

No. , 1935.

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# A BILL

To provide for the constitution of a board to be styled "The Maritime Services Board of New South Wales"; to provide for the exercise and discharge by such board of the powers, authorities, duties, functions and obligations of the Sydney Harbour Trust Commissioners and of the Superintendent of the Department of Navigation; to confer and impose certain other powers, authorities, duties and functions on such board; to amend the Sydney Harbour Trust Act, 1900-1931, the Navigation Act, 1901, and certain other Acts in certain respects; and for purposes connected therewith.

[MR. SPOONER;— , 1935.]

293

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

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PART I.

PRELIMINARY.

Short title. 1. (1) This Act may be cited as the "Maritime Services Act, 1935."

Commencement. (2) This Act shall commence upon a date to be appointed by the Governor and notified by proclamation published in the Gazette. 10

Division into Parts. (3) This Act is divided into Parts, as follows:—

PART I.—PRELIMINARY.

PART II.—CONSTITUTION OF THE MARITIME SERVICES BOARD OF NEW SOUTH WALES. 15

PART III.—POWERS, AUTHORITIES, DUTIES, FUNCTIONS AND OBLIGATIONS OF THE MARITIME SERVICES BOARD OF NEW SOUTH WALES.

DIVISION 1.—Preliminary. 20

DIVISION 2.—Transfer of powers, authorities, duties, functions and obligations of the Sydney Harbour Trust Commissioners.

DIVISION 3.—Transfer of certain powers, authorities, duties, functions and obligations exercised and discharged under or by virtue of the Navigation Acts. 25

DIVISION 4.—Acquisition and disposition of land.

DIVISION 5.—Finance.

DIVISION 6.—Accounts and audit. 30

DIVISION 7.—Contracts.

PART IV.—MISCELLANEOUS.

SCHEDULES.

2. (1) In this Act, unless the context or subject-matter otherwise indicates or requires— Interpretation.

5 “Board” or “Maritime Services Board” means the Maritime Services Board of New South Wales constituted under this Act.

“Commissioner” means a commissioner of the Board.

“President” means the President of the Board.

10 “Vice-President” means the Vice-President of the Board.

(2) A reference in this Act either generally or particularly to any provision of any other Act shall, if such provision is amended or replaced, be construed as a reference to the provision as so amended or replaced.

15 (3) A reference in this Act to any other Act shall be deemed to include a reference to all rules, regulations, by-laws, proclamations, notifications and instruments made, issued or executed under such Act and for the time being in force.

20 (4) This Act shall be read and construed so as not to exceed the legislative power of the State, to the intent that where any enactment thereof would, but for this subsection, have been construed as being in excess of that power, it shall nevertheless be a valid enactment  
25 to the extent to which it is not in excess of that power.

PART II.

CONSTITUTION OF THE MARITIME SERVICES BOARD OF NEW SOUTH WALES.

30 3. (1) (a) For the purpose of carrying out the provisions of this Act, there shall be constituted a Maritime Services Board of New South Wales which shall consist of five commissioners appointed by the Governor by commission under the Seal of the State. Constitution of Board.

35 (b) Of the five commissioners so to be appointed two shall be nominated by the Minister and shall be identified with such interests concerned with the administration of this Act as he may think advisable.

Commissioners

Commissioners nominated under this paragraph are in this Act referred to as "nominated commissioners."

President and Vice-President.

(c) Of the remaining three commissioners so to be appointed two shall, in and by their commissions, be appointed respectively President and Vice-President of the Board. Either the President or the Vice-President shall be a person possessing special technical knowledge and experience in navigation and in matters relating thereto. 5

Body corporate.

(2) (a) The Board shall be a body corporate, with perpetual succession and a common seal, and may sue and be sued in its corporate name, and shall, for the purposes and subject to the provisions of this Act, be capable of purchasing, holding, granting, demising, disposing of or otherwise dealing with real and personal property, and of doing and suffering all such acts and things as bodies corporate may by law do and suffer. 15

Corporate name.

(b) The corporate name of the Board shall be "The Maritime Services Board of New South Wales."

Term of office.

(3) (a) Subject to this Act— 20

- (i) a commissioner, other than a nominated commissioner, shall be appointed for a term of seven years and a nominated commissioner shall be appointed for a term of three years;
- (ii) a commissioner shall be eligible from time to time for reappointment. 25

(b) A person who is of or above the age of sixty-five years shall not be appointed as a commissioner.

Salaries of commissioners.

(4) (a) The commissioners, other than the nominated commissioners, shall devote the whole of their time to the duties of their office and shall respectively receive such annual salaries as the Governor may determine. 30

(b) Such salaries shall not be altered during the term of office of such commissioners, but shall be subject to any deduction provided by the Public Service Salaries Acts, 1931-1934, or any Act amending or replacing such Acts. 35

(c) Each of the nominated commissioners shall be entitled to receive as remuneration for his services a sum not exceeding 40 pounds per

per annum, to be paid in the form of a fee of such amount as may be prescribed by regulation which the Governor is hereby authorised to make in that behalf for each meeting of the Board attended.

5 (d) Each commissioner shall be entitled to receive travelling expenses at a rate prescribed by regulation which the Governor is hereby authorised to make in that behalf.

10 (e) All such salaries, fees and expenses, including remuneration and expenses of a deputy appointed under subsection six of this section, are hereby charged on the Sydney Harbour Trust Fund and the Consolidated Revenue Fund in such proportions as the Governor may from time to time determine.

15 (f) The office of a nominated commissioner shall not, for the purposes of the Constitution Act, 1902, or the Sydney Corporation Act, 1932-1934, be deemed to be an office or place of profit under the Crown.

20 (5) The provisions of the Public Service Act, 1902, or of any Act amending that Act, shall not apply to the appointment of the commissioners, and such commissioners shall not be subject to the provisions of any such Act during their term of office. Public Service Act not to apply to appointment.

25 (6) (a) In the case of the illness, suspension or absence of the President, the Vice-President shall act in his place, and whilst so acting shall have the immunities and may exercise all the powers and authorities of the President. Appointment of deputy.

30 (b) In the case of the illness, suspension or absence of any commissioner, other than the President, the Governor may appoint a deputy to act in the place of such commissioner during his illness, suspension or absence.

35 (c) Where in pursuance of paragraph (a) of this subsection the Vice-President is acting in the place of the President, the Governor may appoint a deputy to act in the place of the Vice-President; and if one of the other commissioners is appointed as such deputy, the Governor may appoint a deputy to act in the place of that  
40 commissioner.

(d)

(d) Any deputy appointed under this subsection shall have the immunities and while he acts as such deputy may exercise all the powers and authorities of the commissioner in whose place he acts.

(e) A deputy appointed under this section 5 may, if the Governor thinks fit, be paid such remuneration for his services, including travelling expenses, as the Governor may determine.

(f) No person shall be concerned to inquire whether or not any occasion has arisen requiring or 10 authorising the Vice-President to act in the place of the President, or a deputy to act in the place of a commissioner, or as to the necessity or propriety of any appointment of a deputy; and all acts or things done or 15 omitted by the Vice-President or a deputy when so acting as aforesaid shall be as valid and effectual and shall have the same consequences as if the same had been done by the President or the commissioner for whom the deputy is acting, as the case may be.

Vacancy in  
office of  
commis-  
sioner.

(7) On the occurrence of any vacancy in the office 20 of a commissioner the person appointed to fill the vacant office shall, subject to this Act, hold office for the remainder of the unexpired term of the vacant office.

Commis-  
sioner's  
suspension  
or re-  
moval.

(8) (a) A commissioner may be suspended from his office by the Governor for misbehaviour or incom- 25 petence, but shall not be removed from office except as hereinafter provided.

The Minister shall cause to be laid before Parliament a full statement of the grounds of suspension within seven sitting days after such suspension if Parliament is 30 in session, or if not, then within seven sitting days after the commencement of the next session.

(b) A commissioner suspended under this subsection shall be restored to office unless each House of Parliament within twenty-one days from the time when 35 such statement has been laid before it, declares by resolution that the said commissioner ought to be removed from office, and if each House of Parliament within the said time does so declare, the said commissioner shall be removed by the Governor accordingly.

(9) 40

(9) A commissioner shall be deemed to have vacated his office— Vacation of office.

- 5 (a) if, not being a nominated commissioner, he engages in New South Wales during his term of office in any paid employment outside the duties of his office, except with the approval of the Governor;
- 10 (b) if he becomes bankrupt, compounds with his creditors, or makes an assignment of his salary, fees, or estate for their benefit;
- (c) if, not being a nominated commissioner, he absents himself from duty for a period of fourteen consecutive days, except on leave granted by the Governor;
- 15 (d) if, being a nominated commissioner, he is absent from four consecutive ordinary meetings of the Board without leave obtained from the Board in that behalf;
- 20 (e) if he becomes an insane person or patient or an incapable person within the meaning of the Lunacy Act of 1898;
- (f) if he resigns his office by writing under his hand addressed to the Governor;
- 25 (g) upon the day upon which he attains the age of sixty-five years.

(10) Any commissioner who—

- (a) is in any wise concerned or interested in any bargain or contract made by or on behalf of the Board; or
- 30 (b) in any wise participates or claims to be entitled to participate in the profit thereof or in any benefit or emolument arising from the same,

shall thereby vacate his office as a commissioner, and shall also be liable upon summary conviction to a penalty not exceeding *fifty* pounds:

35 Provided that no commissioner shall be liable to vacate his office or be liable to any penalty as aforesaid by reason only of—

- 40 (i) receiving or being entitled to receive any payment or expenses pursuant to this Act;

(ii)

289

- (ii) being beneficially interested in any newspaper in which the Board inserts advertisements;
- (iii) being a shareholder or member (but not a director or manager) of any incorporated company of more than twenty persons which has entered into any contract with or done any work under the authority of the Board. 5

Officer of Public Service appointed commissioner.

(11) A commissioner who at the date of his appointment is an officer of the Public Service shall, in the event of his office as commissioner being discontinued or abolished, be eligible for and shall be appointed to some office in the Public Service not lower in classification and salary than that which he held at the date of his appointment as commissioner. 10

Saving of rights.

(12) (a) Notwithstanding anything contained in any Act, nothing contained in this Act shall affect the rights accrued or accruing under the Public Service Act, 1902, or under the Superannuation Act, 1916-1930, or any Act amending such Acts, to any person appointed a commissioner under this Act, who is at the time of his appointment or has been at any time previously thereto an officer of the Public Service or an employee within the meaning of the Superannuation Act, 1916-1930, or any amendment thereof. 15 20

(b) Any officer of the Public Service or person who is an employee within the meaning of the Superannuation Act, 1916-1930, or any amendment thereof, appointed a commissioner under this Act shall continue to contribute to any fund or account and shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity as if he were an officer or employee within the meaning of the Public Service Act, 1902, or the Superannuation Act, 1916-1930, as the case may be, and for such purpose his service as a commissioner shall be deemed to be service for the purpose of such Acts. 25 30 35

Procedure.

(13) (a) The procedure for the calling of meetings of the Board and for the conduct of business at such meetings shall, subject to this Act and any regulations in relation thereto, be as determined by the Board. 40  
(b)



(b) Three members of the Board, one of whom shall be the President or the Vice-President, shall form a quorum, and any duly convened meeting at which a quorum is present shall be competent to transact any  
 5 business of the Board, and shall have and may exercise and discharge all the powers, authorities, duties, functions and obligations of the Board.

(c) At any meeting of the Board the President, or in his absence the Vice-President, shall have a  
 10 deliberative vote, and if the voting be equal, a casting vote.

(14) (a) The Board may from time to time by resolution delegate to any commissioner either generally or in any particular case or class of cases such of the  
 15 powers, authorities, duties or functions of the Board as are specified in the resolution.

(b) A commissioner, when acting within the scope of any such delegation to him, shall be deemed to be the Board.

20 (c) The Board may by resolution revoke any such delegation.

(15) No act or proceeding of the Board shall be invalidated or prejudiced by reason only of the fact that at the time when such act or proceeding was done, taken  
 25 or commenced, there was a vacancy in the office of any one commissioner. Validity of acts and proceedings.

(16) The Board shall cause minutes of its decisions to be kept upon the official papers, and cause minutes to be kept of its proceedings at formal meetings. Minutes.

30 (17) The Board shall furnish the Minister with full information on any business of the Board which the Minister may require. Reports, etc., from Board to Minister.

(18) (a) No matter or thing done, and no contract entered into by the Board, and no matter or thing done  
 35 by any commissioner or by any other person whomsoever acting under the direction of the Board shall, if the matter or thing was done or the contract was entered into bona fide for the purpose of executing this Act, subject them or any of them personally to any  
 40 action, liability, claim or demand whatsoever.

(b)

291

(b) Nothing in this subsection shall exempt any commissioner from liability to be surcharged with the amount of any payment which is disallowed by the auditor or auditors in the accounts of the Board, and which such commissioner authorised or joined in authorising. 5

*Port of Newcastle Advisory Committee.*

\* Advisory Committee, Port of Newcastle.

4. (1) For the purpose of giving advice and assistance to the Board in connection with the exercise and discharge of its powers, authorities, duties, functions and obligations so far as the same relate to the management, control and development of the Port of Newcastle, there shall be constituted a committee which is in this section referred to as the Advisory Committee. 10

Members of the Advisory Committee.

(2) (a) The Advisory Committee shall consist of five members who shall be appointed by the Governor. 15

(b) One of such members shall be nominated by the Board, and the remaining four members shall be nominated by the Minister and shall be identified with such interests concerned with the administration of this Act in relation to the Port of Newcastle as the Minister may think advisable. 20

Duties of Advisory Committee.

(3) It shall be the duty of the Advisory Committee to consider and advise the Board upon such matters relating to the management, control and development of the Port of Newcastle as the Advisory Committee may think fit, and upon any other matter or question which may from time to time be referred to it by the Board. 25

Chairman.

(4) The member of the Advisory Committee nominated by the Board shall be the chairman of the Advisory Committee, and if from any cause he is unable to be present at any meeting a person appointed by the Board either generally or for any particular case shall act in his place as chairman at such meeting and whilst so acting shall be deemed to be a member and the chairman of the Advisory Committee. 30 35

Procedure and business at meetings.

(5) The procedure for the calling of meetings of the Advisory Committee, and the conduct of business at such meetings and the times at which such meetings shall be 35

be held, shall, subject to any regulation which the Governor is hereby authorised to make in that behalf, be as determined by the Advisory Committee.

5 (6) The term of office of the members of the Advisory Committee shall be three years from the date of their appointment. Upon the expiration of the term of office of a member he shall, subject to this Act, be eligible for re-appointment. Term of office.

10 (7) The Governor for any sufficient reason may suspend or remove any member of the Advisory Committee from his office. Suspension of member.

15 (8) If any member of the Advisory Committee, without having received leave of absence from the Minister, fails for a period of three months to attend duly summoned meetings of the Advisory Committee, his seat shall thereupon become vacant, and he shall not be eligible for re-appointment to that vacancy. Vacation of office.

20 (9) On a casual vacancy occurring on the Advisory Committee by reason of death, resignation or otherwise, the vacancy shall be filled by the appointment of a new member in like manner as the member in whose place he is appointed, and his term of office shall expire upon the date upon which the member in whose place he is appointed would have gone out of office. Casual vacancies.

25 (10) The proceedings of the Advisory Committee shall not be invalidated by any vacancy in its number or any defect in the appointment of any member. Validity of proceedings.

30 (11) The Board may place at the disposal of the Advisory Committee the services of any of its officers or servants. Services of officers.

(12) (a) Such executive and clerical assistance as may be necessary in connection with the Advisory Committee shall be provided by the Board. Assistance and expenses.

35 (b) All costs and expenses incurred in connection with the execution of any powers and duties of the Advisory Committee or the members thereof (including the remuneration of any officers and servants placed at the disposal of the committee by the Board or such apportioned part of such remuneration as the Board may determine to be proper) shall, subject to appropriation by Parliament, be defrayed out of the Consolidated Revenue Fund.

293

(13) The provisions of the Public Service Act, 1902, or of any Act amending that Act, shall not apply to the appointment of members of the Advisory Committee, and such members shall not in their capacity as members of the Advisory Committee be subject to the provisions of any such Act. 5

(14) The members of the Advisory Committee shall not be entitled to receive any remuneration in their capacity as members of the Advisory Committee.

PART III.

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POWERS, AUTHORITIES, DUTIES, FUNCTIONS AND OBLIGATIONS OF THE MARITIME SERVICES BOARD OF NEW SOUTH WALES.

DIVISION 1.—Preliminary.

Appointed day.

5. (1) In this Part the expression "appointed day" means the date of the commencement of this Act. 15

Savings.

(2) (a) Any alteration of the law by this Part, whether by the repeal of an enactment or otherwise, shall not, unless otherwise expressly provided by this Part, affect— 20

- (i) any right accrued, or obligation incurred, before the appointed day under the law so altered;
- (ii) the validity or invalidity, or any operation, effect, or consequence, of any instrument executed or made, or of anything done or suffered before the appointed day; 25
- (iii) any action, proceeding, or thing pending or uncompleted immediately before the appointed day.

(b) Every such action, proceeding and thing may be carried on and completed as if the enactment had not been repealed or the law otherwise altered. 30

(c) The transfer to the Board of any powers, authorities, duties, functions or obligations in pursuance of

of this Part shall not affect the validity or the force or effect of any proclamation, notification, order, demand or notice duly made, published, served, or given, any lease or license duly granted, any certificate duly issued, any **5** form duly prescribed, any authority duly given, any appointment duly made of any officer, servant or employee of any kind whatsoever, or any act or thing duly done under the authority of any Act before the appointed day.

(d) The generality of this subsection shall not **10** be affected by any saving in any other section of this Part, nor shall this section or any other section in this Part limit any saving in the Interpretation Act, 1897.

**15** DIVISION 2.—*Transfer of powers, authorities, duties, functions and obligations of the Sydney Harbour Trust Commissioners.*

**6.** (1) Upon the appointed day the powers, authorities, duties, functions and obligations which theretofore were exercised and discharged by the Sydney Harbour Trust Commissioners shall be transferred to and shall **20** thereafter be exercised and discharged by the Board. The Board shall be in law the successor of the Sydney Harbour Trust Commissioners, and the authority to carry out the Sydney Harbour Trust Act, 1900-1931, the Sydney Harbour Rates Act, 1904, and any amendment **25** of such Acts, and any other Act the execution of which is by law committed to the Sydney Harbour Trust Commissioners immediately before the appointed day.

Sydney Harbour Trust Commissioners.

(2) Upon the appointed day the body corporate under the name of the Sydney Harbour Trust Commis- **30** sioners shall be dissolved.

Dissolution of body corporate.

(3) Upon the appointed day each of the commis- sioners appointed under the Sydney Harbour Trust Act, 1900-1931, shall cease to hold office as a commis- sioner under that Act, but shall be eligible for appoint- **35** ment as a commissioner of the Board under this Act; and if he is not so appointed he shall receive such compensation as he would have been entitled to had his services as a commissioner under the Sydney Harbour

Commissioner eligible for appointment under this Act.

Trust

245

Trust Act, 1900-1931, been dispensed with otherwise than according to law, and shall be entitled to any superannuation rights he would have had if his services had been dispensed with by reason that his office had been abolished.

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(4) All regulations and by-laws in force immediately before the appointed day made under the Sydney Harbour Trust Act, 1900-1931, or any other Act the execution of which is transferred to the Board under this Division shall, to the extent to which they are not inconsistent with this Act, continue and remain in force until altered or repealed by regulations or by-laws made under the same Act as amended by this Act or by regulations made under this Act.

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(5) As from the appointed day a reference, whether express or implied, to the Sydney Harbour Trust Commissioners in any Act, regulation or by-law, or in any other instrument or document whatsoever, shall be construed as a reference to the Board, and a reference to the President of the Sydney Harbour Trust Commissioners shall be construed as a reference to the President of the Board.

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(6) All appointments of officers, servants or employees of any kind whatsoever made before the appointed day under or in pursuance of the Sydney Harbour Trust Act, 1900-1931, or any other Act the execution of which is transferred to the Board under this Division and having force and effect immediately before the appointed day, shall, on and from the appointed day, continue to have such force and effect until the appointment is revoked under the same Act as amended by this Act.

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Rights,  
liabilities  
and property.

7. (1) On and from the appointed day the following provisions shall, subject to this Act, have effect:—

(a) All real and personal property and all right and interest therein, and all management and control of any land or thing which, immediately before the appointed day, is vested in or belongs to the Sydney Harbour Trust Commissioners, shall vest in and belong to the Board.

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(b)

- (b) No attornment by a lessee of any land vested in the Board by this section shall be necessary.
- 5 (c) All rates, tolls, charges, moneys, liquidated and unliquidated claims which, immediately before the appointed day, are payable to or recoverable by the Sydney Harbour Trust Commissioners, shall respectively be rates, tolls, charges, moneys, liquidated and unliquidated claims payable to or recoverable by the Board.
- 10 (d) All suits, actions and proceedings, pending immediately before the appointed day at the suit of the Sydney Harbour Trust Commissioners in relation to any matter or claim shall respectively be suits, actions and proceedings pending at the suit of the Board.
- 15 (e) All contracts, agreements and undertakings entered into with, and all securities lawfully given to or by the Sydney Harbour Trust Commissioners, and in force immediately before the appointed day, shall be deemed to be contracts, agreements and undertakings entered into with and securities given to or by the Board.
- 20 (f) The Board may pursue the same remedies for the recovery of any such rates, tolls, charges, moneys and claims, and for the prosecution of such suits, actions and proceedings as the Sydney Harbour Trust Commissioners might have done if this Act had not been enacted.
- 25 (g) The Board may enforce and realise any security or charge existing immediately before the appointed day in favour of the Sydney Harbour Trust Commissioners in respect of any such rates, tolls, charges, moneys and claims as if such security or charge were existing in favour of the Board.
- 30 (h) All debts due and moneys payable by the Sydney Harbour Trust Commissioners, and all claims, liquidated or unliquidated, recoverable against the Sydney Harbour Trust Commissioners, shall be debts due and moneys payable by and claims recoverable against the Board.
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(2) Regulations may be made by the Board, with the approval of the Governor, for carrying this Division into effect, and with respect to any matter in relation to which rules, regulations or by-laws could have been made prior to the appointed day by the Sydney Harbour Trust Commissioners under the Sydney Harbour Trust Act, 1900-1931, the Sydney Harbour Rates Act, 1904, or any other Act the execution of which is transferred to the Board under this Division, and the power to repeal, alter, suspend or modify any rule, regulation or by-law, or to make any new rule, regulation or by-law vested in the Sydney Harbour Trust Commissioners by any of such Acts, shall as from the appointed day vest in the Board, but shall be exercisable only with the approval of the Governor.

Board to assume liabilities.

**8.** (1) As from the appointed day the Board shall assume all liabilities of the Sydney Harbour Trust Commissioners incurred in respect of their operations.

(2) As from the appointed day the capital indebtedness of the State in respect of the Sydney Harbour Trust Commissioners fixed in accordance with the provisions of section 77E of the Sydney Harbour Trust Act, 1900-1931, or as readjusted in accordance with the provisions of section 77H of that Act, shall be the capital indebtedness of the Board.

Amendment of Act No. 1, 1901.

**9.** (1) As from the appointed day the Sydney Harbour Trust Act, 1900-1931, is amended in the manner set out in Schedule One to this Act.

(2) The Sydney Harbour Trust Act, 1900-1931, as amended by this Act, may be cited as the Sydney Harbour Trust Act, 1900-1935.

*DIVISION 3.—Transfer of certain powers, authorities, duties, functions and obligations exercised and discharged under or by virtue of the Navigation Acts.*

Definition.

**10.** In this Division the expression "Navigation Acts" means the Navigation Act, 1901, the Navigation Amendment (Regulations) Act, 1904, the Navigation (Amendment) Act, 1927, the Harbour and Tonnage Rates Act,



Act, 1920, and any other Act the execution of which is by law committed to the Superintendent of Navigation immediately before the appointed day.

**11.** (1) Upon the appointed day the powers, authorities, duties, functions and obligations which theretofore were exercised and discharged by the Crown, the Colonial Treasurer or the Superintendent of the Department of Navigation under or by virtue of the Navigation Acts shall be transferred to and shall thereafter be exercised and discharged by the Board, and the Board shall be charged with the administration of the said Acts. Navigation.

(2) All rules, regulations and by-laws in force immediately before the appointed day made under any of the Navigation Acts shall, to the extent to which they are not inconsistent with this Act, continue and remain in force until altered or repealed by rules, regulations or by-laws made under the same Act as amended by this Act or by regulations made under this Act.

(3) As from the appointed day a reference, whether express or implied, to the Superintendent of the Department of Navigation in any Act, rule, regulation or by-law or in any other instrument or document whatsoever, shall be construed as a reference to the Board.

**12.** Notwithstanding anything contained in this Act, all officers, servants and employees of any kind whatsoever appointed or employed immediately before the appointed day under or in pursuance of any of the Navigation Acts shall continue to hold such office or employment in all respects and subject to the same conditions and provisions as if this Act had not been enacted. Officers and employees.

In relation to any of the Navigation Acts, the President of the Board shall be the permanent head within the meaning of the Public Service Act, 1902, as amended by subsequent Acts, and of any regulation made thereunder.

**13.** (1) On and from the appointed day the following provisions shall, subject to this Act, have effect:— Rights, liabilities and property.

(a) All management and control of any land or thing which immediately before the appointed day is vested in or belongs to the Crown, the Colonial Treasurer

249

Treasurer or the Superintendent of the Department of Navigation under or by virtue of any of the Navigation Acts shall vest in and belong to the Board.

- (b) All leases granted by the Colonial Treasurer under any of the Navigation Acts, and all licenses issued by the Colonial Treasurer under any such Act, shall be deemed to be leases and licenses granted and issued by the Board, and the Board shall have in respect of each such lease or license the same rights and remedies and the same liabilities and obligations as if the lease or license had been granted or issued by the Board after the appointed day. **5**
- (c) All rates, dues, fees, charges, moneys, liquidated and unliquidated claims, which immediately before the appointed day are payable to or recoverable by the Crown, the Colonial Treasurer, or any person on behalf of the Crown or the Colonial Treasurer under or by virtue of any of the Navigation Acts or any rules, regulations, or by-laws made under any such Act, shall respectively be rates, dues, fees, charges, moneys, liquidated and unliquidated claims payable to or recoverable by or on behalf of the Board. **10**
- (c) All rates, dues, fees, charges, moneys, liquidated and unliquidated claims, which immediately before the appointed day are payable to or recoverable by the Crown, the Colonial Treasurer, or any person on behalf of the Crown or the Colonial Treasurer under or by virtue of any of the Navigation Acts or any rules, regulations, or by-laws made under any such Act, shall respectively be rates, dues, fees, charges, moneys, liquidated and unliquidated claims payable to or recoverable by or on behalf of the Board. **15**
- (d) All suits, actions and proceedings pending immediately before the appointed day at the suit of or on behalf of the Crown, the Colonial Treasurer, or the Superintendent of the Department of Navigation, under or by virtue of any of the Navigation Acts, or any rules, regulations or by-laws made under any such Act, shall respectively be suits, actions and proceedings pending at the suit of or on behalf of the Board. **20**
- (e) All contracts, agreements and undertakings entered into with and all securities lawfully given to or by the Crown, the Colonial Treasurer, the Superintendent of the Department of Navigation, or any person on behalf of the Crown, the Colonial Treasurer, or the Superintendent **25**

5 Superintendent of the Department of Navigation under or by virtue of any of the Navigation Acts or any rules, regulations or by-laws made under any such Act and in force immediately before the appointed day shall be deemed to be contracts, agreements and undertakings entered into with and securities given to or by the Board or such person on behalf of the Board.

10 (f) The Board may pursue the same remedies for the recovery of any such rates, dues, fees, charges, moneys, and claims, and for the prosecution of any such suits, actions and proceedings as the Crown, the Colonial Treasurer, the Superintendent of the Department of Navigation, or  
 15 any person on behalf of the Crown, the Colonial Treasurer or such Superintendent might have done if this Act had not been enacted.

(g) The Board may enforce and realise any security or charge existing immediately before the  
 20 appointed day in favour of the Crown, the Colonial Treasurer, or the Superintendent of the Department of Navigation, or any person on behalf of the Crown, the Colonial Treasurer or such Superintendent, in respect of any such  
 25 rates, dues, fees, charges, moneys and claims as if such security or charge were existing in favour of the Board.

(h) All debts due and all moneys payable by, and all claims, liquidated or unliquidated, recoverable  
 30 against the Crown, the Colonial Treasurer or the Superintendent of the Department of Navigation, or any person on behalf of the Crown, the Colonial Treasurer or such Superintendent under or by virtue of any of the Navigation Acts  
 35 shall be debts due and moneys payable by and claims recoverable against the Board.

(2) Regulations may be made by the Board, with the approval of the Governor, for carrying this Division into effect and with respect to any matter in relation  
 40 to which rules, regulations or by-laws could have been made

301

made prior to the appointed day by the Governor under any of the Navigation Acts, and the power to repeal, alter, suspend or modify any rules, regulations or by-laws, or to make any new rules, regulations or by-laws vested in the Governor by any such Act, shall as from the appointed day vest in the Board but shall be exercisable only with the approval of the Governor. 5

Amendment of Act No. 60, 1901 and Act No. 12, 1920.

14. (1) As from the appointed day the Navigation Act, 1901, as amended by subsequent Acts, and the Harbour and Tonnage Rates Act, 1920, are amended in the manner set out in Schedule Two of this Act. 10

(2) The Navigation Act, 1901, as amended by subsequent Acts and this Act, may be cited as the Navigation Act, 1901-1935.

(3) The Harbour and Tonnage Rates Act, 1920, as amended by this Act, may be cited as the Harbour and Tonnage Rates Act, 1920-1935. 15

DIVISION 4.—*Acquisition and disposition of land.*

Acquisition of land.

15. (1) In this Division, unless inconsistent with the context or subject-matter— 20

“ Land ” includes any easement, right or privilege in, over or affecting land.

(2) The Board may acquire land for any purpose of this Act or of any Act under which powers, authorities, duties, functions and obligations are exercised and discharged by the Board, by lease, purchase, appropriation or resumption, in accordance with this Division. 25

The cost of any such lease, purchase, appropriation or resumption shall be defrayed out of moneys provided by Parliament. 30

(3) Where the Board proposes to acquire land by appropriation or resumption, and money is available to defray the cost, it may apply to the Governor through the Minister.

(4) The Governor may authorise the appropriation or resumption of the land. 35

(5)

(5) Thereupon the Minister for Public Works may—

5 (a) appropriate or resume the land by Gazette notification under Division 1 of Part V of the Public Works Act, 1912, as amended by subsequent Acts;

(b) notify that the land is vested in the Board.

(6) Thereupon the land shall vest in the Board.

10 (7) For the purposes of the Public Works Act, 1912, such appropriation or resumption shall be deemed to be for the purpose of carrying out an authorised work within the meaning of that Act.

15 (8) The Minister for Public Works shall upon the resumption forthwith give to the Registrar-General the notice thereof prescribed under the Conveyancing Act, 1919-1932.

20 **16.** The Board may sell any real or personal property vested in or belonging to it by public auction, public tender, or private contract, and on such terms and subject to such conditions, covenants and restrictions as the Board shall think proper, and shall have power to take securities for the payment of any balance of purchase money and interest thereon, or to allow such period for the payment of the same as the Board shall think proper.

Sale and exchange.

25 The Board may also exchange any land vested in or belonging to it.

30 **17.** Nothing contained in any Act governing any powers, authorities, duties, functions or obligations transferred to the Board by this Act shall limit or restrict the powers of the Board under the provisions of this Division, and the Board shall have in respect of any real or personal property transferred to or acquired by it, or of which the control and management is vested in it under this Act, all the powers in respect of such property conferred on the Board by this Act.

Powers unrestricted by other Acts.

35 **18.** (1) The Governor may at any time vest in the Board any lands the property of the Crown deemed by the Board to be necessary.

Vesting of Crown lands in Board. cf. Act No. 1, 1901, ss. 27, 28.

If

If the Board finds that any lands vested in it under this section, or which were vested in the Sydney Harbour Trust Commissioners pursuant to the proviso to section twenty-seven of the Sydney Harbour Trust Act, 1900-1931, are unnecessary for the purposes of carrying out the provisions of this Act, the Governor may withdraw such lands from the Board. 5

(2) Upon the publication in the Gazette of a proclamation withdrawing any such lands from the Board under the provisions of this section, the lands so described shall vest in the persons who would be entitled to the same, and subject to the like limitations, powers and authorities as if the vesting in the Board or in the Sydney Harbour Trust Commissioners had not taken place. 10 15

For the purposes of this section the word "persons" shall be deemed to include the Crown, or any person or corporation entitled to hold land on behalf of the Crown.

Land to be held for particular purposes.

**19.** Any land acquired by the Board under the provisions of this Division shall be held by the Board for the purposes of the particular function in the respect of which the land was acquired and shall be deemed to be land vested in the Board for those purposes. 20

Any income or expenditure derived or incurred in respect of such land shall be credited or debited to the appropriate fund or account in accordance with the provisions of the Act governing that particular function and in the absence of any such provisions in such manner as the Board may determine. 25

Property of Board held on behalf of His Majesty. cf. Act No. 13, 1913, s. 19.

**20.** The Board shall hold all real and personal property whatsoever vested in or acquired by it by or under this Act, or under the provisions of any Act the execution of which is by this Act transferred to the Board for and on behalf of His Majesty, and all moneys so vested in or held by the Board whether the same be accrued due or not are hereby declared to be public moneys belonging to His Majesty, and the property of the Crown, and, in addition to all other remedies, shall be recoverable accordingly as from debtors to the Crown. 30 35

DIVISION

DIVISION 5.—Finance.

21. (1) Full and accurate accounts shall be kept by the Board of its assets, liabilities, income, and expenditure.

Accounts.  
cf. Act No.  
1, 1901,  
s. 77B.

5 Complete and separate financial and cost accounts of each of the functions transferred to the Board under this Act shall also be kept.

(2) The forms and manner of keeping such accounts shall be such as are prescribed by regulations made under the provisions of the Audit Act, 1902.

15 22. (1) All moneys received or receivable in respect of any function transferred to the Board under this Act shall, subject to this Act, be paid into the same fund and accounted for in the same manner as moneys received or receivable in respect of that function immediately before its transfer to the Board would have been lawfully paid and accounted for.

Receipts.

(2) All moneys expended or expendable in respect of any function transferred to the Board under this Act shall, subject to this Act, be paid from the same fund or account and in the same manner as moneys expended or expendable in respect of that function immediately before its transfer to the Board would have been paid.

Expenditure.

25 23. The Board shall distribute the general administrative expenses amongst the functions transferred to it in such manner as the Board thinks fair and equitable.

General  
administra-  
tive  
expenses.

30 24. (1) Before the thirty-first day of August in each year the Board shall render to the Colonial Treasurer accounts and statements for the then next preceding financial year in respect of each function transferred to the Board under this Act in a form prescribed by regulations made under the provisions of the Audit Act, 1902.

Accounts to  
be rendered  
to Colonial  
Treasurer.

35 (2) Such accounts and statements shall show fully the true financial position of the Board in respect of each such function and of all services undertaken by the Board in connection with any such function.

To show true  
financial  
position.

40 (3) The Colonial Treasurer shall cause each of such accounts and statements to be laid before Parliament forthwith if Parliament is then sitting, otherwise within seven sitting days after the commencement of the next ensuing session.

Accounts to  
be laid  
before  
Parliament.

25.

Estimates.  
cf. Act No.  
1, 1901,  
s. 77D.

**25.** The Board shall in the month of May in each year, or at such other time or times as may be required by the Colonial Treasurer, prepare and supply to the Colonial Treasurer in a form prescribed by regulations made under the provisions of the Audit Act, 1902, estimates in respect of each function transferred to the Board under this Act of the income from all sources and of the expenditure proposed for the financial year commencing on the first day of July following or for any other period, and, where necessary, of the amount which the Board proposes that Parliament should appropriate for the requirements of the function for which the appropriation is proposed, and the Board shall, on request, furnish the Colonial Treasurer with all the information at its disposal relating to any item of the estimated income or expenditure. 5  
10  
15

Regulations.

**26.** (1) Regulations may be made under the provisions of the Audit Act, 1902, for carrying this Division into effect.

(2) Any regulations made under the provisions of the Audit Act, 1902, prescribing the forms and manner of keeping the accounts of the Sydney Harbour Trust Commissioners, and in force at the commencement of this Act, shall continue in force in respect of the accounts of the Board relative to the functions of the Sydney Harbour Trust Commissioners transferred to the Board by this Act until repealed or replaced by later regulations. 20  
25

DIVISION 6.—*Accounts and audit.*

Audit.

**27.** (1) The accounts of the Board shall be audited by the Auditor-General, who shall have, in respect thereof, all the powers conferred on the Auditor-General by any law now or hereafter to be in force relating to the audit of public accounts; and the Audit Act, 1902, and any Acts amending the same, shall apply to the Board and its officers and servants in the same manner as it applies to accounting officers of public departments. 30  
35

(2) Towards defraying the costs and expenses of such audit, the Board shall pay to the Consolidated Revenue Fund such sums, at such times, as the Colonial Treasurer may decide. 40

(3)



(3) The cost and expenses of such audit shall be distributed amongst the functions transferred to the Board by this Act in such manner as the Board thinks fair and equitable.

Distribution of cost of audit.

5 DIVISION 7.—Contracts.

28. (1) The Board may enter, by its corporate name, into contracts with any persons for the execution of any works authorised by this Act or by any Act the execution of which is vested in it, to be done by it, or for the execution of any works which the Board may think proper to do or direct to be done under or by virtue of the powers conferred by any such Act or for any other matters and things whatsoever necessary for enabling it to carry the purposes of any such Act into full force and complete effect, in such manner and upon such terms and for such sums of money and under such stipulations, regulations, and restrictions as it may think proper.

Contracts. cf. Act No. 1, 1901, s. 48.

(2) Every contract made by the Board may, if it so think fit, specify a person to whose satisfaction the same is to be completed and the mode of determining any dispute which arises concerning or in consequence of such contract.

Mode of determining disputes. cf. Act No. 32, 1931, Schedule cl. 5.

29. The powers granted to the Board to make contracts may be exercised as follows:—

Mode of entering into contracts.

25 (a) Any contract which if made between private persons would be by law required to be in writing and under seal the Board may make in writing in its corporate name under its common seal, and in the same manner may vary or discharge the same.

cf. *Ibid.* cl. 6.

30 (b) Any contract which if made between private persons would be by law required to be in writing and signed by the parties thereto the Board may make in writing in its corporate name to be signed by the President or by two commissioners, and in like manner may vary or discharge the same.

35 (c) Any contract which if made between private persons would be by law valid, although made by parol only and not reduced into writing, the  
40 commissioners

commissioners or the President or any two commissioners on behalf of the Board may make by parol only without writing, and in like manner may vary or discharge the same.

Effect of contracts.  
cf. Act No. 32, 1931, Schedule cl. 7.

**30.** Subject to this Act, all contracts so made and (where written) duly executed by the parties thereto respectively shall be effectual in law and binding on the Board and all other parties thereto, their successors, heirs, executors or administrators (as the case may be). **5**

In case of default in the execution of any such contract either by the Board or by any other party thereto, such actions or suits may be instituted either by or against the Board in its corporate name, or by or against the other parties failing in the execution thereof, and such damages and costs recovered as might be instituted and recovered had the like contract been made between private persons. **10**

Power to compound for breach of contracts.  
cf. *Ibid.* cl. 9.

**31.** The Board may compound and agree with any person who has entered into any contract with it, or against whom any action or suit is brought, for any penalty contained in any such contract or in any bond or other security for the performance thereof or for or on account of any breach or non-performance of any such contract, bond or security for such sum of money or other recompense as the Board thinks proper. **15**

#### PART IV.

25

##### MISCELLANEOUS.

Legal proceedings against the Board or its officers.

**32.** (1) All actions to be brought against the Board or any commissioner or any officer or servant of the Board or any person acting in his aid for anything done under this Act, or any Act the execution of which is vested in the Board, shall be commenced within six months after the act complained of was committed. **30**

Notice of action.

(2) A writ or other process shall not be sued out against or served upon the Board or any commissioner or any officer or servant of the Board or any person acting in **35**

in his aid for anything done or intended to be done under this Act, or any Act the execution of which is vested in the Board, until the expiration of one month after notice in writing has been served on the Board or the commissioner, officer, servant or person as provided in this section.

(3) The notice shall state—

- 10 (a) the cause of action;  
 (b) the time and place at which the damage or injury was sustained;  
 (c) the name and place of abode or business of the intended plaintiff and of his attorney (if any) in the case.

15 (4) In the case of damage to property, any person who produces on demand his authority from the Board shall be permitted to inspect the property damaged, and all facilities and information necessary to ascertain fully the value of the property damaged, the nature and extent of the damage, and the amount of money (if any) expended in repairing the same shall be given to him.

Representative of the Board to be permitted to inspect property damaged.

25 (5) In the case of injury to a person, any duly qualified medical practitioner who produces on demand his authority from the Board shall be permitted to examine the person injured, and all facilities and information necessary to enable him to ascertain fully the nature and extent of the injury and the loss or expense arising therefrom shall be given to him.

Medical practitioner to be permitted to examine person injured.

30 (6) At the trial of any such action the plaintiff shall not be permitted to go into evidence of any cause of action that is not stated in the notice, and unless the notice has been served the plaintiff shall not be entitled to maintain the action:

Evidence.

35 Provided that at any stage of the proceedings the court or any judge of the court in which the action is pending may, if the court or judge deems it to be just or reasonable in the circumstances so to do—

- (a) amend any defect in the notice on such terms and conditions (if any) as the court or judge may fix;

(b)

(b) direct that any non-compliance or insufficient compliance with this section shall not be a bar to the maintenance of the action.

Amends.

(7) The Board or any commissioner, officer, servant or person to whom any such notice of action is given as aforesaid may tender amends to the plaintiff, his attorney or agent at any time within one month after service of notice of action, and in case the same is not accepted may plead the tender in bar. 5

General issue.

(8) The defendant in every such action may plead the general issue and at the trial thereof give this Act and the special matter in evidence. 10

(9) This section shall be supplemental to and not in derogation of any provision in any other Act.

Amends tendered for trespass before action brought.

**33.** If any person commits any irregularity, trespass or other wrongful proceeding in the execution of this Act or of any other Act the execution of which is vested in the Board or by virtue of any power or authority given by or under this Act whereby any actionable damage is occasioned, and if, before action brought in respect thereof such person makes tender of sufficient amends to the person injured, such last-mentioned person shall not recover in any such action. 15 20

Judicial notice of the seal of the Board.

**34.** All courts and persons having by law or consent of parties authority to hear, receive and examine evidence— 25

(a) shall take judicial notice of the seal of the Board affixed to any document; and

(b) shall, until the contrary is proved, presume that such seal was properly affixed thereto. 30

Service of notice and legal proceedings. cf. Act No. 1, 1901, s. 96.

**35.** Any notice, summons, writ, or other proceeding required to be served upon the Board may be served by being given personally to the secretary or by leaving the same at the office of the Board.

Documents how authenticated. cf. *Ibid.* s. 97.

**36.** Every summons, process, demand, order, notice, statement, direction or document requiring authentication by the Board may be sufficiently authenticated without the seal of the Board if signed by the secretary. 35

**37.**

**37.** Where any summons, process, demand, order, notice, statement, direction, or document requires, for the purpose of any provision of this Act, or of any Act the execution of which is vested in the Board, to be served on or delivered to the master of a vessel or ship, the same may be served or delivered as follows:—

Service of notice or process on master.  
cf. Harbours Act, 1913, (S. Aust.), s. 137.

- (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 vessel or ship; or
- 10 (b) if no master or such person can be found on the vessel or ship, by affixing a copy thereof to the mast of the vessel or ship, or if it has no mast, then on some conspicuous part of the vessel or ship.

**38.** Except where otherwise specially provided for in this Part, any summons, process, demand, order, notice, statement, direction or document required for the purpose of any provision of this Act, or of any Act the execution of which is vested in the Board, to be served on or delivered to any person may be served or delivered—

Method of service when not specially provided for.  
cf. *Ibid.* s. 139.

- (a) by delivering a copy thereof personally to such person; or
- 25 (b) by leaving the same at his last known place of abode or business in New South Wales; or
- (c) by delivering the same on board any vessel or ship to which he belongs and accompanied with a statement of the purport thereof to the person being or appearing to be in command or charge of such vessel or ship.

**39.** The Board may order either generally or in any particular case that proceedings may be taken for the recovery of any money payable to it or for the recovery of any penalties incurred under or for the punishment of any persons offending against this Act or any Act the execution of which is vested in the Board, or under or against any rule, regulation, or by-law made under any such Act.

Power to direct prosecutions.  
cf. Act No. 32, 1931, Schedule cl. 13.

Power of officer to represent Board in petty sessions.  
cf. Act No. 32, 1931, Schedule cl. 14.

**40.** In all proceedings before any court of petty sessions any officer of the Board appointed by the President in writing under his hand for that purpose may represent the Board or any authorised officer in all respects as though such first-mentioned officer was the party concerned. 5

Proof of certain matters not required.  
cf. *Ibid.* cl. 15.

**41.** (1) In any prosecution or legal proceedings by or under the direction or authority of or on behalf or for the benefit of the Board or by an authorised officer no proof shall be required (until evidence is given to the contrary) of— 10

- (a) the constitution of the Board;
- (b) any order of the Board;
- (c) the particular or general appointment of the secretary or any other officer of the Board or of an authorised officer to take proceedings against any person; 15
- (d) the powers of the said secretary or other officer to prosecute or take proceedings;
- (e) the appointment of the President or of any commissioner or of the secretary or other officer of the Board or of an authorised officer; 20
- (f) the presence of a quorum at any meeting at which any order is made or any act is done by the Board; 25
- (g) the fact that any particular matter or place is within the jurisdiction of the Board;
- (h) the fact that defendant is, or at any relevant time was, the owner or occupier of any land in question; 30
- (i) the fact that the defendant is, or at any relevant time was, the owner or in possession, control, or in charge of anything in question;
- (j) the fact that the defendant is, or at any relevant time was, the master or person in charge of any vessel or ship in question; 35
- (k) the fact that the defendant is, or at any relevant time was, the owner or agent of any vessel or ship in question.

(2) In any proceedings (whether proceedings for the enforcement of a penalty or criminal proceedings) in relation to any property of or under the control and management of the Board it shall be sufficient to state generally that the property is the property of the Board.

Averment of ownership of Board.

42. (1) All documents whatever purporting to be issued or written by or under the direction of the Board, and purporting to be signed by the secretary, shall be received as evidence in all courts and before all persons acting judicially within New South Wales, and shall, without proof, be deemed to have been issued or written by or under the direction of the Board until the contrary is shown.

Evidence of documents issued by the Board.

cf. Act No. 32, 1931, Schedule cl. 16.

(2) In this section the word "documents" includes demands, orders, notices, statements, or directions.

43. (1) The production of—

Proclamation, regulation, by-law.

(a) a copy of the Gazette containing any proclamation, notification, rule, regulation, by-law, order, direction or notice purporting to be made or given under this Act or any Act the execution of which is vested in the Board;

(b) a copy of any printed paper purporting to be or contain any proclamation, notification, rule, regulation, by-law, order, direction or notice made or given under any such Act and purporting to be printed by the Government Printer;

(c) a copy purporting to be a true copy of any demand, order, direction or notice made by the Board and purporting to be certified as such under the hand of the President or the secretary,

shall be prima facie evidence of the due making, existence, confirmation, approval and giving of such proclamation, notification, rule, regulation, by-law, demand, order, direction or notice, and of all preliminary steps necessary to give full force and effect to the same, and of the contents thereof.

(2)

(2) The provisions of this section shall, unless inconsistent with the context or subject-matter, extend to any proclamation, notification, demand, order, direction or notice made or given under any Act relating to any function of the Board, whether made or given before or after the commencement of this Act, and whether made or given under an Act since repealed or under a future Act. 5

Service of notices, orders, or demands.

44. If any officer or servant of the Board or other person who has in the manner directed by or under this Act served any demand, order, direction or notice required to be given by the Board, indorses upon or annexes to a true copy of the same a statutory declaration stating the place, the time and the manner in which the same has been so served, such statutory declaration purporting to have been so made shall be prima facie evidence of the service of such demand, order, direction or notice. 10 15

Authorised officer.  
cf. Act No. 41, 1919, s. 4.  
"Proper servant."

45. Any reference to an authorised officer shall be construed to include any person generally or specially authorised by the Board, or by the secretary, in respect of or whose duty it is to deal with or to act in regard to any acts, matters or things in relation to which the expression is used. 20

Regulations.

46. The Board may make regulations not inconsistent with this Act prescribing all matters which by this Act, or by any other Act the execution of which is vested in the Board, are required or permitted to be prescribed, or which are necessary or convenient to be prescribed to carry this Act or such other Act into effect, or to give effect to any power, authority, duty or function transferred to the Board under this Act. 25 30

Provisions as to regulations.

47. (1) Notwithstanding anything in any Act, the provisions of this section shall extend to and in respect of all regulations made by the Board under this or any other Act. 35

(2) The regulations shall—

- (a) be submitted to the Governor for his approval;
- (b) when approved by the Governor be published in the Gazette;

(c)



- (c) take effect from the date of such publication or from a later date to be specified in the regulations;
  - 5 (d) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.
- If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.
- 10
  - 15 (3) Any regulation may impose a penalty not exceeding *one hundred* pounds for any breach thereof.
  - (4) A regulation may—
    - 20 (a) impose a penalty for any breach thereof, and also distinct penalties in cases of successive breaches thereof, but so that the total penalty shall not exceed in all *one hundred* pounds;
    - (b) impose also a daily penalty for any continuing breach thereof, but so that the total penalty shall not exceed in all *one hundred* pounds;
    - 25 (c) impose penalties, in no case to exceed *ten* pounds, for the neglect of any duty or obligation imposed by this Act, or by any other Act the execution of which is vested in the Board, in respect of which neglect no other penalty has been prescribed.
    - 30 (5) A regulation may be made to apply or to have operation throughout the whole or any part of the State, may be of general or specially limited application according to time, place or circumstances, and may be general
    - 35 or restricted to any specified class or subject-matter.
    - (6) Any regulation may confer on the Board or on a commissioner or on any member of the police force or on any authorised officer or on an officer of the Public Service any power or authority required or convenient

for the carrying into effect of all or any of the provisions of that or any other regulation, or of this Act or of any Act the execution of which is vested in the Board.

Mode of enforcing penalties.

48. All penalties and other sums of money by this Act, or by any Act the execution of which is vested in the Board, or by any rules, regulations or by-laws made under any such Act, made payable or recoverable, may be recovered with costs, and all offences by any such Act made punishable, may, unless declared to be misdemeanours, be prosecuted and punished, and the costs of such prosecution recovered, at the suit of any person, by summary proceeding before a stipendiary magistrate or a police magistrate, or any two justices. 5 10

Application of penalties.

49. All penalties recovered for offences against this Act, or against any Act the execution of which is vested in the Board, or against any rule, regulation or by-law made under any such Act, shall be paid to the Board, and the proceeds of such penalties shall upon receipt by the Board be accounted for as revenue received under the Act, rule, regulation or by-law against which the offence was committed. 15 20

Delegation by Board.

50. (1) In relation to any particular matters or class of matters, or as to any particular part or port of the State, the Board may by writing delegate any of its powers or functions under this Act (except this power of delegation) to any officer or servant of the Board, so that the delegated powers or functions may be exercised by the delegate with respect to the powers or functions or class of matters specified or the part or port defined in the instrument of delegation. 25 30

(2) Every such delegation shall be revocable in writing at will, and no delegation shall prevent the exercise of any power or function by the Board.

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 SCHEDULES.

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 SCHEDULE ONE.

Sec. 9.

*Amendments to the Sydney Harbour Trust Act, 1900-1931.*

- THE Sydney Harbour Trust Act, 1900-1931, is amended as follows:—
- |    |   |   |
|----|---|---|
|    |   | Amendment of Act No. 1, 1901.                                 |
| 5  | (a) by omitting from section three the definition of "Commissioners";   | Sec. 3.<br>(Definitions.)                                     |
|    | (b) by inserting next after section three the following new section:—   | New s. 3A.  |
| 10 | 3A. A reference express or implied in this Act to the Sydney Harbour Trust Commissioners or to the Sydney Harbour Trust or to the commissioners shall be read and construed as a reference to The Maritime Services Board of New South Wales constituted under the Maritime Services Act, 1935. | Interpretation.   |
|    | (c) by omitting sections five to sixteen both inclusive;  | Secs. 5-16.<br>(The Commissioners.)                           |
| 15 | (d) by omitting section twenty-six;   | Sec. 26.<br>(Actions against officers.)                       |
|    | (e) by omitting the proviso to section twenty-seven;  | Sec. 27.<br>(Vesting.)  |
|    | (f) by omitting section twenty-eight;   | Sec. 28.<br>(Withdrawal.)                                     |
|    | (g) by omitting sections thirty-seven, thirty-eight, forty-eight, forty-nine and fifty;   | Secs. 37, 38, 48-50.<br>(Resumption, purchase and contracts.) |
| 20 | (h) by omitting sections 77B, 77C and 77D;  | Secs. 77B, 77C, 77D.<br>(Accounts, report estimates.)         |
|    | (i) by omitting sections eighty-one, eighty-nine, ninety, ninety-six, ninety-seven and ninety-eight.  | Secs. 81, 89, 90, 96-98.<br>(Consequential.)                  |
|    | (j) (i) by inserting in section one hundred and one after the words "upon the request of the commissioners and" the words "of the Municipal Council of Sydney or";  | Sec. 101.<br>(Correction.)                                    |
| 25 | (ii) by omitting from the same section the words "that municipality" and by inserting in lieu thereof the words "the City of Sydney or such municipality as the case may be";   |   |
| 30 | (k) by omitting sections one hundred and three and one hundred and four.  | Secs. 103, 104.<br>(Consequential.)                           |

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 SCHEDULE

## SCHEDULE TWO.

Sec. 14.

*Amendments to the Navigation Act, 1901.*

- Amendment of Act No. 60, 1901. 1. The Navigation Act, 1901, as amended by subsequent Acts, is amended as follows:— 5
- Sec. 3. (Definitions.) (a) (i) by inserting in section three immediately before the definition of the expression "British Possession" the following definition:— 5  
 "Board" means The Maritime Services Board of New South Wales constituted under the Maritime Services Act, 1935"; 10
- (ii) by omitting from the same section the definition of "Superintendent";
- New s. 3A. (b) by inserting next after section three the following new section:—
- Interpretation. 3A. A reference, express or implied, in this Act to the Superintendent or to the Superintendent of Navigation shall be read and construed as a reference to The Maritime Services Board of New South Wales constituted under the Maritime Services Act, 1935. 15
- Sec. 6. (Superintendent.) (c) by omitting section six; 20
- Sec. 11. (Special powers.) (d) by omitting from section eleven the words "The Superintendent may" and by inserting in lieu thereof the words "Any person authorised in that behalf by the Board, either generally or in relation to any matter or class of matters may"; 25
- Substituted s. 13. (e) by omitting section thirteen and by inserting in lieu thereof the following section:—
- Inquiry. 13. The Board may, by summons under the hand of the secretary, require the attendance of any person upon any inquiry authorised by it. 30
- The Board or any person authorised by the Board to conduct any such inquiry may require answers or returns to any questions, and may require and enforce the production of all books, papers, log-books, accounts, agreements or other documents relating to any such inquiry. 35
- The President of the Board, or the person for the time being acting in his place, or any person authorised by the Board to conduct the inquiry, may administer oaths, or in lieu thereof require any person examined to make and subscribe a statutory declaration of the truth of the statements made in his examination. 40
- Sec. 14. (Deputy Superintendent.) (f) by omitting section fourteen; (g)

- 5 (g) (i) by omitting from section twenty the words "The Superintendent and every person deputed by him to act in his behalf" and by inserting in lieu thereof the words "Every person authorised in that behalf by the Board either generally or in a particular case or class of cases"; Sec. 20.  
(Powers.)
- (ii) by omitting from paragraph (a) of the same section the word "Superintendent" and by inserting in lieu thereof the word "Board";
- 10 (h) (i) by omitting from paragraph (a) of subsection one of section twenty-one the words "the Superintendent or any person deputed as aforesaid" and by inserting in lieu thereof the words "any person so authorised as aforesaid"; Sec. 21.  
(Arrest.)
- 15 (ii) by omitting from the same subsection the words "the Superintendent" where secondly occurring and by inserting in lieu thereof the words "any person so authorised";
- 20 (iii) by omitting from subsection two of the same section the word "Superintendent" and by inserting in lieu thereof the word "Board";
- (i) by omitting from subsection six of section thirty-two the words "Colonial Treasurer" and by inserting in lieu thereof the word "Board"; Sec. 32.  
(Inquiries.)
- 25 (j) by inserting in subsection two of section sixty-two after the words "accounted for and paid" the words "to the Board and by it paid"; Sec. 62.  
(Rates, etc.)
- 30 (k) (i) by omitting from section one hundred and two the words "the Superintendent or in ports other than Sydney and Newcastle and in the absence of the Superintendent" and by inserting in lieu thereof the words "the Board or in ports other than Sydney and Newcastle"; Sec. 102.  
(Unsafe ship.)
- (ii) by omitting from the same section the word "Superintendent where thirdly occurring and by inserting in lieu thereof the word "Board";
- 35 (iii) by omitting from the same section the word "Superintendent" where lastly occurring and by inserting in lieu thereof the words "President of the Board or the person for the time being acting in his place or any person authorised by the Board either generally or for a particular case";
- 40 (l) (i) by inserting at the commencement of section one hundred and thirty-five the words "The Board with the approval of"; Sec. 135.  
(Regulations.)
- 45 (ii) by omitting from paragraph (a) of the same section the words "the Governor prescribes" and by inserting in lieu thereof the words "the regulations may prescribe";
- (iii)

- (iii) by omitting from the same section the words "and such regulations shall be of the same force as if they had been enacted in this Act";
- Sec. 141. (Unauthorised works.) (m) (i) by omitting from subsection two of section one hundred and forty-one the words "Minister for Public Works" and by inserting in lieu thereof the word "Secretary"; 5  
(ii) by omitting from subsection three of the same section the words "said Minister" and by inserting in lieu thereof the word "Board";
- Sec. 145 (3). (Harbour Master's fees.) (n) by inserting in subsection three of section one hundred and forty-five after the word "paid" the words "to the Board and by it paid"; 10
- Sec. 153 (2). (Regulations.) (o) by inserting in subsection two of section one hundred and fifty-three after the word "notification" the words "the Board with the approval of"; 15
- Sec. 154. (Leasing of public wharf.) (p) (i) by omitting from section one hundred and fifty-four the word "Treasurer" wherever occurring and by inserting in lieu thereof the word "Board";  
(ii) by omitting from subsection one of the same section the word "Superintendent" and by inserting in lieu thereof the word "Board"; 20  
(iii) by omitting from the same subsection the word "Governor" and by inserting in lieu thereof the word "Board";
- Sec. 155. (Rules as to ballast lighters.) (q) by omitting from section one hundred and fifty-five the words "the Governor" and by inserting in lieu thereof the words "the Board with the approval of the Governor"; 25
- Sec. 157. (Fees.) (r) by omitting from subsection three of section one hundred and fifty-seven the words "the Governor fixes shall be paid" and by inserting in lieu thereof the words "the Board with the approval of the Governor fixes, shall be paid to the Board"; 30
- Secs. 160, 166, 167. (Service of process; regulations.) (s) by omitting sections one hundred and sixty, one hundred and sixty-six, and one hundred and sixty-seven; 30
- Sec. 169. (Penalties.) (t) by inserting in section one hundred and sixty-nine after the word "paid" the words "to the Board and by it paid." 35

Sec. 14.

*Amendments to the Harbour and Tonnage Rates Act, 1920.*

Amendment of Act No. 12, 1920.

2. The Harbour and Tonnage Rates Act, 1920, is amended as follows:—

Sec. 4. (Definitions.)

(a) by inserting in section four immediately before the definition of "Goods" the following new definition:— 40

"Board" means The Maritime Services Board of New South Wales constituted under the Maritime Services Act, 1935.

(b)

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- (b) by inserting after section five the following section :— Sec. 5A.  
     5A. The Board shall have the administration of this Act Adminis-  
tration.  
 and shall exercise the powers and discharge the duties con-  
 ferred and imposed on it by this Act.
  - 5 (c) by omitting from subsections one and three of section six Sec. 6.  
 the words "the Governor" wherever occurring and by in- (Rates.)  
 serting in lieu thereof the words "the Board, with the  
 approval of the Governor";
  - 10 (d) by omitting from section nine the words Colonial Sec. 9.  
 Treasurer" and by inserting in lieu thereof the word (Consequen-  
tial.)  
 "Board";
  - (e) by omitting from section ten the words "the Governor" and Sec. 10.  
 by inserting in lieu thereof the words "the Board, with the (Regulations.)  
 approval of the Governor";
  - 15 (f) (i) by inserting in subsection one of section fifteen after Sec. 15.  
 the word "recovered" the words "by the Board and (Recovery of  
rates.)  
 shall be recoverable";
  - (ii) by omitting from subsection five of the same section the  
 words "Colonial Treasurer" and by inserting in lieu  
 20 thereof the word "Board";
  - (g) by inserting in section sixteen immediately before the words Sec. 16.  
 "the Governor" the words "the Board with the approval (Exemptions.)  
 of";
  - 25 (h) (i) by omitting from subsection one of section eighteen the Sec. 18.  
 word "Governor" and by inserting in lieu thereof the (Regulations.)  
 words "Board with the approval of the Governor";
  - (ii) by omitting subsection two of the same section.
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