ports as the Governor by regulation extends the application of this Part;
- (c) to such ports to which at the commencement of this Act, Part V of the *Marine Board and Navigation Act, 1881*, extends.

General powers of Minister

88. (1) The Minister may, within the limits of the jurisdiction of the Minister, grant licences to qualified persons as pilots and apprentices, and fix the terms and conditions of such licences.

(2) All boats and ships regularly employed in the pilotage service shall be approved and licensed by the Minister.

Duty to take in pilot

89. (1) The master of a ship having a gross tonnage of or exceeding two hundred tons, on arriving at or off any port to which this Part applies—

- (a) shall receive on board the ship the first pilot who offers himself and demands to conduct the ship into the port; and
- (b) shall on demand by the pilot (producing, if required, his licence as pilot) give the ship in charge of the pilot.

(1a) Subsections (1) and (2) of this section shall not apply to a master who has been granted a pilotage exemption certificate under section 116 of this Act or a pilotage permit under section 116a of this Act in respect of the port into or from which he proposes to navigate.

(2) The master of any such ship shall not proceed to sea from or quit his station or anchorage in any such port without receiving on board a qualified pilot.

(3) Any such master who commits any contravention of this section shall be guilty of an offence against this Act and liable to a penalty not exceeding five hundred dollars, in addition to the amount which would have been payable for pilotage if the pilot's services had been actually engaged.

Duty to display pilot signal

90. (1) The master of any such ship when within ten miles of any pilot boarding station, and intending to enter any port to which this Part applies, shall (unless he has a pilotage exemption certificate or pilotage permit referred to in section 89 of this Act in respect of that port), until a qualified pilot comes on board, use or display the usual signal for a pilot.

(1a) The master of any such ship within ten miles of a pilot boarding station, and intending to enter a port to which this Part applies, shall maintain an efficient system of radio communication or visual watch in order to receive any instructions that may be given by or on behalf of the person responsible for the management of the port or the pilot boarding station, and shall act in accordance with any such instructions.

(2) If any qualified pilot is within hail, or is approaching and within a mile of the ship, and has the proper distinguishing flag flying, or uses the proper distinguishing lights in his boat, the master shall, by heaving-to in proper time, or shortening sail, or by any practicable means consistent with the safety of his ship, facilitate the pilot getting on board.

(3) Any master who commits any contravention of this section shall be guilty of an offence against this Act and liable to a penalty not exceeding one hundred dollars.

Signals for pilot

91. (1) If the master of any ship requires the services of a pilot, the signals to be used or displayed shall be as follows:—

- (a) in the daytime—the appropriate flag prescribed by the International Code, hoisted in a conspicuous position;

or

(b) at night—the appropriate signal prescribed by, and transmitted in accordance with, the International Code.

(2) Any master of a ship who uses or displays, or causes or permits any person under his authority to use or display, any of the said signals for any other purpose than that of summoning a pilot, or uses or causes or permits any person under his authority to use any other signal for a pilot, shall be guilty of an offence against this Act and liable to a penalty not exceeding one hundred dollars.

(3) The master of a ship may, in lieu of the signals prescribed by subsection (1) of this section, request the services of a pilot by radio communication.

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Penalty on ordinary boat displaying pilot flag

95. If any boat or ship not having a qualified pilot on board displays a flag of the above-mentioned description the owner or master of the boat or ship shall be guilty of an offence against this Act and liable to a penalty not exceeding two hundred dollars.

Pilot's licence

96. (1) Every qualified pilot, on his appointment, shall receive a licence, containing his name and usual place of abode, together with a description of his person, and a specification of the limits within which he is qualified to act.

(2) Any qualified pilot acting beyond the limits for which he is qualified by his licence, shall be considered as an unqualified pilot.

Copies of regulations

97. (1) Every qualified pilot shall, upon receiving his licence, be furnished with a copy of such part of this Act as relates to pilotage, together with a copy of the rates and regulations.

(2) Any qualified pilot who fails to produce such copies to the master of any ship or other person employing him, when required to do so, shall be guilty of an offence against this Act and liable to a penalty not exceeding ten dollars.

Pilot to produce licence to employer

98. (1) Every qualified pilot, while acting in that capacity, shall be provided with his licence, and produce the same to every person by whom he is employed, or to whom he tenders his services as pilot.

(2) Any qualified pilot who refuses to do so at the request of such person shall be guilty of an offence against this Act and liable to a penalty not exceeding twenty dollars, and shall be subject to suspension or dismissal by the Minister.

Licences to be delivered up when required

99. (1) Every qualified pilot, when required by the Minister, shall produce or deliver up his licence.

(2) On the death of any qualified pilot, the person into whose hands his licence happens to fall, shall, without delay, transmit the same to the Minister.

(3) Any pilot or person who fails to comply with the provisions of this section, shall be guilty of an offence against this Act and liable to a penalty not exceeding one hundred dollars.

Person acting without licence

100. Any person not being duly licensed, or lawfully exempted from pilotage as master of a ship by the Minister, who acts as a pilot for any ship either entering or navigating in, or leaving any port to which this Part applies, shall be guilty of an offence against this Act and liable to a penalty not exceeding five hundred dollars.

Qualified pilot unable to board when entitled to pilotage

101. If any boat or ship, having a qualified pilot on board, leads any ship which has not a qualified pilot on board, when such last-mentioned ship cannot, from particular circumstances, be boarded, the pilot so leading such last-mentioned ship shall be entitled to the full pilotage for the distance run as if he had actually been on board and had charge of the ship.

Allowance to pilot when taken out of his limits

102. (1) No qualified pilot, except under circumstances of unavoidable necessity, shall, without his consent be taken to sea, or beyond the limits for which he is licensed, in any ship whatever.

(2) Every pilot so taken, under circumstances of unavoidable necessity or without his consent, shall be entitled, over and above his pilotage, to the sum of four dollars and twenty cents a day, to be computed from and inclusive of the day on which the ship passes the limit to which he was engaged to pilot her up to and inclusive of the day of his being returned in the said ship to the place where he was taken on board, or up to and inclusive of such day as will allow him, if discharged from the ship, sufficient time to return thereto. In such last-mentioned case, he shall be entitled to his reasonable travelling expenses.

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Penalty on pilot demanding improper rates

104. Any qualified pilot who demands any rate, in respect of pilotage services, greater than the rate for the time being demandable by law, shall be guilty of an offence and liable to a penalty not exceeding twenty dollars.

Penalty on making false declaration as to draught or tonnage of ship, or falsifying marks

105. (1) If any master on being requested by any qualified pilot having charge of his ship to declare her draught of water or tonnage refuses to do so, or himself makes, or is privy to any other person making, a false declaration to the pilot as to the draught or tonnage aforesaid, he shall be guilty of an offence against this Act and liable to a penalty not exceeding double the amount of pilotage which would have been payable to the pilot making the request.

(2) Any master or other person interested in a ship who makes, or is privy to any other person making, any fraudulent alteration in the marks on the sternpost or stem of the ship, denoting her draught of water, shall be guilty of an offence against this Act and liable to a penalty not exceeding one thousand dollars.

Power of qualified pilot to supersede unqualified pilot

106. (1) A qualified pilot may supersede an unqualified pilot, but the master may pay to such unqualified pilot a proportionate sum for his services, and deduct the same from the charge of the qualified pilot.

(2) In case of dispute, the Minister shall determine the proportionate sums to which each party is entitled.

Penalty on unqualified persons acting as pilots

107. Any unqualified pilot who assumes or continues in the charge of any ship after a qualified pilot has offered to take charge of her, or who uses a licence which he is not entitled to use, for the purpose of making himself appear to be a qualified pilot, shall be guilty of an offence against this Act and liable to a penalty not exceeding five hundred dollars.

Occasions on which persons may act as pilots

108. Any unqualified pilot may, without subjecting himself or his employer to any penalty, take charge of a ship as pilot—

- (a) when no qualified pilot has offered to take charge of the ship, or made a signal for that purpose; or
- (b) when a ship is in distress, or under circumstances making it necessary for the master to avail himself of the best assistance which can be found at the time; or
- (c) for the purpose of changing the moorings of any ship in port, or of taking her into or out of any dock, in cases where such act can be done by an unqualified pilot without infringing the regulations of the port.

Offences by pilots

109. (1) If any qualified pilot—

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- (c) lends his licence:
- (d) acts as pilot while suspended:
- (e) acts as pilot while in a state of intoxication:

* * * * *

(g) refuses or wilfully delays, when not prevented by illness or other reasonable cause, to take charge of any ship within the limits of his licence upon being required to do so by the master, owner, agent, or consignee thereof, or by any officer of the Minister:

* * * * *

(i) refuses, on the request of the master, to conduct the ship of which he has the charge into any port or place into which he is qualified to conduct the same, except on reasonable ground of danger to the ship:

- (j) quits the ship of which he has the charge, without the consent of the master, before the service for which he was hired has been performed,

he shall, in addition to any liability for damages at the suit of the party aggrieved, be guilty of an offence against this Act and liable to a penalty not exceeding five hundred dollars, and be liable to suspension or dismissal by the Minister.

(2) Any person who procures, abets, or connives at the commission of any such offence shall, in addition to any such liability for damages as aforesaid, be guilty of an offence against this Act and liable to a penalty not exceeding five hundred dollars, and, if a qualified pilot, shall be liable to suspension or dismissal by the Minister.

Penalty on pilot endangering ship, life, or limb

110. If any qualified pilot, when in charge of any ship, by wilful breach of duty, or by neglect of duty, or by reason of drunkenness, either—

- (a) does any act tending to the immediate loss, destruction, or serious damage of the ship, or tending immediately to endanger the life or limb of any person on board the ship; or
- (b) refuses or omits to do any lawful act, proper and requisite to be done by him, for preserving the ship from loss, destruction, or serious damage, or for preserving any person belonging to or on board of the ship from danger to life or limb,

he shall be guilty of an offence against this Act and liable to a penalty not exceeding five hundred dollars or to imprisonment for any term not exceeding six months, and if a qualified pilot, also be liable to suspension or dismissal by the Minister.

Penalty on person in charge of ship doing wilful injury

111. If any person by wilful misrepresentation of circumstances upon which the safety of a ship may depend, obtains or endeavours to obtain the charge of the ship, that person, and every other person procuring, abetting, or conniving at the commission of the offence, shall, in addition to any liability for damages, at the suit of the party aggrieved, be guilty of an offence against this Act and liable to a penalty not exceeding five hundred dollars; and, if the offender is a qualified pilot, he shall also be liable to suspension or dismissal by the Minister.

Revocation or suspension of pilot's licence

112. The Minister shall have power to revoke or suspend the licence of any qualified pilot licensed by the Minister in such manner and at such time as the Minister thinks fit.

Settlement of difference as to draught or tonnage of ship

113. (1) Whenever any difference arises between the master and the qualified pilot of any ship trading to or from any port in the State as to her draught of water or tonnage, the Minister shall, upon application by either party made in case of a ship inward bound, within twelve hours after her arrival, or at some time before she begins to discharge her cargo, and, in the case of a ship outward bound, before she quits her moorings, anchorage, or wharf, appoint some proper officer, who shall measure the ship and settle the difference accordingly.

(2) There shall be paid to the officer measuring the ship by the party against whom he decides, such sum as the Minister may direct.

Liability of owner and master

114. (1) The duty of a pilot shall be to pilot the ship subject to the authority of the master, but the master shall not be relieved, by reason of the ship being under pilotage, from responsibility for the conduct and navigation of the ship.

(1a) No civil liability attaches to a pilot or to the Minister or to the Crown for negligence by a pilot in relation to the pilotage of a ship, other than a ship belonging to the Crown.

(2) The owner or master of a ship being navigated in circumstances in which pilotage is compulsory shall be answerable for any loss or damage caused by the ship, or any fault in the navigation of the ship in all respects and in the same manner as if pilotage were not compulsory.

Pilotage rates

115. The pilotage rates payable upon any ship on her arrival at or departure from any port shall not be less than five dollars.

Pilotage exemption certificates

116. (1) The Minister may grant a certificate of exemption from pilotage at any port to which this Part applies to the master of any ship, registered at any place within the British Commonwealth, that trades solely between ports in the Commonwealth of Australia or between ports in the Commonwealth of Australia and ports in New Zealand.

(2) A certificate as aforesaid—

- (a) shall be granted to a British subject only;
- (b) shall be granted to a master after passing an examination before the Minister or some person appointed by the Minister proving that the master is competent to navigate his ship in and out the port in respect of which the certificate is granted;
- (c) shall be granted on the payment by the master to the Minister of ten dollars or such other amount as the Minister directs;
- (d) shall not be transferable.

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Pilotage permits

116a. (1) Subject to this section, the Minister, on the recommendation of the Director, may grant to the master of a ship which has a gross tonnage of or exceeding two hundred tons, a pilotage permit authorizing him to navigate that ship within and into and out of such port or ports as are specified in the permit.

(2) A permit under this section shall be granted only in respect of a ship referred to in subsection (1) of this section and to a master—

- (a) who is or is to be engaged in—
 - (i) dredging operations or other similar operations;
 - (ii) exploratory operations of a hydrographic or oceanographic nature;

(iii) servicing vessels or structures used in the search for or winning of oil or other substances from the bed of the sea;

or

(iv) any other operations that, in the opinion of the Minister, are of a kind that justify the issue of a permit under this section, where those operations or services take place within, or require that ship to be navigated into and out of, the port or ports in respect of which the permit is sought;

(b) who proposes to navigate that ship regularly within or into and out of that port or ports;

(c) who has been examined by a person appointed by the Minister for that purpose and certified by that person to be competent to navigate that ship within or into and out of that port or ports;

and

(d) who has paid a fee of ten dollars to the Minister.

(3) A permit granted under this section—

(a) shall state the period of time for which it is effective;

(b) shall be subject to such conditions as the Minister may impose;

and

(c) shall not be transferable.

Duty of master

117. (1) The master of a ship, to whom a pilotage exemption certificate or pilotage permit has been granted under this Act, shall, as soon as the ship is within a distance of five miles from the port, or the pilot station of the port, in respect of which the certificate or permit, as the case may be, was granted, hoist at the main of the ship a white flag of not less than 1.5 metres square, and shall keep that flag flying until the arrival of the ship in the port.

(2) If the master of a ship, to whom a pilotage exemption certificate or pilotage permit has been granted under this Act fails to comply with subsection (1) of this section, and the ship is not being navigated at the direction of a pilot on board the ship, the master shall be guilty of an offence and liable to a penalty being the amount of pilotage that would have been payable if a pilot had been engaged and, in addition, a fine of not more than ten dollars.

Power to suspend, cancel, and re-issue certificate or permit

118. If at any time it appears to the Minister that any master of a ship to whom a pilotage exemption certificate or pilotage permit has been granted by the Minister, has been guilty of misconduct, or of conduct unfitting him to hold the certificate or the permit, or has shown himself incompetent to pilot his ship, or has committed a breach of the conditions subject to which the permit was granted, the Minister may thereupon suspend or cancel the certificate or the permit, as the case may require. The Minister may at any time re-issue the certificate or the permit.

Licensed pilots at Port Adelaide to be solely in the employ of the Government

119. Licences to pilots shall be issued for the Port of Adelaide to such persons only as the Governor may approve to employ, and each person to whom a licence is so granted shall act solely on behalf of the Government of the State, and the salary or reward of each person so licensed shall be annually voted by Parliament.

Penalty for other person than master acting as pilot

120. Any person not being a qualified pilot in the employ of the Government who acts as a pilot for any ship of which he is not the master named on the certificate of registry of the ship, or any document having the effect of a certificate of registry of the ship, either entering in or navigating in or leaving Port Adelaide, shall, whether he holds or does not hold a pilotage exemption certificate, be guilty of an offence against this Act and liable to a penalty not exceeding five hundred dollars.

Powers of Governor

121. (1) The Governor may by proclamation—

- (a) determine and abolish the licences of pilots at any port or place within the jurisdiction of the Minister;
- (b) issue licences to pilots to be employed at any such port or place solely by the Government, and at such salaries as may be determined by the Governor;
- (c) make sections 119 and 120 or either of them applicable to such port or place, and to have the same effect as if directly enacted therefor.

(2) The Governor may by proclamation revoke any proclamation made under subsection (1) of this section.

DIVISION VI—WRECKS, OBSTRUCTION, AND DAMAGE

Removal of wreck

122. (1) If any vessel is sunk, stranded, or abandoned within the limits of the jurisdiction of the Minister the vessel, together with the tackle thereof, and the goods (if any) therein (all of which are in this section included under the term "the wreck"), may be removed in the following manner:—

- I. The Minister shall give notice in writing to the owner of the vessel, or to an agent of the owner, that he is required, within a time specified in the notice, either to remove the wreck in a manner satisfactory to the Minister, or to undertake, under security satisfactory to the Minister, to remove the wreck in a manner satisfactory to and within a time to be fixed by the Minister;
- II. In case the owner or an agent cannot be found within the State, or if he fails within the time specified in the notice to remove the whole of the wreck in a way satisfactory to the Minister, or enter into such undertaking as aforesaid to remove the same, or if, having undertaken to remove the wreck, he fails to remove it in accordance with his undertaking, then the Minister, or any person authorized by the Minister, may remove the wreck; and the Minister 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");

- III. The Minister or any person authorized by the Minister 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 the sale, without any reference to the part of the wreck from the sale of which the proceeds accrue, reimburse the Minister for the whole of the expenses of removal and sale, and shall, after so reimbursing the Minister, render the surplus (if any) to the owner on demand, and in the meantime shall pay the same to the Treasurer; and
- IV. If the proceeds of the sale are insufficient to pay the whole expenses of removal and sale, the Minister may recover the balance from the owner if the 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.

(2) For the purposes of this section the term "owner" means not only the owner of the vessel at the time of the sinking, stranding, or abandonment thereof, but also any person who, whilst the same remains sunk, stranded, or abandoned, purchases the wreck, or the materials of which the same is or was composed.

Lights on works

123. (1) Every person making, constructing, altering, extending or removing any work on, in, over, through, or across tidal lands or a tidal water, or the sea-shore below high-water mark, shall, on or near the work, during the whole time of the making, constructing, altering, extending, or removing thereof, exhibit and keep burning at his own expense every night from sunset to sunrise such lights (if any) as the Minister from time to time requires or approves, and shall also on or near the work, when completed, always maintain, exhibit, and keep burning every night from sunset to sunrise such lights (if any) for the guidance of ships as the Minister from time to time requires or approves.

(2) If any person fails to comply in any respect with the provisions of this section he shall, for each night on which he so fails, be guilty of an offence against this Act and liable to a penalty not exceeding two hundred dollars.

Responsibility for injury to the works of the Minister

124. (1) Where an injury is done by a vessel or any part of the equipment thereof, or by any floating timber or material, or by any person employed about the same, to any of the works or property of or vested in the Minister—

- (a) the owner or agent of the vessel, floating timber, or material; and
- (b) in case the injury is caused through the act or negligence of the master of the vessel, or of the person having charge of the timber or material, the owner or agent and also the master or person,

shall be liable in damages to the Minister for the injury.

(1a) In any proceedings brought by the Minister against the owner, or the agent of the owner, of any vessel, floating timber or material, it shall not be necessary for the Minister to establish—

- (a) that the injury resulted from negligent or otherwise tortious conduct; or

- (b) any causal connection between the injury and an act or omission on the part of any person,

and, subject to subsection (1b) of this section, it shall not be a defence to any such proceedings that the injury is wholly or partially attributable to any factor independent of the control of the person against whom the proceedings are brought.

(1b) Subject to subsection (1c), in any proceedings brought by the Minister under this section it shall be a defence to prove that the injury is wholly attributable to negligent or otherwise tortious conduct for which the Minister or an officer of the Department of Marine and Harbors is responsible and where it appears to the court that the injury is partially attributable to such conduct, for which the Minister or any such officer is responsible, the court shall make such allowance for that fact as it thinks just in the assessment of damages.

(1c) Negligence on the part of a pilot does not constitute ground for a defence, or for making an allowance in the assessment of damages, under subsection (1b).

(2) The amount of the damages may be recovered in any court of competent jurisdiction, or in a summary way in the same manner as a penalty for an offence against this Act; or, at the option of the Minister, the ship, floating timber, or material may be detained until the damages have been paid or a deposit has been made by the master or owner or agent thereof equal in amount to the claim made by the Minister for the estimate of the Minister of the amount of injury so done, which deposit the Minister is authorized to receive and retain until the entire amount of the injury has been ascertained by the Minister and paid by the master or owner of the ship, floating timber, or material, when the said deposit shall be returned to the master or owner or agent.

(3) Every such deposit shall be considered to have been made in payment and satisfaction, or part payment and satisfaction, of the claim for the injury in respect of which the deposit has been made, unless notice that the claim is disputed is given to the Minister within seven days after the deposit has been made. After the expiration of seven days next after the deposit has been made (unless in the meantime notice is given to the Minister that the claim is disputed) the Minister may, unless the amount of injury has been sooner paid, apply the deposit or a sufficient part thereof, in making good the injury, and shall return the residue (if any) of the deposit to the said master or owner or agent.

(4) The special remedies provided by this section shall be without prejudice to any other remedy in respect of the injury: Provided that the Minister shall not recover in the aggregate more than the total amount of the damages, costs, and expenses arising from the injury.

Recovery by owner from master of ship

125. Where the owner or agent 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 or vested in the Minister 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 or penalty so paid with costs and expenses from such master or other person in any court of competent jurisdiction, or in a summary way in the same manner as a penalty for an offence against this Act.

DIVISION VII—DUES, CHARGES, AND RATES

Harbor dues, etc., fixed by regulation

126. (1) Regulations may be made from time to time by the Governor, on the recommendation of the Minister, fixing dues, charges, and rates (including, though without limiting the extent of the power hereby conferred, light, harbor, warehouse, tonnage, mooring, pilotage, and berthing dues and wharfage charges) which shall be charged and levied by the Minister. Dues, charges, and rates shall be payable and paid to the Minister in accordance with the regulations.

(2) Until repealed by regulations made under this Act or any repealed Act, all dues, charges, and rates of the kinds specifically mentioned in subsection (1), which were payable by law at the seventh day of April, 1914, shall continue to be charged and levied, and shall be payable and paid to the Minister as if the same had been made payable under this Act.

(3) The Minister shall keep exhibited at his office a board having painted or affixed thereon lists of all dues, charges and rates payable from time to time, but his omission to do so shall not affect any liability to pay any such dues, charges or rates.

Harbor improvement rates

127. (1) The Governor may make regulations prescribing, and providing for the levying of, harbor improvement rates upon goods discharged at, or shipped from, any specified harbor.

(2) The regulations may provide for the manner of levying and collecting the rates, and by whom the same shall be paid, and in what manner the same shall be paid to any person authorized by the Minister in that behalf.

Differences may be made between outward and inward goods

128. In fixing any dues, charges, and rates, differences may be made between the amounts payable in respect of outward and inward bound goods respectively.

In case of difference, power to weigh or measure goods

129. (1) Where a difference arises between any officer or person authorized to collect any dues, charges, or rates and the owner of any goods respecting the weight or quantity of such goods, the officer or person authorized to collect the dues, charges, or rates may cause the goods to be weighed or measured.

(2) If the weight or quantity thus ascertained exceeds that alleged by the owner, the expenses of the weighing or measuring shall be paid by him to the Minister, and shall be recoverable as the dues, charges, or rates are recoverable. If the weight or quantity thus ascertained does not exceed that alleged as aforesaid, the expenses of the weighing or measuring shall be paid by and shall be recoverable from the Minister in any court of competent jurisdiction.

Liability for dues payable by ships

130. The owner and the master of any ship, and such consignee or agent thereof as has paid or made himself liable to pay any dues, charges, or rates on account of the ship, shall be liable to pay the dues, charges, and rates payable under this Act in respect of the ship.

Liability for dues payable for goods

131. The owner of any goods carried in any ship, and also any consignor, consignee, shipper, or agent for the sale or custody of the goods, and also any person entitled, either as owner or agent for the owner, to the possession of the goods, shall be liable to pay the dues, charges, and rates payable under this Act in respect of the goods.

Rights of persons other than master or owner of ship

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

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Recovery of dues

133. All dues, charges, and rates may be recovered by the Minister in any court of competent jurisdiction as a debt due to the Minister, or in a summary way in the same manner as penalties for offences against this Act are recoverable.

Power to distrain

134. (1) Any officer or person authorized to collect dues, charges, or rates may, without any warrant or authority other than this Act, distrain any ship and the tackle thereof or any goods, in respect of which any such dues, charges, or rates are payable, and may keep the ship and tackle or goods respectively until the dues, charges, or rates are paid.

(2) If the same are not paid within seven days after the distress, the said officer or person 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 the dues, charges, or rates and the charges and expenses of the distress, keeping, and sale.

Settlement of dispute concerning dues or charges occasioned by distress

135. (1) Where a difference arises concerning the amount of any dues, charges, or rates payable or of the charges and expenses occasioned by any distress, the person distraining may detain the ship, tackle, or goods distrained until the amount is ascertained by a local court of full jurisdiction, or until he is satisfied that sufficient security has been given for the payment of the amount when ascertained, and of the charges and expenses arising from non-payment thereof.

(2) 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.

Penalty on evasion

136. If any master, owner, consignor, consignee, shipper, or agent evades or attempts to evade the payment of any dues, charges, or rates he shall be guilty of an offence against this Act and liable to a penalty not exceeding five hundred dollars, in addition to the amount of the dues, charges, or rates.

DIVISION VIII—FINANCE

Minister to declare value of property vested in Minister

137. The Minister shall at the end of every financial year cause a schedule to be made of all works and improvements constructed, and all works in course of construction, by him, and of all lands and property vested in or acquired by him during that financial year.

Collection of dues, etc.

138. All dues, charges, rates, rents, and other moneys levied and collected by the Minister or any officers and persons under this Part shall be paid to the Treasurer to the credit of the general revenue of the State.

Accounts

139. (1) The Minister shall cause books to be provided and kept, and true and regular accounts to be entered therein—

- (a) of all moneys received and paid by the Minister, and all moneys owing to or by the Minister under this Part, and of the several purposes for which these moneys are received, paid, or owing; and
- (b) of all assets and liabilities of the Minister under this Part.

(2) The Minister shall cause the books and accounts to be balanced every year as at the thirtieth day of June.

How money for purposes of this Part provided

140. The moneys required for the purposes of this Part shall be provided by the Treasurer out of moneys from time to time provided by Parliament for such purposes.

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DIVISION IX—REGULATIONS

Regulations

144. The Governor may from time to time make regulations—

- (1) for the control, supervision, and guidance of officers and servants appointed under this Part;
- (2) regulating all matters relating to the protection of life and property, and the safe navigation of harbors and the good order of shipping therein;
- (3) regulating the use, management, and superintendence of harbors and moorings;
- (4) regulating the admission of ships into harbors, and into, near, or alongside wharves and moorings, and their removal therefrom;
- (5) regulating the receipt by and discharge from ships of ballast in harbors and other places within the limits of the jurisdiction of the Minister, and fixing the places in harbors and elsewhere where ballast may be excavated or raised;

- (6) for the prevention of overloading or overcrowding of vessels;
 - (7) regulating the mode and place of mooring and anchoring vessels, their position and government in harbors, and their unmooring and removal out of harbors;
 - (8) for enabling the harbor-master to ensure the observance of such regulations as referred to in paragraph (7), in case of non-compliance therewith, by mooring, unmooring, placing, or removing a vessel, and for that purpose to cast off or let loose any warp or rope, or unshackle or let loose 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) for the slacking down or heaving in of anchors, cables, hawsers, and other fastenings, topping or bracing of yards, rigging in of booms, davits, bumpkins, and other projecting gear of ships in harbors;
 - (10) 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;
 - (11) fixing, imposing, levying, and receiving all light, harbor, warehouse, tonnage, mooring, pilotage, and berthing dues, wharfage charges, and harbor improvement rates, and other dues, charges, and rates;
 - (12) for the exemption of ships in the service of His Majesty or of any British possession, or in the naval service of any foreign power, and of other vessels, from dues, charges and rates;
 - (13) regulating the use of wharves, docks, quays, landing stages, and other landing places, the appointment of persons to preserve order, and generally regulating the traffic thereon;
 - (14) prescribing and regulating the lights and signals to be carried by any vessel within harbors, and for the better prevention of collisions within harbors;
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- (17) regulating the use of lights and the employment of watchmen on board ships and boats when moored or anchored in a harbor or at a wharf;
 - (18) regulating the communication between vessels or between wharves and vessels by means of gangways or otherwise;
 - (19) regulating the conduct, management, superintendence, and protection of all navigational aids within the limits of the jurisdiction of the Minister, and all wharves and other harbor works;
 - (20) regulating the use of cranes, weighing and other machines, weights and measures, and conveniences or appliances belonging to the Minister, and fixing charges to be paid for the use of the same;

- (21) 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 Minister for use in the loading and unloading of goods on wharves, and prescribing the rates or charges for the same, and for the handling and storing of goods;
- (22) 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;
- (23) regulating the duties and conduct of all persons, as well officers and servants appointed under this Part as other persons, not being officers of customs, who are employed in harbors;
- (24) providing for the control and management of ferry boats plying for hire in harbors;
- (25) providing for the registration and licensing of tugs to conduct vessels into or out of harbors and fixing the fees to be paid for such licences;
- (26) regulating the erection of private wharves, and the granting and determining the conditions of leases of and licences as to public wharves, situated within the limits of the jurisdiction of the Minister, or wharves erected, or to be erected, by any person within such limits;
- (27) providing for the registration and licensing of owners of ballast lighters and boats, master boatmen, boatmen, watermen, ballastmen, bargees, and others;
- (28) providing for the registration and licensing of all ballast lighters and boats, tank boats, cargo boats, lighters, and other vessels and boats plying for hire, either for goods or passengers, within harbors, and fixing the fees to be paid for such licences;
- (29) providing for the inspection of all such lighters, boats, and vessels, and preventing the use of such as are unseaworthy or insufficient;
- (30) providing for the name of each lighter, boat, or vessel and the name of its owner being shown thereon;
- (31) regulating the conduct, and for the punishment of misconduct, of licensed owners of ballast lighters and boats, master boatmen, watermen, ballastmen, and bargees, and other licensed persons when practising their callings;
- (32) fixing the fares and charges for the carriage of persons and goods in licensed lighters, boats, and vessels of the several kinds hereinbefore mentioned, or any of them, according to either time or distance;
- (33) regulating the charges to be made by licensed boatmen, porters, and other carriers;
- (34) prohibiting persons from acting as boatmen plying for hire, porters, cabdrivers, carters, carmen, or otherwise in the carriage of goods or passengers without previously obtaining and continuing to hold the licence of the Minister;

- (35) prescribing the duration of and the fees for any or all such licences as herein mentioned, and providing that the issue of such licences and the cancellation thereof shall be at the absolute discretion of the Minister;
- (36) for 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 wharves;
- (37) regulating pilotage;
- (38) appointing pilot stations, and regulating the conduct and management thereof;
- (39) appointing the place or places where pilots shall board and take charge of and leave ships entering, intending to enter, or departing from harbors;
- (40) regulating the licensing of pilots and apprentices, and the issuing, revocation, and suspension of their licences;
- (41) determining the qualifications to be required of persons seeking to be licensed as pilots or apprentices;
- (42) regulating the licensing of pilot boats and ships, and the revocation and suspension of licences therefor;
- (43) for the government of pilots, and for ensuring their good conduct and the effectual performance of their duties;
- (44) prescribing pilotage rates and determining the nature of the services for which such rates respectively shall be payable;
- (45) regulating the time of payment for pilotage services rendered to any vessel;
- (46) regulating the granting, issuing, revocation, and suspension of pilotage exemption certificates;
- (47) extending the provisions of Division V of this Part to any port;
- (48) repealing, altering, or substituting other rules for the rules as to signals contained in Division V of this Part;

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- (54) empowering a collector, either alone or with other persons, to enter a ship in order to ascertain the dues, rates, and charges payable in respect of the ship or of the goods therein;
- (55) requiring the master of every ship to report his arrival within a specified time after his arrival;

- (56) requiring the master of every ship to produce the certificate of registry to any officer on demand;
- (57) requiring the master of every ship to give a copy 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 a copy of all alterations in or additions to such bill of lading, manifest, or other proper account;
- (58) requiring the master of every ship to give notice of the intended time of unshipment;
- (59) requiring the shippers of goods to furnish accounts of the goods intended to be shipped;
- (60) regulating the time when dues, rates, and charges on goods shipped or unshipped are to be payable;
- (61) limiting the liability of the Minister for goods deposited, stored, in transit, warehoused, landed, lodged, or left on any part of the property of the Minister, including all wharves and sheds, in case of damage to or loss of such goods from any cause whatever;
- (62) limiting the amount of liability on each package of goods coming into the custody of the Minister, and enabling the Minister to rely upon, and the owners of goods to be bound by, all statements, exceptions, and conditions endorsed on ships' receipts, bills of lading, or ships' manifests for goods, as to declarations of value;
- (63) fixing what are to be regarded as the ordinary working hours of harbors or any of them, and limiting the liability of the Minister for the condition of goods discharged at any time except during such hours;
- (64) exempting the Minister from liability for damage to goods caused or contributed to by insufficient protection or packing;
- (65) exempting the Minister from liability for damage to or loss of goods which have been delivered on his premises, but for which the Minister or officers of the Department of Marine and Harbors have not given a receipt;
- (66) exempting the Minister from liability for damage to goods if landed or otherwise handled in wet weather, and authorizing the wharfinger to decide in his absolute discretion when the weather is wet, and that his decision shall be final as to that fact;
- (67) limiting the time within which claims in respect of goods damaged or lost, or alleged so to be, must be made against the Minister, and exempting the Minister from liability in case claims are not made in accordance with such regulations;
- (68) authorizing and empowering the Minister, in the discretion of the Minister, to adopt the weight or measurement of goods set forth in the bill of lading or manifest of the goods, for the purpose of levying, imposing, charging, and collecting dues, rates, and charges;
- (69) regulating and limiting the speed of vessels within harbors;
- (70) prescribing the rents, conditions, and reservations to be contained in leases and licences granted by the Minister;

- (70a) providing for the registration of vessels used by any persons in the course of their business as fishermen and prescribing a fee not exceeding ten dollars a year payable for the registration of a vessel used as aforesaid;
- (70b) requiring compliance with standards or requirements made or recommended, from time to time, by any specified authority, body or person;
- (70c) requiring the holder of any licence or permit or other authority granted under this Act to indemnify the Minister against any claims for injury or damage that may arise as a result of the exercise of rights conferred by the licence, permit or other authority;
- (71) regulating all such other matters and things as this Act requires, or permits to be prescribed, or contemplates shall be prescribed;
- (72) for all or any other purposes relating to the convenience and safety of shipping, or of the public, and generally for duly administering and carrying out the powers and duties conferred or imposed upon the Minister by this Part, and for all such other purposes as may be necessary or convenient for giving effect to this Part.

General powers auxiliary to specific

145. The specific powers of making regulations, and of fixing or imposing rents, dues, rates, fees, charges, fines, and penalties respectively given by this Part, shall not be taken to limit or diminish any general power of making regulations, or fixing or imposing rents, dues, rates, fees, charges, fines, and penalties given by this Part.

Application of regulations

146. Any regulation may be made to apply only within the harbor or harbors or other place or places specified in the regulation, but unless otherwise specified shall apply generally within the limits of the jurisdiction of the Minister and elsewhere within the State.

Control of parking on wharves

146a. (1) The Governor may make regulations for controlling, restricting or prohibiting the parking of vehicles upon or in the vicinity of a wharf.

(2) In any proceedings for an offence against a regulation under this section it shall be presumed that a motor vehicle parked in contravention of the regulation was so parked by the registered owner of the motor vehicle unless the contrary is proved.

(3) Where it is alleged that an offence against a regulation under this section has been committed, the Minister may cause to be given to the person by whom the offence is alleged to have been committed a notice to the effect that he may expiate the offence by the payment to the Minister of a sum of two dollars within a time specified in the notice and if the offence is so expiated no proceedings shall be instituted in respect of the offence.

Penalties for breach of regulations

147. Any regulation—

- (a) may impose a penalty not exceeding five hundred dollars for the breach thereof or of any other regulation; and may impose additional penalties not exceeding twenty dollars for each day beyond the first day in case of a continuing breach; and

- (b) may provide that, in addition to the penalty, any expense incurred by the Minister or any person in consequence of the breach of any regulation shall be paid by the person committing the breach.

Regulations under Marine Board and Navigation Act, 1881

148. Regulations made under the *Marine Board and Navigation Act, 1881*, for any of the purposes mentioned in section 144 of this Act and in force at the commencement of this Act shall, subject as hereinafter provided, continue in force until repealed: Provided that the Governor may expressly repeal any such regulation by regulation made under this Part, and that any such regulation shall be deemed to be repealed so far (if at all) as it is inconsistent with or repugnant to this Part or any regulation made under this Part.

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DIVISION XI—OFFENCES

Punishment for forgery of seal

155. Any person who forges, assists in forging, or procures to be forged the seal or other distinguishing stamp or mark of the Minister, with the view of evading any of the provisions of this Part, shall be guilty of felony, and liable to be imprisoned for any term not exceeding four years, with hard labour.

Penalty for not complying with directions of harbormaster

156. The master of any vessel who, after the service on him of notice in writing signed by the harbormaster of any harbor, or any officer acting on behalf of any such harbormaster, does not forthwith regulate the vessel within the harbor according to the notice, shall be guilty of an offence against this Act and liable to a penalty not exceeding two hundred dollars.

Power of harbormaster to remove vessels

157. (1) The master, owner, or person in charge of any vessel within any harbor shall moor, unmoor, place or remove the vessel according to the directions of the harbormaster, and if there is no person on board the vessel to attend to, and carry out those directions, the harbormaster may cause the vessel to be moored, unmoored, placed or removed as he thinks fit.

(2) The harbormaster in the exercise of his powers under this section may unloose or cut any rope or unshackle or break any chain by which the vessel is moored or fastened, and may obtain such assistance and employ such persons as he deems necessary to enable him to carry out his purpose.

(3) All expenses attending the carrying out of such purpose shall be paid by the master, or owner, or agent of the vessel, and the Minister may recover the expenses from the master, or owner, or agent by action in any court of competent jurisdiction.

(4) In addition to any liability for expenses under subsection (3), if the master of the vessel, or any other person, hinders the harbormaster or any person employed or authorized by him, in or from mooring, unmooring, placing, or removing the vessel, the master or other person shall be guilty of an offence against this Act and liable to a penalty not exceeding two hundred dollars.

Slackening ropes

158. (1) If the master, or any other person on board and in charge, of any vessel within any harbor does not, upon demand of the harbormaster, unloose or slacken a rope or chain by which the vessel is moored or fastened, he shall be guilty of an offence against this Act, and liable to a penalty not exceeding two hundred dollars.

(2) If there is no such person on board a vessel so moored or fastened, the harbormaster, or any person employed or authorized by him, may unloose or slacken any rope or chain by which the vessel is moored or fastened, and, if necessary, may cause a sufficient number of persons to be put on board the vessel for its protection.

(3) All expenses incurred by the harbormaster under this section shall be paid by the master, owner, or agent of the vessel, and may be recovered by the Minister in any court of competent jurisdiction.

(4) In addition to any liability for expenses under subsection (3), if the master of the vessel or any other person hinders the harbormaster, or any person employed or authorized by him, in or from unloosening or slackening a rope or chain as aforesaid, such master or other person shall be guilty of an offence against this Act and liable to a penalty not exceeding two hundred dollars.

Power to make fast to another vessel

159. (1) The harbormaster of any harbor may, for the purpose of removing any vessel from one place to another in the harbor, cause the vessel to be made fast to another vessel being at anchor or moored to any buoy, wharf, or pile.

(2) Any person who hinders the harbormaster, or any person employed or authorized by him, in or from the exercise of the power conferred by this section, or who casts off or cuts any such fastening shall be guilty of an offence against this Act and liable to a penalty not exceeding two hundred dollars.

(3) Nothing in this section shall disentitle the master or owner of any vessel to which any fastening has been attached, as hereinbefore provided, by or by direction of the harbormaster, from recovering from the master or owner of the ship so being removed damages for any injury sustained by reason of such fastening.

Restriction on deposit of ballast or rubbish

160. Any person who commits any of the following offences, so as to be or tend to the injury of navigation, that is to say:—

- (a) casts, or causes to be cast, or suffers to fall, any ballast, rock, stone, slate, shingle, gravel, sand, earth, cinders, rubbish, or other substance or thing, on any tidal land, or into any harbor, or tidal water, or into the sea below low-water mark; or
- (b) casts, or causes to be cast, or suffers to fall, any such substance or thing on land, in a position where the same is 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 any harbor, or tidal water, or into the sea; or

- (c) casts, 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 any harbor or tidal water, or in the sea,

shall be guilty of an offence against this Act and liable to a penalty not exceeding three hundred dollars, and shall also be liable to pay the expenses of the removal to a proper position of the substance, thing, ship, or boat.

Penalties for damaging navigational aids, etc.

161. Any person who wilfully or negligently—

- (a) damages or destroys any navigational aid;
- (b) removes or alters any navigational aid;

or

- (c) makes fast to, or runs foul of, any navigational aid,

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shall be guilty of an offence against this Act and liable to a penalty not exceeding five hundred dollars, or to imprisonment not exceeding twelve months, and shall also be liable to pay the expenses of making good any damage occasioned by the offence.

Penalty for wilfully cutting moorings

162. Any person, excepting the harbormaster or a person acting under his authority, who wilfully cuts, breaks, or destroys the mooring or fastening of any vessel in any harbor or elsewhere shall be guilty of an offence against this Act and liable to a penalty not exceeding five hundred dollars, or to imprisonment not exceeding twelve months.

Penalty for wilful damage to works

163. Any person who wilfully destroys or in any way damages or injures any wharf, shed, roadway, building, or other harbor work whatsoever, or any part thereof, constructed or in course of construction, or any appliance used thereon, or for the purposes thereof, shall be guilty of an offence against this Act and liable to a penalty not exceeding five hundred dollars, or to imprisonment not exceeding twelve months.

Penalty for wilful damage to lights

164. Any person who wilfully or negligently breaks or damages or takes away any lamp or other appliance used for the purpose of lighting any wharf, quay, pier, or any road or dock, or other place, or wilfully extinguishes any such light, shall be guilty of an offence against this Act and liable to a penalty not exceeding one hundred dollars.

Wharves, buoys, beacons, etc., not to be placed within jurisdiction of Minister without permission

165. (1) Any person who erects, builds, or makes any wharf or embankment, or any building or work, or drives any pile or beacon, or lays down or places any slipway, chain, mooring, or buoy at any place within the limits of the jurisdiction of the Minister without the permission in writing of the Minister first obtained shall be guilty of an offence against this Act and liable to a penalty not exceeding two hundred dollars.

(2) Any such person who neglects or fails to remove any such wharf, embankment, building, work, pile, beacon, slipway, chain, mooring, or buoy so placed, after notice in writing to remove the same has been served on him by or on behalf of the Minister, shall be liable to a further penalty not exceeding twenty dollars for every day that he neglects or fails to remove the wharf, embankment, building, work, pile, beacon, slipway, chain, mooring, or buoy.

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Master of every ship to obtain certificate before leaving port

167. (1) The master, officer, or person in charge or control of any ship, except a coast-trade ship, before the ship leaves any harbor or place in the State shall obtain from the Minister or some officer authorized in that behalf by the Minister, a certificate that the requirements of this Act have, as far as possible and practicable, been complied with in all matters affecting the ship.

(2) In default of obtaining such certificate before the ship leaves, the master, officer, or person shall be guilty of an offence against this Act and liable to a penalty not exceeding two hundred dollars.

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Prevention of false lights

169. (1) Whenever any fire or light is burned or exhibited at such place or in such manner as to be liable to be mistaken for a light proceeding from a lighthouse, light buoy, or light beacon, the Minister may serve a notice upon the owner or occupier of the place where the fire or light is burned or exhibited, or on the person having the charge of the fire or light, either personally or by delivery at the place of abode of the owner, occupier, or person, or by affixing the same at some conspicuous spot near to the fire or light, and by such notice may direct the owner, occupier, or person, within a reasonable time, to be therein specified, to take effectual means for the extinguishing or effectually screening of the fire or light, and for preventing for the future any similar fire or light.

(2) Any owner, occupier, or person who disobeys or fails to carry out the directions of any such notice shall be deemed guilty of a common nuisance, and, in addition to any other penalties or liabilities of any kind thereby incurred, shall be guilty of an offence against this Act and liable to a penalty not exceeding three hundred dollars.

(3) If any owner, occupier, or person served with such notice as aforesaid neglects for a period of two days to extinguish or effectually screen the fire or light therein mentioned, the Minister, or any person authorized by the Minister, may enter upon the place whereon the same is, and forthwith extinguish the fire or light, doing no unnecessary damage. All expenses incurred in such entry and extinction may be recovered from the owner, occupier, or person as aforesaid in the same way as penalties imposed under this Part are recoverable.

Misleading, refusing assistance to, or bribing officers

170. Any person who—

- (a) knowingly makes, in any document produced to any person authorized to receive it under this Part, any statement which is untrue in any particular, or produces or delivers to any such person any document knowing the same to contain any such statement; or

- (b) knowingly misleads any person on whom any duty is imposed by this Part in any particular likely to affect the discharge of such duty; or
- (c) refuses to answer any question lawfully put to him for any purpose of this Part, or to produce any document lawfully demanded of him for any such purpose; or
- (d) refuses to give all reasonable assistance to any person who is carrying out any duty or power imposed or conferred upon him by or under this Part; or
- (e) gives or offers any bribe, recompense, or reward to, or makes or offers to make any collusive agreement with, any officer or any person performing any duty under this Part, to induce him to do or omit to do anything relating to his office or duty, or for the purpose of gaining an undue preference in the execution of such office or duty; or
- (f) by acts, threats, demands, or promises, molests or influences, or attempts to molest or influence, any officer or person in the discharge of any duty under this Part,

shall be guilty of an offence against this Act and liable to a penalty not exceeding three hundred dollars, or to imprisonment not exceeding twelve months.

Penalty where not specifically provided

171. Any person who—

- (a) fails, refuses, or neglects to do, or in any manner obstructs, impedes, or interferes with the doing of anything enjoined or authorized by this Part; or
- (b) wilfully does anything prohibited by this Part; or
- (c) in any other respect offends against any of the provisions of this Part,

shall where no other penalty is in that behalf specifically provided, be guilty of an offence against this Act and liable to a penalty not exceeding five hundred dollars.

DIVISION XII—LEGAL PROCEDURE

Actions against Minister or officers

172. All actions to be brought against the Minister or any other officer or person for anything done under this Part shall be commenced within six months after the act complained of was committed.

Summary procedure for offences

173. Any proceedings for any offence against this Part, not being an indictable offence, shall be heard and determined in a summary way.

What shall be sufficient averment

174. In any proceedings for any offence against this Part, the averment that the offence was committed within any harbor, or within the limits of the jurisdiction of the Minister, shall, without proof of the limits of the harbor or of the said jurisdiction, be sufficient evidence that it was committed (if at all) within the harbor or within the limits of the said jurisdiction (according to the nature of the case), unless the contrary is proved.

Limitation of time in summary proceedings

175. (1) The time for instituting summary proceedings under this Part is limited as follows:—

- I. No conviction for any offence shall be made under this Part in any summary proceeding instituted in the State unless the proceeding is commenced within the period of six months next after the commission of the offence; or if the person to be proceeded against happens at any time during that period to be out of the State, then unless the same is commenced within two months after he next happens to be within the State: Provided that it shall be sufficient in any case if the same is commenced within the said period of six months:

- II. No order for the payment of money shall be made under this Part in any summary proceeding instituted in the State unless the proceeding is commenced within the period of six months next after the cause of complaint arises; or if the person to be proceeded against happens at any time during that period to be out of the State, then unless the same is commenced within six months after he next happens to be within the State.

(2) No provision of any other Act for limiting the time within which summary proceedings may be instituted shall affect any summary proceeding under this Part.

Sums ordered to be paid to be leviable by distress on ship

176. In any case where any court, special magistrate, or justices have power to make an order directing payment to be made of any penalty or other sum, then, if the party directed to pay the same is the master, or owner, or agent of a ship, and the same is not paid at the time and in manner prescribed in the order, the court, or, if the order was made by a special magistrate or justices, the same or any other special magistrate or two justices, may, in addition to any other powers for the purpose of compelling payment, direct the amount remaining unpaid to be levied by distress or impounding and the sale of the ship and her tackle.

Document proved without calling attesting witness

177. Any document required by this Part to be executed in the presence of, or to be attested by, any witness, may be proved by the evidence of any person who is able to bear witness to the requisite facts, without calling the attesting witnesses or any of them.

Gazette to be evidence in certain cases

178. (1) The production of the *Government Gazette* in which is published anything purporting to be a proclamation, notice, regulation, by-law, appointment, or other matter, under this Part, or Part II of *The Harbors Act, 1913*, shall be taken to be *prima facie* evidence in all courts and before all persons of the contents of the proclamation, notice, regulation, by-law, appointment, or matter, and of all such facts and circumstances as were or are necessary to authorize the issuing or making thereof.

(2) Every such proclamation, notice, regulation, by-law, appointment, or matter shall be taken in all courts and by all persons as *prima facie* evidence that the same has been issued or made in conformity with this Part, or, as the case may be, Part II of *The Harbors Act, 1913*.

Proof of contents of books

179. Documents sealed with the seal of the Minister, and certified by the Director to be true copies of or extracts from any book, shall be received as sufficient evidence in all courts and before all persons of the contents of the book, or of so much thereof as the extracts purport to contain.

Representation of Minister in cases of bankruptcy

180. In the event of any person against whom the Minister has any claim or demand being adjudicated bankrupt, or making a statutory assignment for the benefit of or a composition with his creditors, any person authorized by the Minister in that behalf under the seal of the Minister may represent the Minister in all proceedings relating to the bankruptcy, assignment, or composition, as if the claim or demand had been the claim or demand of the person so authorized.

Representation of Minister before justices and in local court

181. In all proceedings before justices or any special magistrate or local court, any person authorized by the Minister in that behalf under the seal of the Minister may represent the Minister in all respects as though that person had been the party concerned.

Service of document on Minister

182. Where any summons, process, demand, order, notice, statement, or document requires, for the purpose of any provision of this Part, to be served on or delivered to the Minister, the same may be served or delivered by delivery to him or by leaving the same at the office of the Minister with some person employed thereat.

Service of order on master

183. Where any summons, process, demand, order, notice, statement, or document requires, for the purpose of any provision of this Part, to be served on or delivered to the master of a ship, the same may be served or delivered—

- (a) by delivering it to the master or to the person who, at the time is, or appears to be, in command or charge of the ship; or
- (b) if no master or such person can be found on the ship, by affixing a copy thereof to the mast of the ship or, if it has no mast, then on some conspicuous part of the deck of the ship.

Penalty for obstructing service

184. Any person who obstructs the service or delivery of any summons, process, demand, order, notice, statement, or document on the master of a ship, whether by any of the methods prescribed by section 183 or otherwise, shall be guilty of an offence against this Act and liable to a penalty not exceeding two hundred dollars, and if the master or owner of the ship, or the agent of the owner, is party or privy to the obstruction, the said master, owner, or agent shall be guilty of a misdemeanour.

Method of service where not specially provided for

185. Except where otherwise specially provided by this Part, any summons, process, demand, order, notice, statement, or document required for the purpose of any provision of this Part to be served on or delivered to any person may be served or delivered by delivering a copy thereof personally to that person, or by leaving the same at his last known place of abode in the State.

Proof of service

186. Whenever it is necessary, in any proceedings for any offence against this Act, to prove service or delivery of any summons, process, demand, order, notice, statement, or document, an affidavit of the service or delivery thereof, sworn before a commissioner for taking affidavits in the Supreme Court, or a declaration of the service or delivery thereof made before a justice, shall be sufficient proof of the service.

Authentication of notices, etc.

187. Any demand, notice, statement, or other document given by the Minister under the provisions of this Act shall be sufficiently authenticated if signed by him or the Director and need not be sealed with the seal of the Minister.

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DIVISION XIII—MISCELLANEOUS

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Ferries in harbors

190. (1) Notwithstanding the *Local Government Act, 1934*, or any other Act or law to the contrary, no ferry shall be established in any harbor without the approval of the Minister, nor shall any ferry or any works or thing connected with or for the purposes of any ferry be constructed or placed in any harbor without the said approval, in addition to any other approval required by any Act or law.

- (2) The exercise by any municipal council or district council or other authority or person of—
 - (a) the care, control, and management of any ferry situated in any harbor, or of any works or thing so situated and connected with or for the purposes of any ferry;
 - (b) any power to make regulations or by-laws as to any such ferry or works or thing (except with regard to tolls and fares),

shall be subject to any direction of the Minister.

Power to proclaim harbors and their boundaries

191. (1) The Governor may, from time to time, by proclamation, declare—

- (a) that any place shall be a harbor; or
- (b) what shall be the boundaries of any harbor (whether proclaimed as aforesaid or not); or
- (c) alter the boundaries of any harbor (whether proclaimed as aforesaid or not),

for the purposes of this Part or this Act, or for any other purposes mentioned in the proclamation, or for any of such purposes, or for all purposes.

(2) Any such proclamation shall, from the publication thereof in the *Government Gazette*, or from a later date thereby fixed, have effect according to the tenor thereof.

(3) Nothing done under this section shall affect the operation of section 9.

Tonnage of British and foreign vessels

192. (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 Part, be deemed to be the tonnage of the vessel.

(2) In the case of a vessel of any foreign country which has adopted the provisions of *The Merchant Shipping Act, 1894*, in respect of tonnage, or any provisions substituted therefor, the vessel shall be deemed to be of the tonnage denoted in the certificate of registry or other national papers.

(3) In order to ascertain the tonnage of any vessel other than those before mentioned in this section as to which any question arises, any officer authorized in that behalf by the Minister may measure the vessel according to the regulations for the measurement of shipping for the time being in force in the State; or the Minister may, in his discretion, accept as the measurement of the vessel the measurement appearing in the latest edition of Lloyds' Register in the possession of the Minister.

Space occupied by deck cargo to be liable to dues

193. (1) If any ship, British or foreign, other than coast-trade ships, carries, as deck cargo, that is to say—in any uncovered space upon deck, or in any covered space not included in the cubical contents forming the ship's registered tonnage, timber, stores, or other goods, excepting fresh fruit, all dues payable on the ship's tonnage shall be payable as if there were added to the ship's registered tonnage the tonnage of the space occupied by the goods at the time at which the dues became payable.

(2) The space so occupied shall be deemed to be the space limited by the area occupied by the goods and by straight lines enclosing a rectangular space sufficient to include the goods.

(3) The tonnage of such space shall be ascertained by an officer of the Department of Marine and Harbors in manner prescribed by regulation, and when so ascertained shall be entered by him in the ship's official log-book, and also in a memorandum, which he shall deliver to the master, and the master shall, when the said dues are demanded, produce the memorandum in like manner as if it were the certificate of registry, or in the case of a foreign ship, the document equivalent to a certificate of registry.

Series of acts tending to the injury of navigation

194. Any act, default, or omission shall be deemed to tend to the injury of navigation, within the meaning of this Part, if in any case a series of like acts, defaults, or omissions has produced or would tend to produce injury to navigation.

By-laws

195. The council of any municipality or district council district, with the approval of the Minister, may make by-laws, which shall have the force of law within the boundaries of a harbor, and for the purposes of such by-laws and the enforcement thereof, the harbor shall be deemed to be within the municipality or district to such extent as is prescribed by such by-laws: Provided that such by-laws may from time to time be altered, amended, or repealed by the Governor.

Power to contract with councils as to streets, roads, etc.

196. The Minister, of the one part, and the council of any municipality or district council district adjoining any harbor, of the other part, may from time to time, for the purpose of providing convenient ways to and from any of the lands, beaches, sea fronts or shores, wharves, depots, or sheds vested in the Minister, enter into and perform such contracts as they deem fit as to constructing, repairing, or maintaining any street, road, bridge, or approach, or any part thereof, within the limits of the municipality or district, either by apportioning the work to be done, or by sharing the expenses thereof, or otherwise, in the absolute discretion of the contracting parties.

Power to proclaim highways

197. The Governor may, upon the request of the Minister and the council of any such municipality or district council district as mentioned in section 196 declare by proclamation any land vested in the Minister to be a public road under the care, management, and control of such council, and the road shall thereafter be treated in all respects as if it were within the municipality or district council district, and dedicated to the public.

Reserves may be placed under control of Minister

198. The Governor may by proclamation, place any Government reserve situated within or abutting upon the boundaries of any harbor under the care, management, and control of the Minister, and may, in like manner, resume the care, management, and control of any reserve so situated.

Governor may rectify irregularities

199. Whenever by any misadventure or accident anything is at any time done after the time required by this Part or Part II of *The Harbors Act, 1913*, or is otherwise irregularly done in matter of form, the Governor may make provision for such case, or may extend the time within which the thing may 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 Part or the said Part II, as the case may be, may have effect.

Police officers to report breaches of Act

200. It shall be the duty of every member of the police force who is aware, or has reason to believe, that any provision of this Part is being or has been contravened, to forthwith report the matter to the Minister.

PART IV

MISCELLANEOUS PROVISIONS

* * * * *

Power to grant lease or easement or to make an exchange, in lieu of compensation

202. When any property is acquired under this Act or *The Harbors Act, 1913*, the Minister may agree with any person interested in the property that in satisfaction or part satisfaction of any claim for compensation by the said person under this Act or in lieu of any compensation payable to the said person or in part satisfaction thereof—

- (a) the property or other property shall be leased to the said person for such term and upon such conditions as are agreed upon, and the Governor or the Minister, as the case may be, is hereby authorized to grant any such lease; or
- (b) any easement or other right or privilege in or over the property, or any other property, whether real or personal, belonging to the Crown or to the Minister, shall be granted to the said person for such term, and upon such conditions, as are agreed upon, and the Governor or the Minister, as the case may be, is hereby authorized to grant any such easement or other right; or
- (c) the said person shall take in exchange any property, whether real or personal, belonging to the Crown or to the Minister, upon such conditions as are agreed upon, and the Governor or the Minister, as the case may be, is hereby authorized to do every act which on the part of the Governor or the Minister may be necessary or convenient to be done in order to give effect to any such exchange,

or for the settlement of the claim for compensation partly in one and partly in another or others of the ways abovementioned.

Certain property deemed not to be comprised in proclamation in *Gazette* of 1st January, 1917

203. All such part or parts (if any) of the premises known as "Exchange Hotel" and "McLaren Chambers", situated respectively in Commercial Road and McLaren Road, Port Adelaide, as is or are comprised in the proclamation made under *The Harbors Act, 1913*, bearing date the twenty-seventh day of December, 1916, and published in the *Government Gazette* dated the first day of January, 1917, and upon publication as aforesaid became vested in His Majesty as provided by section 12 of the said Act, shall be deemed not to have been comprised in the said proclamation and not to have become vested as aforesaid, to the intent that neither the said proclamation nor the publication thereof as aforesaid shall be deemed to have affected in any way the title to the said part or parts or any trust, obligation, estate, interest, contract, licence, charge, rate, or easement whatsoever in, under, over, affecting, or in connection with or concerning or relating to the said part or parts; but that the rights and obligations of all persons to, in, under, over, affecting, or in connection with, or concerning, or relating to, the said part or parts shall be deemed not to have been disturbed or in any way affected by the said proclamation and the publication thereof as aforesaid, but shall be the same as if the said proclamation had not been made.

Power to lease North Parade

204. (1) The Governor may, from time to time, demise for any term not exceeding twenty-one years in possession, any portion of the public reserve at Port Adelaide, known as the North Parade, which is not vested in the Minister.

(2) Subject to subsection (3), all leases shall be of such portion or portions of the said public reserve, for such time not exceeding twenty-one years, at such rent, to such person, and generally upon such terms, covenants, and conditions as the Governor thinks fit.

(3) Any such lease shall be granted only to the person who is declared the purchaser of the same at public auction, of the time and place of which auction, not less than one nor more than six months' notice has been given in the *Government Gazette*.

Rents under leases

205. (1) The rents to be received under any lease granted in pursuance of section 204 shall be paid to the Treasurer.

(2) The said rents shall be carried by the said Treasurer to a separate account, and expended upon such works as may from time to time be necessary or expedient for the deepening and general improvement of the Port of Port Adelaide.

Payment to Port Adelaide Council

206. (1) The Treasurer shall annually pay to the Corporation of the City of Port Adelaide, out of the general revenue, a sum of three thousand six hundred and forty dollars.

(2) All sums so paid shall be expended by the municipal council of the said corporation in the construction and maintenance of roads, streets, and bridges, and drainage.

Provision as to certain land at Port Pirie

207. In the event of the channel for the discharge of surface and storm waters which was, at the sixth day of December, 1923, in and upon the land comprised in land grant register book, volume 1637, folio 122, being filled in, obstructed, or otherwise rendered incapable of being used for the purpose of the discharge of surface or storm waters, the Minister shall construct and maintain, or shall cause to be constructed or maintained in, over, or under the said land, or in, over, or under land adjacent to the said land, a pipe, drain, or channel, of the same capacity as the outlet pipe of the channel first mentioned, for the discharge of surface and storm waters.

SCHEDULES

FIRST SCHEDULE

SCHEDULE OF ACTS CONSOLIDATED AND REPEALED

No. and Year of Act	Title of Act	Extent of Repeal
No. 22 of 1866-7	An Act to provide for the Leasing of the North Parade, at Port Adelaide	The whole
No. 29 of 1876	The North Parade Act of 1876	The whole
No. 237 of 1881	Marine Board and Navigation Act, 1881	Part V and Section 231 and Schedule D
No. 814 of 1902	The Marine Board and Navigation Act Amendment Act, 1902	Part III
No. 1149 of 1913	The Harbors Act, 1913	The whole
No. 1305 of 1917	Harbors Act Amendment Act, 1917	The whole
No. 1350 of 1918	Harbors Act Further Amendment Act, 1918	The whole
No. 1389 of 1919	Harbors Act Further Amendment Act, 1919	The whole
No. 1544 of 1922	Harbors Act Further Amendment Act, 1922	The whole
No. 1584 of 1923	Port Pirie Park Lands Resumption Act, 1923	The whole
No. 2132 of 1933	Port Adelaide (Re-construction of Wharves) Act, 1933	The whole
No. 2142 of 1933	Marine Board and Navigation Act Amendment Act, 1933	ss. 23, 24 and 25

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APPENDIX

Legislative History

Legislative history prior to 3 February 1976 appears in marginal notes and footnotes included in the consolidation of this Act contained in Volume 4 of The Public General Acts of South Australia 1837-1975 at page 521.

Section 4:	amended by 109, 1978, s. 3
Heading preceding section 5:	amended by 109, 1978, s. 4
Section 5(2):	amended by 109, 1978, s. 5
Section 6:	repealed by 109, 1978, s. 6
Section 8(1):	amended by 109, 1978, s. 7(a)
Section 8(2):	amended by 109, 1978, s. 7(b)
Section 8(4):	inserted by 109, 1978, s. 7(c)
	Divisions III and IV of Part II comprising ss. 10 - 30 and headings repealed by 109, 1978, s. 8
Section 32:	amended and redesignated as s. 32(1) by 109, 1978, s. 9
Section 32(2):	inserted by 109, 1978, s. 9(b)
Section 34:	substituted by 109, 1978, s. 10
Section 35:	repealed by 109, 1978, s. 10; inserted by 95, 1981, s. 2
Sections 36 and 37:	repealed by 109, 1978, s. 10
Section 40:	repealed by 109, 1978, s. 10
Section 43(1):	definition of "buoys and beacons" repealed by 109, 1978, s. 11(a) definition of "harbormaster" substituted by 109, 1978, s. 11(b) definition of "lighthouse" repealed by 109, 1978, s. 11(c) definition of "mile" inserted by 109, 1978, s. 11(d) definition of "navigational aid" inserted by 109, 1978, s. 11(e) definition of "vessel" substituted by 109, 1978, s. 11(f) definition of "within the limits of the jurisdiction of the Minister" amended by 109, 1978, s. 11(g)
Section 44:	substituted by 109, 1978, s. 12
Section 45:	repealed by 109, 1978, s. 12
Section 48:	repealed by 109, 1978, s. 13
Section 64(1):	amended by 109, 1978, s. 14(a)
Section 64(2):	amended by 109, 1978, s. 14(b)
Section 64(4):	amended by 109, 1978, s. 14(c)
Section 64(6):	repealed by 109, 1978, s. 14(d)
Section 66(1):	amended by 109, 1978, s. 15
Section 68:	substituted by 109, 1978, s. 16
Section 69:	amended by 109, 1978, s. 17
Section 70(1):	amended by 109, 1978, s. 18
Sections 71 and 71a:	repealed by 109, 1978, s. 19
Section 75:	amended by 109, 1978, s. 20
Section 80(1):	amended by 16, 1981, s. 2(a)
Section 80(2):	repealed by 16, 1981, s. 2(b)
	Division IVA of Part III comprising s. 86 and heading inserted by 109, 1978, s. 21
Section 89(1):	amended by 109, 1978, s. 22
Sections 92 and 93:	repealed by 109, 1978, s. 23
Section 94:	repealed by 109, 1978, s. 24
Section 109(1):	amended by 109, 1978, s. 25(b)
Section 109(1)(a) and (b):	repealed by 109, 1978, s. 25(a)
Section 109(1)(f):	repealed by 109, 1978, s. 25(a)
Section 109(1)(h):	repealed by 109, 1978, s. 25(c)
Section 114(1a):	inserted by 16, 1981, s. 3
Section 116a(1):	amended by 109, 1978, s. 26
Section 117(1):	amended by 109, 1978, s. 27
Section 122(1):	amended by 109, 1978, s. 28

Section 124(1b):	amended by 16, 1981, s. 4(a)
Section 124(1c):	inserted by 16, 1981, s. 4(b)
Section 127(1):	substituted by 109, 1978, s. 29
Section 132a:	repealed by 109, 1978, s. 30
Section 144(19):	amended by 109, 1978, s. 31(a)
Section 144(70b):	inserted by 109, 1978, s. 31(b)
Section 144(70c):	inserted by 16, 1981, s. 5
Section 161:	amended by 109, 1978, s. 32
Section 161(d):	repealed by 109, 1978, s. 32
Section 188:	repealed by 109, 1978, s. 33
Section 193(3):	amended by 109, 1978, s. 34
Third schedule:	repealed by 109, 1978, s. 35
Fourth schedule:	repealed by 109, 1978, s. 36