

[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1914.

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# A BILL

To make provision for levying and collecting harbour rates, wharfage and tonnage rates, and berthing charges, and for the leasing and the management and control of public wharves and any lands, buildings, or other property connected therewith, in all ports in New South Wales other than the port of Sydney ; for regulating the berthing and removal of vessels, the discharging or loading of cargo, and the storage and removal of goods on any such public wharf; to repeal the Wharfage and Tonnage Rates Act, 1901, except in so far as it may relate to the port of Sydney ; to amend the Navigation Act, 1901, and the Port Kembla Harbour Act, 1898 ; and for purposes consequent thereon or incidental thereto.

**B**E 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 :—

PART I.

PRELIMINARY.

*Repeal and interpretation.*

**1.** This Act may be cited as the "Wharfage and Tonnage Rates Act, 1914," and is divided into Parts and Divisions, as follows :—

PART I.—PRELIMINARY—*ss.* 1-5.

PART II.—WHARFAGE AND TONNAGE RATES AND BERTHING CHARGES—

DIVISION 1.—*Wharfage rates—ss.* 6-7.

DIVISION 2.—*Tonnage rates and berthing charges—ss.* 8-10.

PART III.—LEASES OF WHARVES—*s.* 11.

PART IV.—HARBOUR RATES—*ss.* 12-15.

PART V.—MISCELLANEOUS MATTERS—*ss.* 16-25.

SCHEDULE.

**2.** This Act shall commence and come into force on a date to be proclaimed by the Governor. Commencement.

**3.** (1) The Acts mentioned in the Schedule to this Act are to the extent therein expressed hereby repealed. Repeal.

(2) All persons appointed under the Wharfage and Tonnage Rates Act, 1901, and holding office at the commencement of this Act, shall be deemed to have been appointed hereunder. Officers under Act hereby repealed.

(3) All regulations made under the authority of the said Act, and in force at the commencement of this Act, shall, subject to this Act, be deemed to have been made under this Act. Regulations under Act hereby repealed.

**4.**

*Wharfage and Tonnage Rates.*

3\*

4. In this Act and the regulations thereunder, unless the context or subject-matter otherwise indicates or requires— Inter-pretation.

“Goods” includes wares, merchandise, and articles of whatsoever description.

“Master” includes every person having lawfully or *de facto* the command, charge, or management of a vessel.

“Owner,” when used in relation to a ship, includes any company, body corporate, or person to which or to whom the whole or a part of a ship belongs.

“Owner,” when used in relation to goods, includes any consignor, consignee, shipper, or agent for the sale or custody, loading or unloading of the goods, as well as the owner thereof.

“Port” includes any harbour or haven, whether natural or artificial, and any estuary, channel, river, creek, roadstead, or navigable water, or any pier, jetty, or wharf in which ships may lie for shelter, or for shipping or unshipping goods or passengers.

“Public wharf” means and includes any wharf, dock, pier, jetty, landing-stage, slip, or platform the property of and vested in the Crown.

“Ship” means vessel not ordinarily propelled by oars only.

“Vessel” includes ship, lighter, barge, boat, raft, craft, or any other description of vessel used for any purpose on the sea or in navigation.

“Wharfinger” means wharfinger appointed under this Act.

5. Nothing in this Act contained shall relate to the port of Sydney unless specifically mentioned. Exemption of port of Sydney.

PART

PART II.

WHARFAGE AND TONNAGE RATES AND BERTHING CHARGES.

DIVISION 1.—*Wharfage rates.*

6. (1) On and after the commencement of this Act there shall be charged, levied, collected, and paid for the use of His Majesty, and to form part of the Consolidated Revenue Fund, upon all goods unshipped from or shipped on any vessel berthed at a public wharf, rates, termed wharfage rates, to be fixed by the Governor by regulation. Wharfage rates to be levied.

(2) Such rates, whether inward or outward, may be by weight or measurement, in the discretion of the Colonial Treasurer or of any person authorised by him in that behalf; but inward wharfage rates shall not exceed four shillings per ton by weight or three shillings per ton of forty cubic feet measurement, and outward wharfage rates shall not exceed half that sum: Amount of rates.

Provided that fixed rates may be imposed by such regulations on specified articles or packages, and in such case the rate on any article or package shall be so as not to exceed the maximum rate above prescribed by weight or measurement, whichever is the larger:

Provided also that a minimum rate, not exceeding threepence, may be fixed for each of any articles or packages not exceeding five having the same owner.

7. The following exemptions and deductions shall be made and allowed:— Exemptions, refunds, and deductions.

- (a) Goods of His Majesty and passengers' luggage shall be exempt from all wharfage rates.
- (b) Goods unshipped in any port from any vessel to any other vessel for conveyance to another port shall not be subject to inward or outward wharfage rates if a transshipment entry in respect thereof is duly passed at the custom-house within forty-eight hours after the time at which the discharging vessel has reported at the custom-house; but in the case of vessels engaged

engaged in the State or Interstate coastal trade, and in respect of which transshipment entries are not so passed as aforesaid, it shall be a sufficient compliance with this paragraph if such entry is, within the said time, lodged with the wharfinger.

- (c) Any amount paid as inward harbour rates on any goods may be deducted from any inward wharfage rates payable in respect of the same goods.
- (d) Any amount paid as outward harbour rates on any goods may be deducted from any outward wharfage rates payable in respect of the same goods.

*DIVISION 2.—Tonnage rates and berthing charges.*

**8.** On and after the commencement of this Act there shall be charged, levied, collected, and paid for the use of His Majesty, and to form part of the Consolidated Revenue Fund, tonnage rates upon every vessel (except vessels under two hundred and forty tons of register tonnage and lighters) whilst lying berthed at any public wharf, according to the following scale:—

- (a) In respect of the first six days (exclusive of any Sundays and any day observed as a public holiday, unless where the vessel casts off from the wharf, or receives or delivers cargo, or embarks or lands passengers on such Sunday or public holiday) after the time of berthing, one halfpenny for each ton of the register tonnage of the vessel up to five thousand tons, and one farthing for each such ton over five thousand tons, for each complete day of twenty-four hours, or part of a day of over eighteen hours; or one fourth, one-half, and three-fourths of such rate for parts of a day of or less than six, twelve, and eighteen hours respectively.
- (b) In respect of each day, or part of a day after such six days, half the above rates.

*Wharfage and Tonnage Rates.*

**9.** On vessels in respect of which tonnage rates are not payable under the last preceding section, the Governor may, by regulation, impose charges for berthing at any public wharf, and provide for their collection. Such charges may be fixed charges for berthing, or may be in the form of licenses for a fixed period.

Berthing charges on vessels on which tonnage rates are not payable.

**10.** The owner, or the agent of the owner, of a vessel shall pay all tonnage rates or berthing charges on the vessel before she leaves the wharf. If any vessel leave the wharf before such rates or charges are paid such owner or agent shall, in addition to his liability for such rates, be liable to a penalty not exceeding *one hundred pounds*.

Payment of tonnage rates or berthing charges.

PART III.

LEASES OF WHARVES.

**11.** The Colonial Treasurer may let any public wharf, or any portion thereof, for any term not exceeding three years, either by public auction or private contract, as he may think best in the public interest, subject to such rental, and to such other conditions and reservations as he may deem necessary in the public interest.

Lease of wharves.

PART IV.

HARBOUR RATES.

**12.** The Governor may, by regulation, fix, impose, and collect under this Act inward harbour rates on all goods brought by sea into any port, and landed or transhipped there, and outward harbour rates on all goods

Imposing of harbour rates.

*Wharfage and Tonnage Rates.*

goods shipped on any vessel in any port. Such rates shall be paid for the use of His Majesty, and shall form part of the Consolidated Revenue Fund.

**13.** (1) The inward harbour rates on any goods shall not exceed the inward wharfage rates which would be payable on the same goods if unshipped from a vessel berthed at a public wharf. Amount of rates.

The outward harbour rates on any goods shall not exceed the outward wharfage rates which would be payable on the same goods if shipped on a vessel berthed at a public wharf:

(2) Provided that on goods transhipped an amount, to be fixed by the Governor by regulation, not exceeding one-half of the inward harbour rates shall be payable, unless the goods are landed on a wharf or other place, and the transhipment does not take place within fourteen days after the landing, in which case double the amount so fixed shall be payable. Goods transhipped.

On goods transhipped no outward harbour rates shall be payable.

**14.** Inward and outward harbour rates shall be paid by the owners of the goods. Payment of harbour rates.

Inward harbour rates shall be paid before the landing or transhipment of the goods.

Outward harbour rates shall be paid before the vessel leaves the port.

If any such rates be not so paid, the person liable to pay such rates shall, in addition to his liability for such rates, be liable to a penalty not exceeding *fifty* pounds:

Provided that goods of His Majesty and passengers' luggage shall be exempt from such rates.

**15.** For the purpose of carrying out the above provisions as to harbour rates, the officers and servants of the Crown may at any time enter any place where goods are landed or shipped, and may inspect any goods thereon. Power to enter private wharves.

PART V.

MISCELLANEOUS MATTERS.

16. For all purposes in connection with this Act a vessel lying in tier outside or otherwise alongside a vessel moored to or alongside any public wharf shall, if working cargo or embarking or landing passengers, be deemed to be berthed at that wharf as if she were directly moored to it. Vessel in tier to be deemed berthed at a wharf.

17. It shall be lawful for the Colonial Treasurer to demand, collect, and receive in respect and for the use of any of the property of the Crown used on or in connection with any public wharf such charges as the Governor may fix by regulation under this Act. Charges for use of Crown property.

18. The Governor may appoint such wharfingers or other persons as may be necessary to demand, collect, and receive rates and charges payable by or under the authority of this Act. Wharfingers.

19. The master of a vessel shall, within twenty-four hours after entering any port at which goods are to be landed, discharged, or transhipped from such vessel, lodge or cause to be lodged at the office of a wharfinger appointed in that behalf a true and complete manifest of all goods intended to be so landed, discharged, or transhipped. Inward manifest to be lodged.

The master of a vessel in any port shall, before such vessel leaves the port, lodge or cause to be lodged at the office of a wharfinger appointed in that behalf a true and complete outward manifest of all goods laden or transhipped on such vessel in such port. Outward manifest.

If any such master fails to comply with any of the provisions of this section, he and his agent shall be jointly and severally liable to a penalty not exceeding one hundred pounds. Penalty.

20. The Colonial Treasurer may, when default is made in the payment of any rates or charges under this Act or the regulations thereunder in respect of any goods, seize or retain and sell the said goods, or any part thereof; and, after reimbursing himself for any payment of custom duties and dues in respect of such goods, Colonial Treasurer may sell goods, &c., for payment of rates.



goods, shall retain and pay in the first place the rates and charges aforesaid and the expenses of such sale, and in the next place the freight due on such goods (in case he has received written notice that such freight has not been paid), rendering the surplus (if any), and also such of the said goods as remain unsold (the rates and charges due in respect thereof having been discharged as aforesaid) to the person entitled thereto on demand.

In lieu of selling such goods, or notwithstanding such sale if the proceeds of such sale are insufficient, the Colonial Treasurer may, by action of debt in any Court of competent jurisdiction, recover the amount of such rates, charges, expenses, and disbursements as are due to the Government.

**21.** The Governor may exempt any goods or classes of goods from inward or outward wharfage rates, or from inward or outward harbour rates, subject to such conditions as he thinks fit, and may reimpose and fix, under this Act, wharfage rates or harbour rates on such goods. Exemption or reimposition of wharfage and harbour rates.

**22.** (1) For the purposes of this Act, the register tonnage of any vessel shall be determined in accordance with the provisions of the Imperial Act, the Merchant Shipping Act, 1894, and the Schedules thereto, and any enactments amending that Act. Register tonnage, how determined.

(2) The latest publication of Lloyd's Register shall be evidence of such tonnage of all vessels mentioned therein.

**23.** (1) The Governor may make regulations for carrying out the objects and purposes of this Act, and in addition may make regulations as to— Power to make regulations.

- (a) the berthing of vessels at public wharves ;
- (b) the removal of vessels from public wharves ;
- (c) the discharging of cargo and loading thereof on or from any public wharf ;
- (d) the storing and removing of goods which are on any public wharf ; and the fixing of charges for storage ;
- (e) the leasing of any public wharf ;

(f)

- (f) the management and control of public wharves, and any lands, buildings, or other property connected therewith;
- (g) the fixing, levying, and collecting of wharfage rates;
- (h) the collecting and paying of tonnage rates;
- (i) the imposing and collecting of charges for berthing in respect of vessels on which tonnage rates are not payable;
- (j) the fixing imposing, levying, and collecting of harbour rates;
- (k) the fixing and collecting of charges, and imposing any necessary conditions for the use of any of the property of the Crown used on or in connection with any public wharf; and
- (l) prescribing penalties, not exceeding in any case the sum of one hundred pounds, for the contravention of any such regulation. Every such penalty may be defined by a minimum as well as a maximum limit.

(2) Such regulations shall—

Publication of regulations.

- (i) be published in the Gazette;
- (ii) take effect from the date of publication, or from a later date to be specified in such regulations; and
- (iii) be laid before both Houses of Parliament within fourteen days after publication if Parliament is in session, and, if not, then within fourteen days after the commencement of the next session. If either House of Parliament passes a resolution at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation, such regulation shall therefrom cease to have effect.

**24.** All penalties imposed by this Act or by the regulations thereunder may be recovered summarily before a stipendiary or a police magistrate, or before any two justices in petty sessions. Proceedings to be heard summarily, &c.

**25.**

*Wharfage and Tonnage Rates.*

**25.** Nothing in this Act shall affect any lease or <sup>Saving.</sup> agreement for a lease of any public wharf granted or entered into by or on behalf of the Crown before the commencement of this Act.

SCHEDULE.

Section 3.

Reference to Act.	Short title.	Extent of repeal.
No. 16, 1902 ...	Wharfage and Tonnage Rates Act, 1901 ... ..	The whole, except in so far as it may relate to the port of Sydney.
No. 60, 1901 ...	Navigation Act, 1901 ... ..	Section 154.
No. 34, 1898 ...	Port Kembla Harbour Act, 1898	Section 4.