

MARITIME SERVICES (AMENDMENT) BILL, 1960.

EXPLANATORY NOTE.

THE objects of this Bill are:—

- (a) to reconstitute the Maritime Services Board by increasing the number of members from five to seven. The first additional member is to be identified with the interests of the Port of Newcastle and the second the Director of Public Works ;
- (b) to constitute the Board the controlling authority for the Port of Newcastle and to transfer to the Board the port facilities at present owned by the Ministers for Public Works and Lands and the Commissioner for Railways (including coal-loading facilities operated by the Commissioner) ; to provide for the Board to have regard to the effect on river control and flood problems of the Hunter River in any development proposals affecting the Port of Newcastle ; to make provision for the continuation of the existing rights and liabilities of private parties in respect of the Port ;
- (c) to constitute the Board the controlling authority for the Port of Botany Bay and to transfer to the Board the port facilities at present owned by the Ministers for Public Works and Lands in that Port ; and to provide for the continuation of the existing rights and liabilities of private parties in respect of the Port ;
- (d) to invest the Board with additional powers in respect of the Ports at Newcastle and Botany Bay being generally those obtaining in respect of the Port of Sydney ; and to provide for the Board to have the right to carry out dredging and other work by contract but so far as Newcastle is concerned the Board by agreement to make use of the services, equipment and plant owned and operated by the Minister for Public Works where it is available ;
- (e) to make provision for the preservation of the rights of officers and employees transferred as a result of the transfer of the Ports ;
- (f) to make financial provisions consequent upon the expansion of the Board's administration ;
- (g) to exempt the Board in the two transferred Ports from the provisions of the Landlord and Tenant (Amendment) Act, 1948, and from the payment of council and water rates ;
- (h) to extend the Board's regulation making power to include—
 - (i) the payment of fees to assessors in courts of marine inquiry ;
 - (ii) the keeping of certain records by stevedores ;
 - (iii) the prohibition or regulation of operations involving fire or explosion risk ;
 - (iv) the conduct of persons using wharves ;
 - (v) making both the owner and master of a vessel liable for certain offences ;
 - (vi) the constitution of breaches of license conditions as breaches of regulations ;
- (i) to extend the powers of the Board in respect of all ports owned and operated by the Board concerning—
 - (i) obstruction of navigable waters by vessels and floating objects and encroachments on foreshores and other lands of the Board ; the removal, assumption of possession and demolition of vessels and other objects in certain circumstances ;
 - (ii) powers of entry and inspection of premises ;
 - (iii) the carrying out of works and the provision of facilities for port management and maintenance ;
- (j) to permit the waiver or refund of rates, tolls, dues, fees, charges or similar levies and to permit the levying of varying rates in appropriate circumstances ;
- (k) to provide for a time limitation on the bringing of legal proceedings against the Board ;
- (l) to make other amendments consequent upon or ancillary to the foregoing.

No. , 1960.

A BILL

To extend the jurisdiction of the Maritime Services Board of New South Wales; to reconstitute the said Board; for these and other purposes to amend the Sydney Harbour Trust Act, 1900–1953, the Navigation Act, 1901–1954, the Maritime Services Act, 1935–1953, the Harbour and Tonnage Rates Act, 1920–1953, the Rivers and Foreshores Improvement Act, 1948–1955, and certain other Acts in certain respects; and for purposes connected therewith.

[MR. RENSHAW;—18 October, 1960.]

Maritime Services (Amendment).

BE it enacted by the Queen'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 :—

1. (1) This Act may be cited as the "Maritime Services (Amendment) Act, 1960". Short title
and
citation.

(2) The Maritime Services Act, 1935, as amended by subsequent Acts and by this Act, may be cited as the Maritime Services Act, 1935-1960.

(3) The Navigation Act, 1901, as amended by subsequent Acts and by this Act, may be cited as the Navigation Act, 1901-1960.

(4) The Sydney Harbour Trust Act, 1900, as amended by subsequent Acts and by this Act, may be cited as the Sydney Harbour Trust Act, 1900-1960.

(5) The Harbour and Tonnage Rates Act, 1920, as amended by subsequent Acts and by this Act, may be cited as the Harbour and Tonnage Rates Act, 1920-1960.

(6) The Rivers and Foreshores Improvement Act, 1948, as amended by subsequent Acts and by this Act, may be cited as the Rivers and Foreshores Improvement Act, 1948-1960.

2. The Maritime Services Act, 1935-1953, is amended— Amendment
of Act No.
47, 1935.

(a) (i) by inserting in subsection one of section two after the definition of "Commissioner" the following new definitions :— Sec. 2.
(Interpre-
tation.)

"Goods" includes wares, merchandise, articles and substances of whatsoever description.

"Harbour master" includes any person acting in the capacity of harbour master.

"Installation"

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5 "Installation" includes any fixed, floating or
movable structure for the berthing, dock-
ing, slipping, or repairing of vessels, or
the handling of passengers, cargo,
supplies or fuel, any pipe-line, conveyor
or loading or unloading apparatus, and
anything whatsoever erected, constructed,
moored or stationed in, on, or in the
vicinity of any port or navigable waters
by the Board or by any person for the
purpose of conducting, facilitating or
regulating in any way the operation of
such port or the use of such waters.

15 "Master" includes every person having law-
fully, or de facto, the command, charge,
or management of a vessel for the time
being.

20 "Owner" includes any person exercising or
discharging, or claiming the right or
accepting the obligation to exercise or
discharge, any of the powers or duties
of an owner, whether on his own behalf
or on behalf of another.

25 (ii) by inserting in the same subsection after the
definition of "President" the following new
definitions : —

"Shore" means shore so far as the tide flows
and reflows, between high and low
water-marks.

30 "Vessel" means any ship, lighter, barge, boat,
raft, craft and any floating object or
apparatus used wholly or in part for
the conveyance of persons or things by
water, of whatsoever description and
howsoever navigated, and includes
35 amphibious vehicles, seaplanes, hydro-
planes, sunken or stranded vessels and
the wreck or remains of any vessel.

(b)

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(b) by inserting next after the same section the following New sec.
2A.
new section :—

5 2A. Where the provisions of this Act are inconsis- Construc-
tion.
tent with the provisions of any other Act with the
administration of which the Board is charged the
provisions of this Act shall prevail.

3. (1) Upon a day to be appointed by the Governor and Reconstitu-
tion of
Maritime
Services
Board.
notified by proclamation published in the Gazette (which day
is in this section referred to as the "appointed day"), the
10 Maritime Services Board of New South Wales shall be
reconstituted and shall consist of seven members who shall
be appointed in accordance with section three of the Maritime
Services Act, 1935-1953, as amended by this section.

(2) As from the appointed day the persons who
15 immediately before the appointed day held office as commis-
sioners of the Maritime Services Board of New South Wales
shall, subject to the Maritime Services Act, 1935, as amended
by subsequent Acts, continue to hold office as such commis-
sioners for the remainder of the unexpired term for which
20 they were appointed and shall be eligible for reappointment.

(3) Nothing contained in this section shall prejudice
or affect the continuity of the body corporate constituted under
subsection two of section three of the Maritime Services Act,
1935, as amended by subsequent Acts, but the same shall
25 continue notwithstanding the provisions of this section.

(4) (a) For the purposes only of the appointment of
the additional commissioners of the Maritime Services Board
of New South Wales, and of any matters necessary for or
incidental to such appointment the provisions of subsection
30 five of this section shall commence on the day upon which the
assent of Her Majesty to this Act is signified.

(b) The persons so appointed shall assume their
offices as commissioners of the Maritime Services Board of
New South Wales upon the appointed day, and on that day
35 the provisions of subsection five of this section shall come
into force for all purposes.

(5)

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(5) The Maritime Services Act, 1935-1953, is further amended—

Further
amendment
of Act No.
47, 1935.

5 (a) by omitting from paragraph (a) of subsection one of section three the word "five" and by inserting in lieu thereof the word "seven";

Sec. 3.
(Constitu-
tion of
Board.)

(b) by omitting paragraph (b) of the same subsection and by inserting in lieu thereof the following paragraph :—

10 (b) Of the commissioners so to be appointed :—

(i) three shall be nominated by the Minister, one of whom shall be identified with the interests of the Port of Newcastle, and two of whom shall be identified with such interests concerned with the administration of this Act as the Minister may think advisable;

15 (ii) one shall be the Permanent Head of the Department of Public Works.

20 The commissioners nominated under subparagraph (i) of this paragraph are in this Act referred to as "nominated commissioners".

The provisions of subsections seven, eight, nine, ten, eleven and twelve of this section shall not apply to or in respect of the Permanent Head of the Department of Public Works.

25 (c) by inserting at the end of paragraph (a) of subsection three of the same section the following new paragraph :—

30 This paragraph shall not extend to or in respect of the Permanent Head of the Department of Public Works.

35 (d) (i) by inserting in paragraph (a) of subsection four of the same section after the words "nominated commissioners" the words "and the Permanent Head of the Department of Public Works";

(ii) by omitting paragraph (b) of the same subsection;

(iii)

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- (iii) by inserting at the end of paragraph (c) of the same subsection the following new paragraph :—

5 The provisions of this subsection shall apply, mutatis mutandis, to and in respect of the Permanent Head of the Department of Public Works and the Permanent Head of the Department of Public Works shall, notwithstanding the provisions of any Act or of any rule or regulation made under any Act, be entitled to receive remuneration and expenses under this section in addition to any remuneration to which he is otherwise entitled.

10

4. The Maritime Services Act, 1935-1953, is further
15 amended—

Further amendment of Act No. 47, 1935.

- (a) by inserting in subsection three of section one after Sec. 1. the matter relating to Division 3 of Part III the following new matter :—
- (Division into Parts.)

DIVISION 3A.—*Port of Newcastle.*

20 DIVISION 3B.—*Port of Botany Bay.*

DIVISION 3C.—*Additional powers of Board.*

- (b) by inserting next after section thirteen the following new Divisions :—
- New Divisions 3A, 3B, 3C.

DIVISION 3A.—*Port of Newcastle.*

25 13A. Upon a date to be appointed by the Governor and notified by proclamation published in the Gazette, there shall be vested in the Board the lands included in Parts 1, 2, and 3 of Schedule Three to this Act which immediately before the appointed day were vested in the Crown or any Minister of the Crown or the Commissioner for Railways.

30

Nothing

Maritime Services (Amendment).

Nothing in this section shall apply to :—

- (a) structures, cranes and fixed apparatus owned by the Grain Elevators Board of New South Wales erected on such lands ; or
- 5 (b) wharves, structures, cranes and fixed apparatus owned or operated by the New South Wales Government Engineering and Ship Building Undertaking or owned or operated by the Minister for Public Works for the purposes of the construction and maintenance of harbour works or for the conduct and maintenance of the said Minister's dredging fleet.
- 10
- 15 13B. (1) The Board and any Minister of the Crown or the Commissioner for Railways shall arrange and agree upon :—
 - (a) the vesting in the Board of land, other than land to which section 13A of this Act applies, vested in or controlled by such Minister or Commissioner, as the case may be, which may be found necessary for the conduct of the Port of Newcastle, and the removing from the Board of land which before its vesting in the Board was vested in or controlled by such Minister or Commissioner, as the case may be, and which may be found unnecessary for the conduct of the Port of Newcastle ;
 - 20
 - 25
 - 30 (b) the transfer to the Board of such vessels, floating and movable plant, vehicles, mobile cranes, machinery, apparatus and things used on or in connection with the Port of Newcastle, or wharves, structures, cranes and fixed apparatus referred to in paragraph (b) of section 13A of this Act, as may be agreed to be appropriate, and the severance and removal by such Minister or Commissioner, as the case may be, from the lands vested in the
 - 35

Transfer of works and operations in the Port of Newcastle.

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the Board for the conduct of the Port of Newcastle of such fixed plant, apparatus and installations as may be agreed to be appropriate;

5 (c) the delivery to or by the Board, the Minister or the Commissioner for Railways, as the case may require, of such books, documents, records or papers relating to or concerning
10 any lands vested in or removed from the Board and works and operations carried out thereon, or anything the subject of any transfer or severance and removal pursuant to paragraph (b) of this subsection, as may be agreed to be appropriate; and

15 (d) the transfer to the service of the Board of such officers or employees of the Department concerned in any such arrangement and agreement as may be agreed to be appropriate and the adjustment of liability for the future
20 rights of the officers so transferred in respect of their antecedent service.

(2) (a) A Joint Committee constituted as hereinafter provided shall recommend to the Governor a basis for the determination of—

25 (i) any dispute arising under or in connection with subsection one of this section between the Board and the Minister of the Crown concerned in such dispute or the Commissioner for Railways;

30 (ii) the financial adjustment of all matters arising out of the vestings, transfers, assignments and other dealings and matters referred to in section 13A of this Act and this
35 section in respect of which such Joint Committee is constituted, including the loan liability of the Board to the Treasurer, and

matters

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matters which appear to it to be equitable should be adjusted by virtue of the operation of section 13c of this Act.

5 (b) A Joint Committee shall consist of five members, namely a chairman who shall be from time to time appointed by the Treasurer and who shall convene and preside at all meetings, two members who shall be from time to time appointed by the Board to represent the Board, and two
10 members who shall be from time to time appointed by the Minister, who is concerned in the matters in respect of which such Joint Committee is constituted, or by the Commissioner for Railways, as the case may require, to represent him.

15 (c) Any determination made by the Governor in pursuance of paragraph (a) of this subsection shall be final and binding on the Board and the Minister so concerned, or the Commissioner for Railways, as the case may require, and shall have
20 the like force and effect as if such determination had been embodied in any arrangement and agreement entered into pursuant to this section.

25 (3) (a) Any lands in respect of which an arrangement and agreement for their removal has been entered into pursuant to subsection one of this section and any fixed plant, apparatus and installations in respect of which any such arrangement and agreement for their severance and removal
30 has been so entered into shall vest in or be transferred to such person as may be specified in such arrangement and agreement as from a date to be specified therein.

35 (b) Any lands in respect of which an arrangement and agreement for their vesting in the Board has been entered into pursuant to subsection one of this section and any vessels, floating and movable plant, vehicles, mobile cranes, machinery,

apparatus

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apparatus and things, or wharves, structures, cranes and fixed apparatus referred to in paragraph (b) of section 13A of this Act, in respect of which any such arrangement and agreement for their transfer to the Board has been so entered into shall vest in or be transferred to the Board as from a date to be specified in such arrangement and agreement.

(4) Sufficient records of all arrangements and agreements and determinations made pursuant to this section shall be filed in the offices of the Treasury, the Board and the Minister concerned or the Commissioner for Railways, as the case may require, and the production by the Board or such Minister or the Commissioner for Railways of a document purporting to be the record of any such arrangement and agreement or determination shall be sufficient evidence in any proceedings of the matters contained therein.

13C. As on and from the date upon which any land or personal property vests in the Board pursuant to section 13A or 13B of this Act the following provisions shall have effect :—

(a) All moneys, liquidated and unliquidated claims which, immediately before such date are payable to or recoverable by the Crown or any Minister of the Crown or the Commissioner for Railways in relation to or in connection with any such land or personal property, shall respectively be moneys, liquidated and unliquidated claims payable to or recoverable by the Board.

(b) All suits, actions and proceedings pending immediately before such date at the suit of the Crown or any Minister of the Crown or the Commissioner for Railways in relation to or in connection with any such land or

personal

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personal property shall respectively be suits, actions and proceedings pending at the suit of the Board.

5 (c) All contracts, agreements and undertakings entered into with and all securities lawfully given to or by the Crown or any Minister of the Crown or the Commissioner for Railways in relation to or in connection with any such land or personal property and in force
10 immediately before such date shall respectively be deemed to be contracts, agreements and undertakings entered into with and securities given to or by the Board.

15 (d) The Board may pursue the same remedies for the recovery of any such moneys and claims, and for the prosecution of such suits, actions and proceedings, as the Crown or any Minister of the Crown or the Commissioner for Railways might respectively have done but
20 for this Division of this Part of this Act.

(e) The Board may enforce and realise any security or charge existing immediately before such date in favour of the Crown or any Minister of the Crown or the Commissioner for Railways in respect of any such moneys and claims as if such security or charge were
25 existing in favour of the Board.

(f) All debts due and moneys payable by the Crown or any Minister of the Crown or the Commissioner for Railways relating to any
30 such land or personal property and all claims, liquidated or unliquidated, recoverable against the Crown or any Minister of the Crown or the Commissioner for Railways relating to any such land or personal property
35 shall respectively be debts due and moneys payable by and claims recoverable against the Board.

(g)

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(g) No attornment by a lessee of any land vested in the Board by section 13A or 13B of this Act shall be necessary.

5 13D. (1) This section shall commence upon the date appointed by the Governor under section 13A of this Act.

Control of construction of certain works in Hunter River.

10 (2) In that part of the bed and shores of the Hunter River including the channels and bays thereof extending upstream from the area included in Part 1 of Schedule Three to this Act to a line extending due west across the Hunter River from the point where the left bank of the Williams River meets the left bank of the Hunter River, no person shall without the consent of the Board—

15 (a) construct or authorise the construction of any embankment, retaining wall, reclamation, wharf, dock, pier, jetty, landing stage, mooring apparatus, slip or platform; or

(b) carry out any dredging operations.

20 (3) This section shall bind the Crown but shall not apply to works or dredging undertaken or authorised by the Crown under the Newcastle Harbour Improvements Act, 1953, the Broken Hill Proprietary Company Limited (Reclamation and Exchange) Agreement Ratification Act, 1950, or the
25 Broken Hill Proprietary Company Limited (Steelworks) Agreement Ratification Act, 1950, or otherwise undertaken by the Crown for the purpose of flood control in the Hunter River.

30 (4) For the purposes of section 13T of this Act, any work carried out in contravention of paragraph (a) of subsection two of this section shall be deemed to have been carried out on land vested in the Board.

13E.

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5 13E. The Minister for Public Works in the exercise of his powers or authorities under the Newcastle Harbour Improvements Act, 1953, and the Hunter Valley Flood Mitigation Act, 1956, shall in respect of any works to be carried out upon lands vested in the Board do so at such times and in such manner as may be agreed upon between the Minister for Public Works and the Board.

Carrying out of certain works by Minister for Public Works.

10 13F. In the exercise of the powers provided for in section 13N of this Act in so far as the Port of Newcastle and the Hunter River are concerned it shall be incumbent upon the Board at all times :—

Obligations of Board in exercise of certain powers.

15 (a) to have regard to the likely effect of its proposals upon the river control and flood problems of the Hunter River;

(b) to inform the Minister for Public Works of any proposed works likely to affect the river control and flood problems of such river; and

20 (c) to consider all objections to such works which may be raised by the Minister for Public Works, and inform such Minister of the Board's decision before proceeding with any construction work involved.

25 13G. If the Board and the Minister for Public Works are unable to agree upon any question or matter arising under or in connection with section 13E or 13F of this Act, the question or matter shall be referred to a Joint Committee and shall be determined by the Treasurer in accordance with the provisions of subsection two of section 13B of this Act.

30 The provisions of the said subsection applicable to the constitution of Joint Committees shall apply, mutatis mutandis, to the constitution of a Joint Committee under this section.

Disagreements under secs. 13E, 13F.

DIVISION

Maritime Services (Amendment).

DIVISION 3B.—Port of Botany Bay.

13H. Upon a date to be appointed by the Governor and notified by proclamation published in the Gazette, there shall be vested in the Board the lands included in Schedule Four to this Act which immediately before the appointed day were vested in the Crown or any Minister of the Crown.

Vesting of
Port of
Botany Bay
in Board.

13I. (1) The Board and any Minister of the Crown shall arrange and agree upon :—

Transfer of
works and
operations
in the Port
of Botany
Bay.

- 10 (a) the vesting in the Board of land, other than land to which section 13H of this Act applies, vested in or controlled by such Minister which may be found necessary for the conduct of the Port of Botany Bay, and the removing
15 from the Board of land which before its vesting in the Board was vested in or controlled by such Minister and which may be found unnecessary for the conduct of the Port of Botany Bay;
- 20 (b) the transfer to the Board of such vessels, floating and movable plant, vehicles, mobile cranes, machinery, apparatus and things used on or in connection with the Port of Botany Bay as may be agreed to be appropriate, and
25 the severance and removal by such Minister from the lands vested in the Board for the conduct of the Port of Botany Bay of such fixed plant, apparatus and installations as may be agreed to be appropriate;
- 30 (c) the delivery to or by the Board or the Minister of such books, documents, records or papers relating to or concerning any lands vested in or removed from the Board and works and operations carried out thereon, or anything
35 the subject of any transfer or severance and removal pursuant to paragraph (b) of this subsection, as may be agreed to be appropriate; and

(d)

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5 (d) the transfer to the service of the Board of such officers or employees of the Department concerned in any such arrangement and agreement as may be agreed to be appropriate and the adjustment of liability for the future rights of the officers so transferred in respect of their antecedent service.

10 (2) (a) A Joint Committee constituted as hereinafter provided shall recommend to the Governor a basis for the determination of—

(i) any dispute arising under or in connection with subsection one of this section between the Board and the Minister of the Crown concerned in such dispute;

15 (ii) the financial adjustment of all matters arising out of the vestings, transfers, assignments and other dealings and matters referred to in section 13H of this Act and this section in respect of which such Joint Committee is constituted, including the loan liability of the Board to the Treasurer, and matters which
20 appear to it to be equitable should be adjusted by virtue of the operation of section 13J of this Act.

25 The loan liability of the Board to the Treasurer shall not include any capital liability in respect of loan expenditure incurred in the area included in Schedule Four to this Act before the first day of July, one thousand nine hundred and fifty-four.

30 (b) A Joint Committee shall consist of five members, namely a chairman who shall be from time to time appointed by the Treasurer and who shall convene and preside at all meetings, two members who shall be from time to time appointed by
35 the Board to represent the Board, and two members who shall be from time to time appointed by the

Minister,

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Minister, who is concerned in the matters in respect of which such Joint Committee is constituted, to represent him.

5 (c) Any determination made by the
Governor in pursuance of paragraph (a) of this
subsection shall be final and binding on the Board
and the Minister so concerned and shall have the
like force and effect as if such determination had
10 been embodied in any arrangement and agreement
entered into pursuant to this section.

15 (3) (a) Any lands in respect of which an
arrangement and agreement for their removal has
been entered into pursuant to subsection one of this
section and any fixed plant, apparatus and installa-
tions in respect of which any such arrangement and
agreement for their severance and removal has been
so entered into shall vest in or be transferred to such
person as may be specified in such arrangement and
agreement as from a date to be specified therein.

20 (b) Any lands in respect of which an
arrangement and agreement for their vesting has
been entered into pursuant to subsection one of this
section and any vessels, floating and movable plant,
25 vehicles, mobile cranes, machinery, apparatus and
things in respect of which any such arrangement and
agreement for their transfer to the Board has been
so entered into shall vest in or be transferred to the
Board from a date to be specified in such arrange-
ment and agreement.

30 (4) Sufficient records of all arrangements
and agreements and determinations made pursuant
to this section shall be filed in the offices of the
Treasury, the Board and the Minister concerned and
35 the production by the Board or such Minister of a
document purporting to be the record of any such
arrangement and agreement or determination shall
be sufficient evidence in any proceedings of the
matters contained therein.

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13J. As on and from the date upon which any land or personal property vests in the Board pursuant to section 13H or 13I of this Act the following provisions shall have effect : —

Rights,
liabilities,
etc.

- 5 (a) All moneys, liquidated and unliquidated
claims, which, immediately before such date
are payable to or recoverable by the Crown
or any Minister of the Crown in relation to
or in connection with any such land or per-
10 sonal property, shall respectively be moneys,
liquidated and unliquidated claims payable to
or recoverable by the Board.
- 15 (b) All suits, actions and proceedings pending
immediately before such date at the suit of the
Crown or any Minister of the Crown in rela-
tion to or in connection with any such land
or personal property shall respectively be
suits, actions and proceedings pending at the
suit of the Board.
- 20 (c) All contracts, agreements and undertakings
entered into with and all securities lawfully
given to or by the Crown or any Minister of
the Crown in relation to or in connection with
any such land or personal property and in
25 force immediately before such date shall
respectively be deemed to be contracts, agree-
ments and undertakings entered into with,
and securities given to or by the Board.
- 30 (d) The Board may pursue the same remedies for
the recovery of such moneys and claims, and
for the prosecution of such suits, actions and
proceedings as the Crown or any Minister
of the Crown might respectively have done
but for this Division of this Part of this Act.
- 35 (e) The Board may enforce and realise any
security or charge existing immediately before
such date in favour of the Crown or any

Minister

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Minister of the Crown in respect of any such moneys and claims as if such security or charge were existing in favour of the Board.

5 (f) All debts due and moneys payable by the Crown or any Minister of the Crown relating to any such land or personal property and all claims, liquidated or unliquidated, recoverable against the Crown or any Minister of the Crown relating to any such land or personal property shall respectively be debts due and
10 moneys payable by and claims recoverable against the Board.

15 (g) No attornment by a lessee of any land vested in the Board by section 13H or 13I of this Act shall be necessary.

DIVISION 3C.—Additional powers of Board.

13K. (1) The Governor may at any time vest in the Board any lands the property of the Crown deemed to be necessary for the purpose of carrying out the provisions of this Act.

General vesting of lands. cf. Act No. 1, 1901, ss. 27, 28.

In this subsection "lands" shall not include lands referred to in section 13A or 13H of this Act.

25 (2) The Governor may remove from the Board such lands as shall be found unnecessary for the purpose of carrying out the provisions of this Act.

30 (3) Upon the publication in the Gazette of a proclamation withdrawing any lands from the Board under the provisions of subsection two of this section, the lands so described shall vest in such person as the Governor may by the same or any other proclamation direct.

35 In this subsection "person" shall be deemed to include the Crown, or any person or corporation entitled to hold any land on behalf of the Crown.

13L.

Maritime Services (Amendment).

13L. (1) The Board may grant leases or licenses in respect of any land, the whole or any part of any wharf, dock, pier, jetty, landing stage, mooring apparatus, slip, platform, depot, shed, warehouse or building of any description, vested in it or under its control or management otherwise than by virtue of section seven of this Act, upon such rent or fee reserved and such conditions as it may deem appropriate.

Granting of
leases and
licenses.

(2) The term of any lease or license so granted shall not exceed ninety-nine years.

13M. (1) The Board may upon any land vested in it construct and enclose any embankment, retaining wall, reclamation, wharf, dock, pier, jetty, landing stage, mooring apparatus, slip, platform, or other structure or apparatus, or remove, alter, or repair the same.

Construction
of works and
provision of
services.
cf. Act
No. 1,
1901, s. 46.

(2) The Board may authorise the construction of any shed, warehouse, building of any description, embankment, retaining wall, reclamation, wharf, dock, pier, jetty, landing stage, slip, platform, tramway, railway, hoisting crane, shears, engine, or other structure or apparatus on any land subject to any lease or license granted by it.

(3) The Board may upon any land vested in it—

(a) construct, erect, remove, alter or repair such depots, sheds and warehouses for the reception of goods, such other buildings of any description, and such tramways, railways, engines, cranes, hoisting and weighing machines, and other apparatus for facilitating the loading and discharging or the masting or unmasting of vessels or the testing of chains and anchors; and

(b) provide such other conveniences,

as

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as it may think expedient for the efficient use of such land, or for the proper administration of its functions.

5 The Board may operate any such depots, sheds, warehouses, buildings, tramways, railways, engines, cranes, hoisting and weighing machines, and other apparatus and conveniences for the loading, unloading, transporting or storage of goods or otherwise on such conditions and for such fees as it deems appropriate, or may make such charges as it deems
10 reasonable for the use thereof and for the services of any persons engaged in the conduct and operation thereof.

15 13N. (1) The Board may, for the purpose of maintaining and improving the navigation of the rivers and channels within, or leading into, the areas
20 vested in it, dredge, cleanse, and scour the said rivers and channels and alter, deepen, cleanse, scour, cut, enlarge and otherwise alter and improve the bed of the said rivers and channels.

Improve-
ment of
navigable
waters.
cf. Act No.
1, 1901,
s. 47.

25 The Board may reduce or remove any banks or shoals whatsoever within the said rivers and channels; and may abate and remove all impediments, obstructions, and annoyances, and all nuisances and abuses whatsoever in the said rivers and channels, or on the banks and shores thereof :

30 Provided that no work shall be carried out pursuant to this subsection in any area which is not vested in the Board without the prior consent and approval of all proper authorities having jurisdiction or control over such area.

(2) The Board may remove, scour, and take away any shoal, mud-bank or other accumulation which impedes the navigation of any area vested in

it

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it and may shorten any bend or remove any angle in the course of the rivers and channels within any such area.

5 (3) The Board may cut the banks of the rivers within any area vested in it for the purpose of making, enlarging, or repairing any dock, canal, drain, sewer, or watercourse, or altering, laying down, or repairing any suction or other pipe, or for any other purpose whatsoever, and may
10 authorise any person to cut the banks for any of the purposes aforesaid, under such restrictions and upon such terms and conditions as the Board may deem appropriate.

15 (4) The Board may within any such area place and lay down or take up such buoys and beacons and construct and erect such marker piles, channel markers, leading marks, shoal or reef marks and such other apparatus as may be necessary and convenient for navigation or for the protection of
20 vessels or installations.

130. The Board may enter into contracts with any person or with the Crown for the execution of any work or the provision of any services authorised by this Act to be done or provided by it or for furnish-
25 ing materials or labour, or for providing proper engines or other power, or for any other matters and things whatsoever necessary for enabling it to carry out.
cf. Act No. 1, 1901, s. 48.
the purposes of this Act into full and complete effect, in such manner, and upon such terms, and for such
30 sum of money, and under such stipulations, regulations, and restrictions as the Board may deem appropriate :

35 Provided that, in the carrying out of any construction, property maintenance and dredging work in the Port of Newcastle, the Board shall have regard to the availability of services, equipment and plant controlled and operated by the Minister for Public

Works

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Works and with the agreement of the said Minister shall use such services, equipment and plant where it is available.

5 13P. The powers hereby granted to the Board to make contracts may lawfully be exercised as follows (that is to say): — ^{Method of contracting.}

10 With respect to any contract which if made between private persons would be by law required to be in writing and under seal, the Board may make such contract in writing in the corporate name of the Board under its common seal, and in the same manner may vary or discharge the same.

15 With respect to any contract which if made between private persons would be by law required to be in writing and signed by the parties to be charged therewith, the Board may make such contract in writing in the corporate name of the Board signed by the secretary and by any two of the commis-
20 sioners, and in the same manner may vary or discharge the same.

25 13Q. The Board may make such provision as it deems necessary upon any land vested in it for the construction and maintenance of roads and approaches to any installation and the adequate lighting of such installation, roads and approaches. ^{Provision of roadways and lighting.}

30 13R. The Board may appoint or may arrange for the provision of such persons as it deems necessary from time to time to preserve order on or in relation to any lands and installations vested in it, to prevent the entry of or to remove any persons making use of any such lands and installations for purposes other than those for which they are intended to be used
35 or loitering thereon or adjacent thereto and to assist any vessel in making use of any such lands and installations and to conduct and operate any depot, shed, warehouse, building, tramway, railway, engine, crane,

Maritime Services (Amendment).

crane, hoisting or weighing machine or other apparatus or convenience on any land vested in it or under its control or management.

5 13s. The Board may provide and maintain such plant, apparatus and things as it deems necessary for the rescue and resuscitation of drowning or apparently drowned persons and for the recovery of drowned persons and for the extinguishing of any fire on vessels or on any property vested in it and may employ such persons as it deems necessary for the proper operation and use thereof.

Rescue and
fire-extin-
guishing
operations.

15 13t. (1) Any person who drives a pile or stake, wholly or partly erects any structure or wall, carries out any reclamation, or causes or permits the deposit of any earth, rock, timber, iron or other material in or upon the bed of any waters vested in the Board without first obtaining the permission of the Board, or who makes use of any pile, stake, structure, wall, reclamation or material in or upon the bed of any such waters after the expiration of the time specified in a notice from the Board served upon him requiring him to remove the same, shall be liable to a penalty not exceeding one hundred pounds.

Obstructions
and
encroach-
ments on
waters.

25 (2) The Board may cause any pile, stake, structure, wall, reclamation or material driven, erected, carried out, or deposited, without its permission, in or upon the bed of any waters vested in it or not removed in accordance with any notice given under subsection one of this section, to be removed, and may at its option cause the same or any part thereof to be destroyed or stored or sold, or may sell the same or any part thereof on condition that it be removed, and may recover from the person responsible for the driving, erection, carrying out, depositing or making use of the same in any court of competent jurisdiction the expenses incurred in such removal, destruction, storage or sale.

13u.

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13U. (1) Any person who moors, runs ashore, cuts loose, or abandons any vessel, buoy, or floating object or apparatus, or cuts or slips any chain or anchor, or places or deposits any article, material or thing in, or upon the bed or shores of, any waters vested in or controlled by the Board, or on any land or wharf or in any building vested in or controlled by the Board, with the intention of avoiding responsibility for the same or with the intention that the rights of the owner of the same shall be impeded or rendered ineffective, shall be liable to a penalty not exceeding one hundred pounds.

Obstruction
of waters
or lands
by vessels
or articles.

(2) The owner of any vessel, buoy, floating object or apparatus, chain, anchor, article, material or thing in or upon the bed or shores of any waters vested in or controlled by the Board, or on any land or wharf or in any building vested in or controlled by the Board shall remove the same within such time as may be specified in a notice from the Board served upon him requiring him so to do, and in default shall be liable to a penalty not exceeding one hundred pounds.

(3) If the owner of any such vessel, buoy, floating object or apparatus, chain, anchor, article, material or thing fails to comply with the requirements of the notice served upon him under subsection two of this section, or if the identity or address of the owner of the same cannot be established after such enquiry as the Board considers reasonable, or if in the opinion of the Board it is essential in the interests of navigation or for the proper and efficient use of any such land, wharf or building, or for the safe keeping or preservation of such vessel, buoy, floating object or apparatus, chain, anchor, article, material or thing in or upon the bed or shores of any waters vested in or controlled by the Board, or on any land or wharf or in any building vested in or controlled by the Board, that the same be removed without delay, or if it appears to

the

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the Board that the same is occupying such waters,
land, wharf, or building as aforesaid in contravention
of any Act, by-law, regulation or rule with the
administration of which the Board is charged,
5 the Board may assume possession of the same, and
may if it deems that the circumstances so require
remove the same and, in the case of a sunken or
unseaworthy vessel, or other object or article which
in its opinion cannot otherwise reasonably be dealt
10 with, may blow up or demolish the same for the
purpose of removal.

(4) Any vessel, buoy, floating object or
apparatus, chain, anchor, article, material or thing
possession of which has been assumed or which has
15 been removed by the Board in accordance with
subsection three of this section, or any component
part thereof, shall be dealt with as follows :—

(a) if in the opinion of the Board the same has
no value it shall be destroyed, otherwise it
20 shall be held in the custody of the Board in
such place as the Board deems appropriate,
and may be so repaired and treated as shall in
the Board's opinion be necessary to preserve
its utility and value ;

(b) if any person establishes to the Board's
25 satisfaction his ownership of the same he
shall be entitled to receive the same upon
payment of the expenses incurred in respect
of the assuming possession, removal, custody,
30 repair and treatment thereof, as fixed by the
Board ;

(c) if no person has established his ownership of,
and paid such expenses as aforesaid in respect
of, the same, the Board, after such lapse of
time and such enquiry or public advertisement
35 as it shall in the circumstances deem appro-
priate, may sell the same in such manner as
it thinks fit, or if in its opinion the value of

the

Maritime Services (Amendment).

the same to the Board would exceed the proceeds of sale, may appropriate the same and credit the owner thereof with such value;

5 (d) if the net proceeds of sale of, or the credit allowed as aforesaid for, the same exceeds the expenses incurred in respect of the assuming possession, removal, custody, repair and treatment thereof as fixed by the Board, the surplus shall be paid by the Board on
10 demand to the owner thereof;

(e) the Board may recover from the owner of the same the expenses incurred in the assuming possession, removal, custody, repair and treatment thereof, as fixed by the Board, after
15 deduction therefrom of the net proceeds of any sale thereof or any credit allowed therefor.

(5) Nothing in this section shall affect or diminish the rights of the owner of any land
20 in respect of such land, or of any lessee, tenant, or licensee in respect of the premises included in his lease, tenancy or license.

13v. The Board may hire or lease to any person Hiring
25 any vessels, floating and movable plant, mobile and disposal cranes, vehicles, machinery or apparatus together of plant. with the services of any persons employed in the operation thereof upon such terms as it deems fit, and may dispose of any vessels, floating and movable
30 plant, mobile cranes, vehicles, machinery, apparatus, tools or materials which are or have become unnecessary for the conduct of its functions by sale or otherwise to any person in such manner as it deems fit.

13w. (1) This section shall apply to the Ports of Powers of
Sydney, Newcastle and Botany Bay. harbour master.

cf. Act No.
1, 1901,
ss. 21-25.

(2)

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(2) The harbour master of any port to which this section applies may direct and control the time and manner in which any vessel shall enter or leave the port, the movements of any vessel within the port, the position where and the manner in which any vessel may anchor or be moored within the port, the time and manner of the taking in or discharging by any vessel within the port of cargo, stores, fuel, water or ballast, and the mooring, unmooring, placement or removal of any vessel within the port in, from or to any position as he shall think fit :

Provided that in the exercise of his powers under this subsection the harbour master shall not give any direction which would result in contravention of any statute or regulation relating to the area or vessel concerned or impeding the proper administration of the customs or quarantine services within the port.

(3) The master of any vessel who refuses or neglects to comply with any direction which may be given by the harbour master under this section shall be liable to a penalty not exceeding one hundred pounds.

(4) If there is no person on board any vessel to whom the direction of such harbour master requiring the mooring, unmooring, placement or removal of such vessel or any alteration in its manner of anchoring or mooring, may be given, or if the direction is not complied with, the said harbour master may cause such vessel to be moored, unmoored, placed or removed or otherwise dealt with as required by him, and the Board may recover from the master or owner thereof in any court of competent jurisdiction the whole charges and expenses thereby incurred together with costs.

13x. (1) If in the opinion of the Board any vessel in or on the shores of any port to which section 13w of this Act applies is unseaworthy or likely for any reason to cause damage to property or persons or to become a danger to shipping, the Board may require work to be carried out on vessel.

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Board may serve notice on the owner thereof, or alternatively may affix to the vessel (if practicable) and publish in the Gazette and one newspaper circulating in the district a notification requiring that such work be carried out in and about the vessel as the Board deems necessary within the time stated in such notice or notification or that the vessel be destroyed.

(2) If the requirements of the Board are not so carried out, the Board may at its option : —

(a) carry out the work required;

(b) contract with any person for the carrying out of such work on such terms as it deems fit;

(c) destroy the said vessel or contract with any person for the destruction of the said vessel and sell in such manner as it deems fit any material or other property recovered from the vessel which in the Board's opinion has a sale value; or

(d) sell the said vessel for purposes of destruction to any person on such terms as it deems fit.

(3) Any surplus moneys remaining after deduction from the proceeds of any sale pursuant to paragraph (c) or (d) of subsection two of this section of the charges and expenses incurred in the publication of any notification, the destruction of the vessel and the conducting of such sale shall be paid by the Board on demand to the person who at the time of the serving or publication of the said notice or notification was the owner of the vessel.

(4) Any moneys remaining due to the Board in respect of—

(a) the charges and expenses incurred in the publication of any notification and the carrying out of any work pursuant to paragraph (a) or (b) of subsection two of this section, or
(b)

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5 (b) the charges and expenses incurred in the publication of any notification and the destruction of the vessel and the conducting of any sale pursuant to paragraph (c) or (d) of subsection two of this section, after allowing for the net proceeds of such sale,

10 shall be paid on demand to the Board by the person who at the time of the serving or publication of the said notice or notification was the owner of the vessel, and if unpaid may be recovered as a debt in any court of competent jurisdiction.

15 13y. Any person who obstructs or hinders the Board or any of its officers, servants or agents, or any person who has contracted with the Board or the officers, servants or agents of any such person, in the doing of anything authorised by sections 13w and 13x of this Act shall be liable to a penalty not exceeding one hundred pounds.

Obstruction
of
harbour
master, etc.

20 13z. (1) The Under Secretary of the Department of Mines shall give to the Board not less than twenty-one days' notice of any proposal to grant any lease or license under the Mining Act, 1906, or the Petroleum Act, 1955, or any Acts amending the same, in respect of any land vested in the Board, or
25 contained in that part of the bed and shores of the Hunter River to which section 13D of this Act applies.

Leases and
licenses
under
Mining Act,
1906, and
Petroleum
Act, 1955.

30 (2) If, notwithstanding representations of the Board to the contrary, it is decided that such lease or license shall be granted, the Board shall be notified accordingly and may, within fourteen days of such notice, refer the dispute to the Treasurer for settlement by the Governor.

35 (3) The Governor may make such order in the public interest and in the circumstances of the case as may seem to him to be just and equitable.

(c)

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- (c) by inserting next after Schedule Two the following new Schedules :—

New
Schedules
Three and
Four.

SCHEDULE THREE.

PART 1.

- 5 All that area within the following boundaries exclusive of the State Dockyard at Dyke End as bounded by existing fences and high water mark, all lands controlled by the Commonwealth of Australia, and all public roads: Com-
- 10 mencing at the toe of the outer extremity of the Northern Breakwater at the entrance to the Port of Newcastle and bounded thence by a direct line south-easterly to the toe of the outer extremity of the Southern Breakwater thence
- 15 by the south-eastern toe of this breakwater south-westerly and continuing by high water mark around Nobbys Head thence by the toe of an existing breakwater wall south-
- 20 westerly to a point due East of the easternmost corner of an area of 4A. 1R. 18½P. acquired by the Commonwealth of Australia as shown on a plan catalogued MS.6003 Md. in the office of the Department of Lands, Sydney, thence
- 25 by a line due West to the aforesaid corner and thence by the boundaries of this area north-westerly, westerly, generally south-westerly and south-easterly to the easternmost corner of an area of 1A. 0R. 11P. as shown on a plan catalogued Ms.6181 Md. in the office of the Department of Lands, Sydney, thence by the boundaries of this
- 30 area south-westerly, westerly and north-westerly to its westernmost corner thence by a line bearing approximately 327 degrees to the rear edge of Kings Wharf thence generally south-westerly by the rear edge of this wharf to an existing post and rail fence near the rear edge of Hunter Wharf thence by this fence along the rear edge of Hunter Wharf and continuing by the rear edge of Market Street Wharf to its western end thence generally westerly by high water mark and by the northern edge of the bridge crossing the entrance to a Boat Harbour near Brown Street and again generally westerly by high water mark to the eastern boundary of an area of 1R. 16½P. appropriated for the purpose of the Newcastle Wharf (Merewether Street) Act, 1950, vide Government Gazette of 16th August, 1957, thence by the boundaries of this area southerly and south-westerly and by the prolongation south-westerly of the last mentioned boundary to the easternmost corner of an area of 2R. 38P. resumed for the purposes of the above-mentioned Act thence by the boundaries of this area south-westerly and westerly to the eastern alignment of Merewether Street thence by the eastern alignment of this
- street

Exclusions.

Commencing
at Northern
Breakwater.

Southern
Breakwater.

Nobbys Head.

Common-
wealth land
at Southern
Wave-trap.

Pilot Station.

Kings Wharf.

Hunter Wharf.

Market Street
Wharf.

Old Boat
Harbour.

Merewether
Street Wharf.

Maritime Services (Amendment).

street northerly, by its northern alignment westerly and by its western alignment southerly to the south-eastern corner of Lee Wharf Road thence by part of the south-western alignment of this road to the easternmost corner of an area of 2R. 17½P. acquired in connection with Public Wharves at Lee and Merewether Streets by Government Gazette of 30th January, 1959, thence by the southern boundary of this area and the generally northern boundary of an area of 9A. 0R. 16P. acquired for Railway Purposes by Government Gazette of 26th May, 1916, generally westerly to the north-eastern corner of an area of 38½ perches vested in the Hunter District Water Supply and Sewerage Board thence by the north-eastern and north-westerly to its westernmost corner thence by part of the northern boundary of Railway Lands westerly to the southernmost corner of an area of 2A. 0R. 12½P. dedicated for Road Widening by Government Gazette of 26th September, 1919, as shown on a plan catalogued R.13570-1603 in the office of the Department of Lands, Sydney thence by the generally north-eastern boundaries of this area north-westerly to the westernmost corner of the land contained in Certificate of Title Volume 6090 Folio 157 thence by the north-western boundary of this land and the land comprised in Book 2077 No. 929 produced north-easterly across Lee Wharf Road to its north-eastern alignment thence by the alignments of this road north-westerly and south-westerly to the south-eastern corner of the areas resumed for road widening by Government Gazette of 3rd April, 1958, thence north-westerly by the north-eastern boundaries of these areas to the south-eastern alignment of Cowper Street and thence north-easterly, north-westerly and south-westerly by the boundaries of the road and proposed road as shown on a plan catalogued R. 23306.1603 in the office of the Department of Lands, Sydney, to the eastern alignment of Hannell Street thence generally by this alignment northerly across Throsby Creek Stormwater Channel to the southern side of Elizabeth Street thence by this side easterly across Throsby Creek to high water mark thence generally south-westerly by the high water mark of Throsby Creek around the eastern embankment of Cowper Street Bridge thence by high water mark around the Carrington foreshore to the wire fence which encloses the wharf premises known as No. 2 Silo Wharf thence by this fence generally northerly and easterly to the south-western alignment of Denison Street thence by a direct line to the southernmost corner of an area vested in the Grain Elevators Board of New South Wales thence by part of

Lee Wharf Road.

Areas at rear of Inflammable Liquids Wharf.

Hannell Street widening.

Cowper Street.

Hannell Street.

Throsby Creek Stormwater Channel.

Grain Elevators.

the

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- the south-eastern boundary of this area north-easterly to the southernmost boundary of Portion 3006 Dedicated for Wheat Elevator (Addition) by Government Gazette of 14th December, 1956, thence by this boundary easterly to the south-eastern corner of Portion 3006 thence by a direct line to the point "L" mentioned in a description of water-front lands and wharves prepared in the Department of Railways as set out in the annexure to this schedule and described therein as being "in the Railway Boundary at the southern end of the Electric Crane Wharf" and thence by the various lines mentioned in such description between the said point "L" and the Point "A" described as being "8 feet from the centre line down side of Port Waratah Departure Line in the existing Railway Boundary near No. 8 Nest" thence by part of this Railway Boundary northerly to the south-western alignment of Selwyn Street (extended) thence by this alignment south-easterly to the high water mark of the right bank of the South Channel of the Hunter River thence by this high water mark around lands owned by Broken Hill Proprietary Company Limited to the point "Y" as shown on the plan mentioned in section 4 of the Newcastle Harbour Improvements Act, 1953, thence continuing upstream by the proposed training walls designed for the right bank of the South Channel as shown on the plan mentioned in the aforesaid section 4 to a point where the prolongation of the eastern alignment of Tourle Street meets the aforesaid proposed training wall thence by this prolongation produced northerly to the proposed training wall designed for the left bank of the South Channel thence by this proposed training wall downstream and by the proposed training wall around Rotten Row thence by high water mark on the western side of Walsh Island, again by proposed training walls off the southern end of Walsh Island thence north-easterly by high water mark on the south-eastern side of Walsh Island thence continuing generally northerly by the proposed training wall for the right bank of the North Channel of the Hunter River upstream to a point due West from No. 2 Beacon thence by the parallel of latitude passing due East through No. 2 Beacon being approximately 32 degrees 53 minutes 12 seconds South Latitude to the proposed training wall designed for the left bank of the North Channel of the Hunter River thence by this proposed training wall downstream to high water mark on the Stockton foreshore thence by high water mark generally south-westerly and south-easterly along the Stockton foreshore and continuing north-easterly by high water mark around Pirate Point to a point where high water mark meets the southern side of the
- Carrington
Railway
Lands
- Point "A"
Railway Plan.
- Selwyn Street.
- B.H.P. Lands.
- Tourle Street.
- Rotten Row.
Walsh Island.
- No. 2 Beacon.
- Stockton
Foreshore.
- Pirate Point
Stockton.

Northern

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Northern Breakwater aforesaid thence by a line due North to the northern toe of the said breakwater thence easterly and north-easterly by the northern toe and the north-western toe of the said breakwater to the point of commencement.

Point of commencement.

PART 2.

Commencing at the point "M" mentioned in a description of lands prepared in the Department of Railways as set out in the annexure to this schedule and described therein as being "the junction of the eastern alignment of Bourke Street and the southern alignment of Cowper Street North" thence by the various lines mentioned in such description between the said point "M" through the points "N", "O" and "P" to the point "R" which is described as being "30 feet from the centre line up side and at right angles to No. 4 storage siding" thence generally southerly 30' 0" from the centre line up side of No. 4 Storage Siding to the dead end and extended to the north-eastern side of the Elevated Roadway leading to the State Dockyard thence north-westerly by this side and generally westerly by the toe of the embankment which retains this roadway to the eastern alignment of Bourke Street aforesaid thence generally southerly by this alignment to "M", the point of commencement.

Carrington
Railway
Land (Power
House, Coal
Loader,
Overhead
Bridge).

PART 3.

All that area known as Boatmans Terrace occupied by the Maritime Services Board of New South Wales situated at the corner of Nobbys Road and Stevenson Place Newcastle comprising sixteen terrace dwellings together with access from Nobbys Road and a lane way at the rear of the terrace.

Boatmans
Terrace.

All bearings quoted in this schedule are relative to True Meridian.

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ANNEXURE TO SCHEDULE THREE.

Description of Waterfront Lands and Wharves.—Prepared in the Department of Railways.

5 That area of land between the waters edge of the Hunter River and Basin or the Railway Boundary between the waters edge and a line between points "A" to "L" described hereunder:—

10 Commencing from a point "A", 8'-0" from the centre line, down side, of Port Waratah Departure Line in the existing railway boundary near No. 8 Nest, and running in a southerly direction 8'-0" from the centre line, down side of the Port Waratah Departure Bullock Island Arrival Line and Run Round Siding to a point "B" 3'-0" past the lead connecting the Run Round and No. 4 Reception Sidings.

15 From point "B" and at right angles to No. 4 Reception Siding out to a point "C" 6'-0" from the centre line, up side of No. 2 Empty 10 Dyke Siding.

20 From point "C" in a south easterly direction 6'-0" from the centre line, up side, of No. 2 Empty 10 Dyke Siding to a point "D" 10'-0" past the buffer stop of the Water column Siding.

25 From point "D" and at right angles to No. 2 Empty 10 Dyke Siding to a point "E" 6'-9" from the centre line, down side of No. 1 Full 9 Dyke Siding.

30 From point "E" in a north westerly direction 6'-9" from the centre line, down side of No. 1 Full 9 Dyke Siding and Top South Arrival Line to a point "F" half way between the lead connecting the Top South Arrival Line and Sulphide Empties Siding and the lead connecting the Top South Arrival Line and No. 3 Reception Siding.

35 From point "F" in a south westerly direction across the Top South Arrival and Top South Departure Lines to a point "G" 6'-9" from the centre line, down side of the Water Loop Siding.

40 From point "G" and commencing in a southerly direction 6'-9" from the centre line, down side of the Water Loop Siding, the crossover between the Water Loop and West Basin Run Round Sidings, West Basin Run Round and short Loop Sidings to a point "H" at the lead, connecting Nos. 21 and 22 Western Basin Sidings.

From

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From point "H" and at right angles to No. 20 Western Basin Siding, to a point "J" 5'-0" from the centre line, up side of No. 20 Western Basin Siding.

5 From point "J" in a southerly direction 5'-0" from the centre line, up side of No. 20 Western Basin Siding to a point "K" at right angles to and 100'-0" from the face of the Electric Crane Wharf.

10 From point "K" in a southerly direction 100'-0" from the face of the Electric Crane Wharf to a point "L" in the railway boundary at the southern end of the Electric Crane Wharf.

Also that area of land bounded by a continuous line described hereunder:—

15 Starting from a point "M", the junction of the eastern alignment of Bourke Street and the southern alignment of Cowper Street and commencing in a north easterly direction 7'-9" from the centre line, up side of No. 1 Compound Siding, No. 2 Bullock Island Departure and New Departure Lines to a point "N" 3'-0" past the lead connecting No. 4 Storage and Shunting Neck Sidings.

20 From point "N" across the Shunting Neck Siding at right angles to a point "O" 8'-0" from the centre line up side of the Shunting Neck Siding.

25 From point "O" in a southerly direction 8'-0" from the centre line, up side of No. 4 Storage Siding to a point "P" opposite the control cabin of the coal loader.

From point "P" out to a point "R" 30'-0" from the centre line, up side and at right angles to No. 4 storage siding.

30 From point "R" commencing in a southerly direction 30'-0" from the centre line, up side of No. 4 Storage Siding, to the dead end and extended to the north-eastern side of the Elevated Roadway leading to the State Dockyard thence north-westerly by this side and generally westerly by the toe of the embankment which retains this roadway to the eastern alignment of Bourke Street aforesaid thence generally southerly by this alignment to "M" the point of commencement.

SCHEDULE FOUR.

40 All that area within the following boundaries exclusive of Bare Island and Carter's Island: Commencing at high water mark on the southernmost extremity of Cape Banks at the entrance to the Port of Botany Bay and bounded thence by a line at high water mark generally north-westerly and

Commencing
at Cape Banks.

Maritime Services (Amendment).

- and northerly around all the bays and headlands of the shore of Botany Bay to the western alignment of Bumborah Point Road at the mouth of the Bunnerong Power Station outlet channel thence northerly by this alignment across the channel to high water mark and thence by the high water mark of the shore of Botany Bay north-westerly to its intersection with a boundary of the area proclaimed as Kingsford Smith Airport by Government Gazette dated 20th July, 1956, thence by this boundary generally westerly to the toe of the north-eastern breakwater at the mouth of the Cooks River as diverted, thence by this toe south-easterly to its outer extremity, thence by a straight line to the toe of the outer extremity of the south-western breakwater of this river thence by the toe of this breakwater north-westerly to the Airport boundary aforesaid, thence generally south-westerly by this boundary and by the high water mark of the western shore of Botany Bay to Dolls Point, thence generally south-westerly by high water mark around the bays and headlands of Georges River to the southernmost extremity of Rocky Point, thence by a straight line southerly across Georges River to the easternmost extremity of Taren Point, thence by the deed or title boundaries of the properties adjoining the shores of Woollooware Bay, Georges River and Botany Bay including Quibray Bay to Bonna Point at Kurnell, thence by high water mark along the southern shore of Botany Bay easterly and north-easterly to Sutherland Point on Kurnell Peninsula thence generally south-easterly by high water mark around the bays and headlands of this peninsula to the easternmost extremity of Cape Solander thence by a straight line north-easterly to the point of commencement.
- Bunnerong
Power Station.

Kingsford
Smith Airport.

Cooks River
Diversion.

Dolls Point.

Georges River.

Quibray Bay.

Sutherland Pt.

Point of com-
mencement.

All bearings quoted in this schedule are relative to True Meridian.

5. The Maritime Services Act, 1935-1953, is further
35 amended—
- (a) by inserting next after subsection two of section fourteen the following new subsections :—
- Further
amendment
of Act No.
47, 1935.

Sec. 14.
(Transfer
of
officers.)
- (2A) Any officer or employee of any Department of the Crown or of the Department of Railways transferred to the service of the Board pursuant to
- 40

paragraph

Maritime Services (Amendment).

paragraph (d) of subsection one of section 13B of this Act or paragraph (d) of subsection one of section 13i of this Act shall—

- 5 (a) upon and after the date of such transfer become and be an officer or employee of the Board, as the case may be;
- 10 (b) have and enjoy privileges and leave rights not less beneficial than if he had continued to be an officer or employee of the Department from which he is transferred;
- 15 (c) retain any rights, and continue to be bound by any obligations, to which he was entitled or subject as an officer or employee of the Department from which he is transferred under the Superannuation Act, 1916, or under Part IX of the Government Railways Act, 1912, or any Acts amending the same.

20 For the purposes of paragraphs (b) and (c) of this subsection, service with the Board shall be deemed to be service with the Department from which such officer or employee is transferred.

25 (2B) Whenever the length or period of service with the Board of an officer or employee of the Board is relevant or in question, the service of any person who has become an officer or employee of the Board under subsection (2A) of this section shall be deemed to include his service, as an officer or employee, as the case may be, with the Department from which he is transferred.

- 30 (b) by omitting from subsection three of the same section the words “so transferred” and by inserting in lieu thereof the words “who has become an officer or employee of the Board in accordance with this section”;

(c)

Maritime Services (Amendment).

- 5 (c) by omitting from subsection four of the same section the words "so transferred" and by inserting in lieu thereof the words "who has become an officer or employee of the Board in accordance with this section".

6. The Maritime Services Act, 1935-1953, is further amended by inserting next after section twenty-four the following new sections :—

Further amendment of Act No. 47, 1935.
New secs. 24A-24J.

10 24A. The loan liability of the Board to the Treasurer on behalf of the State shall, as at the date of establishment of the Fund referred to in section 24B of this Act, be the sum of—

Board's loan liability.

15 (a) the capital debt existing under and by virtue of the Sydney Harbour Trust Act, 1900, as amended by subsequent Acts, at such date; and

20 (b) such amount as may be determined by the Treasurer as the net expenditure from the General Loan Account on works within the area included in Schedule Four to this Act after the first day of July, one thousand nine hundred and fifty-four, and up to the said date.

The loan liability of the Board to the Treasurer on behalf of the State shall be varied from time to time as provided by section 24G of this Act.

25 24B. (1) The Treasurer shall establish in the Treasury the following funds :—

Funds to be established.

(a) the Maritime Services Board Fund, in this Act referred to as the "Fund";

30 (b) the Maritime Services Board Renewals Fund, in this Act referred to as the "Renewals Fund".

35 (2) The amounts standing to the credit of the Board in the Sydney Harbour Trust Fund and the Sydney Harbour Trust Renewals Fund shall respectively be credited to the Board in the Maritime Services Board Fund and the Maritime Services Board Renewals Fund when so established.

(3)

Maritime Services (Amendment).

5 (3) (a) Subject to this Act all moneys in the Funds so established shall be vested in and shall be expended by the Board for the purposes for which the same are appropriated by Parliament and, save as expressly provided in this Act or permitted under the provisions of the Audit Act, 1902, not otherwise.

10 (b) The Board may, with the approval of the Governor, expend from the Fund or Renewals Fund in anticipation of appropriation by Parliament such sums as may be necessary to provide for expenditure in respect of such services as cannot be reasonably postponed without injury to the public interest, or to carry on any work, the vote in respect of which has become exhausted prior to the completion of the work.

15 (c) The Board may, with the approval of the Governor, on the recommendation of the Treasurer and without further appropriation than this Act, expend from the Fund and the Renewals Fund, for a period not exceeding one year from the date of the establishment of such Funds, such moneys as may be necessary for the carrying out of the functions of the Board.

20 (d) A statement setting out details of any proposal to expend a sum from the Fund or Renewals Fund in pursuance of paragraphs (b) and (c) of this subsection shall be laid before both Houses of Parliament within fourteen sitting days after the approval of the Governor to the proposal has been signified, if Parliament is then in session, and if not, then within fourteen sitting days after the commencement of the next session of Parliament.

(4) Section forty-six of the Constitution Act, 1902, as amended by subsequent Acts, shall apply to and in respect of any appropriation of the said Funds.

24c. (1) There shall be paid into the Fund : —

Payments
into Fund.

35 (a) all wharfage, harbour, transhipment and tonnage rates, berthing charges, wharf storage charges, license fees and all other rates, charges and fees levied

Maritime Services (Amendment).

- 5 levied or collected by the Board pursuant to the provisions of this Act, the Sydney Harbour Trust Act, 1900, the Sydney Harbour Rates Act, 1904, and the Harbour and Tonnage Rates Act, 1920, and any Acts amending the same, and the regulations made under those Acts, in so far as such rates, charges and fees apply to the Port of Sydney and any other area vested in the Board;
- 10 (b) all moneys payable to the Board such as rents, occupation fees, payments for services rendered, things hired, or work performed by the Board in so far as such moneys apply to the Port of Sydney and any other area vested in the Board;
- 15 (c) all harbour, transhipment and tonnage rates and berthing charges levied or collected by the Board pursuant to the Harbour and Tonnage Rates Act, 1920, as amended by subsequent Acts, and the regulations made thereunder, in so far as such rates and charges apply to that portion of the
- 20 Hunter River to which section 13D of this Act applies;
- 25 (d) all loan moneys appropriated by Parliament for construction of new wharves, for purchase of plant, for the purchase or resumption of land, or for any other service or work to be undertaken by the Board;
- 30 (e) all interest received in respect of the investment of moneys belonging to the Fund;
- (f) all fines and penalties recovered under this Act or the Sydney Harbour Trust Act, 1900, as amended by subsequent Acts, by the Board or any of its officers or employees;
- 35 (g) moneys by this or any other Act authorised or directed to be paid into the Fund or the Sydney Harbour Trust Fund;
- (h) any sums advanced by the Treasurer in pursuance of this Act.

(2)

Maritime Services (Amendment).

(2) There shall be paid into the Consolidated Revenue Fund :—

- 5 (a) all rates, charges, fees and other moneys levied or collected by the Board pursuant to the Navigation Act, 1901, as amended by subsequent Acts, and the regulations made thereunder ;
- 10 (b) all rates, charges, fees and other moneys levied or collected by the Board pursuant to this Act, and the Harbour and Tonnage Rates Act, 1920, and Acts amending the same, and the regulations made under those Acts (other than those rates and charges referred to in paragraph (c) of subsection one of this section) in so far as such rates, charges, fees and other moneys are levied or collected other-
15 wise than in respect of the Port of Sydney and any other area vested in the Board ;
- 20 (c) all moneys payable to the Board such as rents, occupation fees, payments for services rendered, things hired, or work performed by the Board in so far as such moneys are payable otherwise than in respect of the Port of Sydney and any other area vested in the Board.

24D. There shall be paid from the Fund into the Consolidated Revenue Fund :—

- 25 (a) five per centum of the amount of harbour, trans-shipment and tonnage rates and berthing charges collected and paid into the Fund in each financial year by the Board in respect of the area included in Schedule Four ;
- 30 (b) such proportion of the annual expense of works carried out under the Newcastle Harbour Improve-ments Act, 1953, as the Treasurer determines as hereinafter provided. Such proportion shall not exceed one-third ;
- 35 (c) the annual costs of all dredging and other works met from the Consolidated Revenue Fund and carried out in that portion of the Hunter River to which

Payments
from
Fund to
Consoli-
dated
Revenue
Fund.

Maritime Services (Amendment).

5 which section 13D of this Act applies, other than works carried out under the Newcastle Harbour Improvements Act, 1953, necessary for the maintenance or facilitation of navigation or the operation of port facilities in the said portion.

10 In paragraph (b) of this section "annual expense" means the amount arrived at by deducting from the capital debt charges for the year in respect of such works a proportion of the net revenue for such year derived from leases or licenses granted in respect of any lands benefited by such works after allowing for maintenance costs relating to the access to and facilities of such land.

15 For the purposes of paragraph (b) of this section the Treasurer may make such determination as he considers proper in the circumstances and he shall have regard to any work done or facilities or materials provided by the Board during the relevant year benefiting the works referred to.

20 In paragraph (c) of this section "costs" shall be deemed to include such capital debt charges as may be determined by the Treasurer in respect of port facilities, dredging and other works on the said portion which have been provided from moneys from the General Loan Account.

25 24E. (1) The Renewals Fund shall be available only to meet such appropriations as Parliament may make for renewals and reconstruction of wharves, buildings, equipment, plant, or other assets of the Board. All expenditure on any such renewals and reconstruction shall be paid out of money so appropriated.

30 (2) The Board shall in each year prepare a statement showing the amount which it proposes to transfer from the revenue of the Board to the credit of the Renewals Fund.

Such

Maritime Services (Amendment).

5 Such statement, after having been submitted to the Committee of Review appointed under this Act for investigation and report, shall be forwarded together with such report to the Governor, who shall determine the amount to be so transferred, and such amount shall be carried to the Renewals Fund without further appropriation by Parliament than this Act.

There shall also be carried to the Renewals Fund such further amounts as may be appropriated by Parliament.

10 (3) All interest received in respect of the investment of moneys belonging to the Renewals Fund in pursuance of subsection two of section 24i of this Act shall be paid into the Renewals Fund.

15 24F. (1) The sum which the Auditor-General certifies to the Governor to be the net profit of the operations of the Board in any financial year shall be transferred into a Maritime Services Board Reserve Account to be kept in the books of the Board. Reserve Account.

20 (2) The amount at the credit of such Reserve Account shall be available only :—

- (a) to meet any losses incurred in any year by the Board;
- (b) for the reduction of rates and other charges;
- (c) to meet such appropriations as may be made by Parliament.

25 (3) There shall be transferred to such Reserve Account, upon its establishment, any balance remaining in the Sydney Harbour Trust Reserve Account.

30 24G. (1) There shall be a Committee of Review (in this Division referred to as the Committee) which shall exercise and discharge such powers, authorities, duties and functions as may be conferred or imposed upon it by or under this Act. Committee of Review.

(2)

Maritime Services (Amendment).

(2) The Committee shall consist of the Auditor-General, the President of the Maritime Services Board, and the Under Secretary to the Treasury. Each of the members may appoint in writing a representative to act on his behalf.

(3) The Committee shall certify to the Governor, as soon as practicable after the close of each financial year, and at such other times as may be appropriate, the amount by which the loan liability of the Board to the Treasurer should be varied in respect of that financial year having regard to :—

- (a) the moneys appropriated from the General Loan Account and provided for the Board during that financial year;
- (b) any repayment by the Board during that financial year in respect of the loan liability of the Board to the Treasurer;
- (c) such amounts as may be determined by the Governor in respect of adjustments to be made under subsection two of section 13B of this Act and subsection two of section 13I of this Act;
- (d) such other adjustments to the loan liability of the Board as may be determined from time to time by the Treasurer.

24H. The Board shall pay to the Treasurer in respect of its loan liability such amounts for interest, exchange, sinking fund contributions, flotation expenses, discount, loan management expenses and other charges as the Treasurer may from time to time determine, in all respects as if this Act were included in the Schedule to the Capital Debt Charges Act, 1957: Provided that in determining such amounts, the Treasurer shall have regard to such amount of sinking fund payments made by the Commonwealth of Australia in pursuance of the Financial Agreement Ratification Act, 1928, and the Financial Agreement Act, 1944, as relate to the loan liability of the Board to the Treasurer.

Maritime Services (Amendment).

24i. (1) All moneys received on account of the Fund and the Renewals Fund shall be paid into such accounts and at such banks as the Treasurer may in writing direct, and shall be deemed to be accounts of the Government within the meaning of and under the Audit Act, 1902, as amended by subsequent Acts.

Banking
and invest-
ment of
Board's
moneys.

(2) The Board shall have power to withdraw from the Fund or the Renewals Fund any moneys in excess of its immediate requirements. Any moneys so withdrawn shall be invested with the Treasurer at such rate of interest as may be agreed upon or in such other manner as the Treasurer may approve.

24j. (1) The Treasurer may from time to time advance to the Board such sums as the Governor may approve upon such terms and conditions as to repayment and interest as the Governor may direct.

Borrowings
by Board.

(2) Except as provided in this section the Board shall not borrow any moneys.

7. The Maritime Services Act, 1935-1953, is further amended—

Further
amendment
of Act No.
47, 1935.

(a) by inserting next after section thirty the following new sections :—

New secs.
30A, 30B.

30A. (1) Any notice required to be given under any Act, by-law, regulation or rule with the administration of which the Board is charged may be sufficiently served by posting the same duly stamped and addressed to the person to whom such notice is directed at his place of abode or business last known to the Board, or in the manner herein prescribed for service of any summons or process.

Service of
notices
and legal
processes.

(2) Any summons or other process in any legal proceeding under any such Act, by-law, regulation or rule may be sufficiently served by delivering the same—

(a) personally to the person to be served; or

(b)

Maritime Services (Amendment).

(b) at his place of abode or business last known to the Board; or

(c) on board any ship or vessel 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 ship or vessel.

30B. (1) Any officer or employee of the Board may enter and inspect any ship, structure or wharf, or any land or building, in any waters controlled by the Board, or in or adjacent to or in the vicinity of any area vested in or controlled by the Board, for the purpose of ascertaining if any breach of any Act, by-law, regulation or rule, with the administration of which the Board is charged, has been committed, at any time reasonable in the circumstances, and may there make such measurements or tests, take such photographs and remove such specimens or samples of any substance, material or thing as may in the circumstances be reasonable.

(2) Any person who prevents or obstructs the entry of any such officer or employee, or the making by him of such measurements or tests, the taking by him of such photographs or the removal by him of such specimens or samples, shall be liable to a penalty not exceeding one hundred pounds.

(b) by inserting next after section thirty-one the following new section :—

31A. The Board shall be deemed to be the Crown for the purposes of—

(a) the Landlord and Tenant (Amendment) Act, 1948, as amended by subsequent Acts, in respect of the areas vested in the Board pursuant to Division 3A or 3B of Part III of this Act;

(b)

Maritime Services (Amendment).

- (b) the provisions of the Local Government Act, 1919, as amended by subsequent Acts, relating to the definition of land as ratable land;
- 5 (c) the provisions of the Metropolitan Water, Sewerage, and Drainage Act, 1924, the Hunter District Water, Sewerage and Drainage Act, 1938, and any Act amending the same, relating to the exemption of lands from rates.
- 10 Lands vested in the Board shall for the purposes of paragraph (c) of subsection one of section twenty-one of the Broken Hill Proprietary Company Limited (Reclamation and Exchange) Agreement Ratification Act, 1950, be deemed to be Crown land.
- 15 (c) by inserting next after section thirty-seven the following new section : — New sec. 37A.
- 37A. All penalties recovered for offences against this Act or any regulation made under this Act shall be paid to the Board. Application of penalties.
- 20 (d) (i) by inserting in paragraph (b) of subsection one of section thirty-eight after the word "to" the words "any land vested in the Board or"; Sec. 38. (Board may make regulations.)
- (ii) by omitting from paragraph (a) of subsection two of the same section the words "and management" and by inserting in lieu thereof the words "or management";
- 25 (iii) by inserting at the end of the same paragraph the following new paragraph : —
- (ai) the removal of such cargo or goods by the owner thereof from such port, wharf or land, the removal by the Board of any such cargo or goods or any class thereof to any other place vested in or
- 30 controlled

Maritime Services (Amendment).

- 5 controlled by the Board, or the deposit-
ing of the same by the Board in any
bond or store, the imposition in respect
of any cargo or goods or any class
thereof not removed by the owner
thereof from any such port, wharf or
land within any time or times specified
in the regulations of charges either
10 general in application or specifically
applying to particular classes of cargo or
goods, particular wharves or areas or
particular times, and the recovery by
the Board of the costs and expenses
15 incurred in the removal of any such
cargo or goods and in cleansing or
reinstating any wharf or land affected by
such cargo or goods;
- (iv) by inserting in paragraph (b) of the same
subsection after the word "port" the words "and
20 in any inland navigable waters or upon lands
adjacent to such port or waters";
- (v) by inserting in paragraph (c) of the same
subsection after the word "continuance" the
words "in or on any waters or lands vested in
25 or controlled by the Board or in the vicinity
thereof,";
- (vi) by omitting from paragraph (d) of the same
subsection the word "and" wherever occurring
and by inserting in lieu thereof the word "or";
- 30 (vii) by inserting at the end of the same subsection
the following new paragraphs :—
- (l) the payment of fees to assessors engaged
in a court of marine inquiry;
- (m) the keeping and using, by persons
35 concerned with the marking, sorting,
stacking, loading, unloading, delivery
and the handling generally of cargo or
goods

Maritime Services (Amendment).

5 goods in any port or on any wharf or
land vested in or controlled by the Board,
of records and forms relating to such
operations, providing for inspection of
such records and forms by or on behalf
of the Board, providing for the furnish-
ing of such records and forms, or copies
or extracts thereof, for use in any legal
proceedings instituted by the Board or
by its direction;

10
15 (n) prohibiting or regulating on any vessel,
or on any land or in any building vested
in or controlled by the Board, the
carrying on of operations involving risk
of fire, explosion or other damage to
persons or property or any danger to
health, and prohibiting the entry to any
port or place, and in general controlling
the movements, of vessels which for any
reason constitute such a risk or danger;

20
25 (o) the conduct of persons using or being
upon or in any land, wharf, depot, shed,
warehouse or other place vested in or
controlled by the Board, the prevention
of the improper use of the same and of
objectionable or dangerous conduct
thereon or therein, and the prevention
of damage or injury to any such land,
wharf, depot, shed, warehouse or place,
30 or to any goods, cargo, plant, machinery,
vehicles or things, or to other persons,
thereon or therein.

35 (viii) by inserting at the end of subsection three of
the same section the following new para-
graphs :—

(g) make both the owner and the master of
any vessel liable for any breach of any
such regulation committed from or in the
use of such vessel;

Maritime Services (Amendment).

5 (h) provide that any license therein referred to may be issued, or any consent or approval therein referred to may be given, upon any conditions deemed appropriate by the Board, that any such condition may be varied or revoked, and that a breach of any such condition shall constitute a breach of such regulation.

10 (ix) by inserting in subsection four of the same section next after the definition of "inflammable liquid" the following new definition :—

15 "mooring" means the whole of the apparatus used to secure a vessel in any navigable waters for any purpose other than the normal incidents of a voyage, whether or not such apparatus or any part thereof is itself beyond the shores of such waters, and whether or not such apparatus, or any part thereof, is, has been, or is
20 proposed to be used by the same or any other person for any other purpose, and any apparatus or group thereof used to secure more than one vessel shall constitute as many moorings as there are vessels so secured, but does not include
25 the gear or equipment of a vessel by which such vessel is so secured.

(e) by inserting next after section thirty-eight the follow- New secs.
ing new sections :— 39, 40.

30 39. The Board may waive or refund the whole or Waiver or
any part of any rate, toll, due, fee or charge, or any refund of
similar claim or requirement levied, imposed or tolls,
authorised to be demanded or made under any Act, or rates, etc.
by-law, regulation or rule with the administration of
35 which the Board is charged, in any particular case or in any class of case, as it may think appropriate to the circumstances : Provided that any waiver or refund of any single amount in excess of twenty-five pounds payable into the Consolidated Revenue Fund
under

Maritime Services (Amendment).

under subsection two of section 24c of this Act shall only be made or granted with the general or special approval of the Treasurer.

5 40. (1) All actions against the Board or any per- Legal pro-
son for anything done or omitted or purporting to ceedings
have been done or omitted, under the provisions of against
any Act, by-law, regulation or rule with the adminis- Board.
tration of which the Board is charged, shall be
10 commenced within the period of twelve months next
after the act or omission complained of was com-
mitted or occurred : Such period is in this subsection
referred to as "the prescribed period" :

15 Provided that where an application is made to a
judge of the Supreme Court in accordance with rules
of court for an extension of the prescribed period,
the judge may, if he is satisfied that sufficient cause
has been shown, or that having regard to all the
circumstances of the case, it would be reasonable so
20 to do, make an order for extension of the prescribed
period for such further period and subject to such
terms and conditions (if any) as may be set out in
the order.

25 Such application for extension may be made either
within the prescribed period or at any time within
twelve months thereafter.

30 Any person who is dissatisfied with the decision
of the judge on any such application may appeal to
the Supreme Court and that court may on the appeal
make any order which ought to have been made in
the first instance.

35 Every such appeal shall be made in accordance
with rules of court.

(2) In the case of injury to a person, any
legally 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

Maritime Services (Amendment).

ascertain fully the nature and extent of the injury, and any loss or expenses arising or likely to arise therefrom, shall be given to him.

5 (3) In the case of damage to property, any person who produces on demand his authority from the Board shall be permitted to inspect and survey the property damaged, and all facilities and information necessary to enable him to ascertain fully the value of the property, the nature, extent, source and cause of the damage, and the amount, if any, 10 expended in repairing or salvaging the same and any loss or expenses arising or likely to arise from the damage, shall be given to him.

15 (4) No action shall be commenced against the Board or any person for anything done or omitted, or purporting to have been done or omitted, by it or him under the provisions of any Act, by-law, regulation or rule with the administration of which the Board is charged, until one month, 20 at least, after a notice in writing of such intended action has been delivered to or left at—

- (a) in the case of any intended action against the Board or any one or more of the Commissioners thereof—the office of the Board;
- 25 (b) in the case of an intended action against any other person—his usual place of abode;

by the party intending to commence such action or by his attorney or agent.

30 (5) Such notice shall state clearly and explicitly the cause of action and the court in which the same is intended to be brought, and upon the back thereof shall be endorsed the name and usual place of abode of the party intending to sue, and also the name and usual place of abode or of 35 business of the attorney or agent, if such notice was served by such attorney or agent.

(6)

Maritime Services (Amendment).

(6) A notice under this section shall not be deemed invalid by reason of any defect or inaccuracy therein, unless the judge before whom the action is tried is of opinion that the defendant in the action has been prejudiced in his defence by such defect or inaccuracy.

(7) The defendant in any such action may plead the general issue, and at the trial thereof give this Act and the special matter in evidence.

(8) The plaintiff shall not recover in any such action if tender of sufficient amends has been made before such action was brought, or if a sufficient sum of money has been paid into court after the commencement of such action by or on behalf of the defendant.

(9) If the matter or thing complained of appears to have been done or omitted under the authority and in the execution of any Act, by-law, regulation or rule with the administration of which the Board is charged, or if any such action is brought after the time limited for bringing the same, or if any such notice has not been given as aforesaid, the jury shall find or judgment shall be given for the defendant.

25 8. The Navigation Act, 1901-1954, is amended—

(a) by omitting section nineteen;

Amendment
of Act No.
60, 1901.

Sec. 19.
(Fees to
assessors.)

(b) by omitting sections ninety to ninety-four inclusive.

Part VI,
Division 2.
(Examina-
tions and
certificates
of marine
surveyors.)

(c) by inserting at the end of section one hundred and forty-one the following new subsection :—

Sec. 141.
(Unautho-
rised works
on navigable
waters pro-
hibited.)

(4) This section shall not apply to waters the bed of which is vested in the Board.

(d)

Maritime Services (Amendment).

- (d) by inserting at the end of section one hundred and forty-two the following new subsection :—
 (3) This section shall not apply to waters the bed of which is vested in the Board.
- 5 (e) by omitting section one hundred and forty-three;
- (f) by omitting section one hundred and fifty-four;
- (g) by omitting section one hundred and sixty.
9. (1) The Sydney Harbour Trust Act, 1900-1953, is amended—
- 10 (a) by omitting sections twenty-one to twenty-six inclusive;
- (b) by omitting sections thirty and 30A;
- (c) by omitting section fifty-seven;
- (d) by omitting sections sixty-four and sixty-five;
- 15 (e) by inserting at the commencement of Part V immediately before section seventy-three the following new section :—
- 20 72A. As from the date of the establishment in the Treasury of the Maritime Services Board Fund and the Maritime Services Board Renewals Fund, any provisions of this Part of this Act inconsistent with Division 5 of Part III of the Maritime Services Act, 1935, as amended by subsequent Acts, shall cease to apply to the operations of the Board.

Sec. 142.

(Authorised works on navigable waters.)

Sec. 143.

(Vessel sunk or stranded to be removed.)

Sec. 154.

(Leasing of public wharfs.)

Sec. 160.

(Service of summons, etc., when good.)

Amendment of Act No. 1, 1901.

Part II.

(Officers.)

Secs. 30, 30A.

(Reclamation.)

Sec. 57.

(Power to remove wrecks.)

Secs. 64, 65. (Repeal.)

New sec. 72A.

Inconsistency with Maritime Services Act.

(f)

Maritime Services (Amendment).

- (f) by omitting section ninety-seven. Sec. 97.
(Service of
summons,
etc.)
- (2) (a) The Sydney Harbour Trust (Amendment) Act, 1930, is amended by omitting paragraph (a) of subsection one of section three. Amendment
of Act No.
32, 1930.
Sec. 3.
(Consequen-
tial.)
- 5 (b) The Sydney Harbour Trust (Amendment) Act, 1931, is amended by omitting paragraph (b) of section two. Amendment
of Act No.
69, 1931.
Sec. 2.
(Consequen-
tial.)
- (c) The Maritime Services (Amendment) Act, 1953, is amended by omitting paragraphs (b) and (c) of 10 section three. Amendment
of Act No.
18, 1953.
Sec. 3.
(Consequen-
tial.)
10. The Harbour and Tonnage Rates Act, 1920-1953, is amended— Amendment
of Act No.
12, 1920.
- (a) by inserting in section four in the definition of 15 “Public wharf” after the word “Crown” the words “or any Minister of the Crown or the Board”; Sec. 4.
(Interpre-
tation.)
- (b) (i) by omitting from subsection one of section six 20 the words “for the use of His Majesty, and to form part of the Consolidated Revenue Fund,”; Sec. 6.
(Harbour
rates to be
levied.)
- (ii) by inserting next after subsection three of the 25 same section the following new subsection :—
- (3A) The inward and outward harbour rates and transhipment rates herein provided for may be fixed generally for all ports concerned, or special rates may be fixed for a particular port or ports, or for a particular area or areas within any port or ports, or for particular times or other particular circumstances in all ports or in particular ports or particular areas therein.
- (c)

Maritime Services (Amendment).

- (c) by omitting from section nine the words "for the use of His Majesty, and to form part of the Consolidated Revenue Fund,"; Sec. 9.
(Levy of tonnage rates.)
- 5 (d) by inserting next after section eleven the following new sections :— New secs.
11A, 11B,
11C.
- 10 11A. The tonnage rates and berthing charges prescribed and imposed pursuant to sections nine and ten of this Act may be expressed to apply generally in all ports concerned, or special rates or charges may be fixed for a particular port or ports, or for a particular area or wharf or particular areas or wharves within any port or ports, or for particular times or other particular circumstances in all ports or in particular ports or at or in particular areas or wharves. Differential tonnage rates and berthing charges.
- 15 11B. All harbour rates, tonnage rates and berthing charges shall be paid to the Board and shall be applied as provided for by the Maritime Services Act, 1935, as amended by subsequent Acts. Rates and charges payable to Board.
- 20 11C. The Board, in partial or full consideration of such rent, payment or other benefit as it deems appropriate to the circumstances, may by express agreement exempt all vessels, or any particular vessel or vessels or class or classes thereof, from tonnage rates or berthing charges in respect of the berthing of such vessels or vessel at any wharf vested in it. Exemptions from tonnage rates or berthing charges.
- 25 (e) by inserting next after subsection one of section eighteen the following new subsection :— Sec. 18.
(Power to make regulations.)
- 30 (1A) Any such regulations may be of general or specially limited application according to time, place or circumstance, and may be general or restricted to any specified class of subject matter.
- 35 **11.** The Rivers and Foreshores Improvement Act, 1948-1955, is amended by omitting from section three the words "in the port of Sydney by the Constructing Authority" and by inserting in lieu thereof the words "by the Constructing Authority in any area vested in the Maritime Services Board of New South Wales". Amendment of Act No. 20, 1948.
Sec. 3.
(Works within areas vested in Maritime Services Board.)

No. , 1960.

A BILL

To extend the jurisdiction of the Maritime Services Board of New South Wales; to reconstitute the said Board; for these and other purposes to amend the Sydney Harbour Trust Act, 1900–1953, the Navigation Act, 1901–1954, the Maritime Services Act, 1935–1953, the Harbour and Tonnage Rates Act, 1920–1953, the Rivers and Foreshores Improvement Act, 1948–1955, and certain other Acts in certain respects; and for purposes connected therewith.

[Mr. RENSHAW;—18 *October*, 1960.]

Maritime Services (Amendment).

BE it enacted by the Queen'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 :—

1. (1) This Act may be cited as the "Maritime Services (Amendment) Act, 1960".

Short title
and
citation.

(2) The Maritime Services Act, 1935, as amended by subsequent Acts and by this Act, may be cited as the Maritime Services Act, 1935-1960.

(3) The Navigation Act, 1901, as amended by subsequent Acts and by this Act, may be cited as the Navigation Act, 1901-1960.

(4) The Sydney Harbour Trust Act, 1900, as amended by subsequent Acts and by this Act, may be cited as the Sydney Harbour Trust Act, 1900-1960.

(5) The Harbour and Tonnage Rates Act, 1920, as amended by subsequent Acts and by this Act, may be cited as the Harbour and Tonnage Rates Act, 1920-1960.

(6) The Rivers and Foreshores Improvement Act, 1948, as amended by subsequent Acts and by this Act, may be cited as the Rivers and Foreshores Improvement Act, 1948-1960.

2. The Maritime Services Act, 1935-1953, is amended—

Amendment
of Act No.
47, 1935.

(a) (i) by inserting in subsection one of section two after the definition of "Commissioner" the following new definitions :—

Sec. 2.
(Interpre-
tation.)

"Goods" includes wares, merchandise, articles and substances of whatsoever description.

"Harbour master" includes any person acting in the capacity of harbour master.

"Installation"

Maritime Services (Amendment).

5 “Installation” includes any fixed, floating or
movable structure for the berthing, dock-
ing, slipping, or repairing of vessels, or
the handling of passengers, cargo,
10 supplies or fuel, any pipe-line, conveyor
or loading or unloading apparatus, and
anything whatsoever erected, constructed,
moored or stationed in, on, or in the
vicinity of any port or navigable waters
15 by the Board or by any person for the
purpose of conducting, facilitating or
regulating in any way the operation of
such port or the use of such waters.

15 “Master” includes every person having law-
fully, or de facto, the command, charge,
or management of a vessel for the time
being.

20 “Owner” includes any person exercising or
discharging, or claiming the right or
accepting the obligation to exercise or
discharge, any of the powers or duties
of an owner, whether on his own behalf
or on behalf of another.

25 (ii) by inserting in the same subsection after the
definition of “President” the following new
definitions : —

 “Shore” means shore so far as the tide flows
and reflows, between high and low
water-marks.

30 “Vessel” means any ship, lighter, barge, boat,
raft, craft and any floating object or
apparatus used wholly or in part for
the conveyance of persons or things by
water, of whatsoever description and
35 howsoever navigated, and includes
amphibious vehicles, seaplanes, hydro-
planes, sunken or stranded vessels and
the wreck or remains of any vessel.

(b)

Maritime Services (Amendment).

(b) by inserting next after the same section the following new section :— New sec.
2A.

2A. Where the provisions of this Act are inconsistent with the provisions of any other Act with the administration of which the Board is charged the provisions of this Act shall prevail. Construc-
tion.

3. (1) Upon a day to be appointed by the Governor and notified by proclamation published in the Gazette (which day is in this section referred to as the "appointed day"), the Maritime Services Board of New South Wales shall be reconstituted and shall consist of seven members who shall be appointed in accordance with section three of the Maritime Services Act, 1935-1953, as amended by this section. Reconstitu-
tion of
Maritime
Services
Board.

(2) As from the appointed day the persons who immediately before the appointed day held office as commissioners of the Maritime Services Board of New South Wales shall, subject to the Maritime Services Act, 1935, as amended by subsequent Acts, continue to hold office as such commissioners for the remainder of the unexpired term for which they were appointed and shall be eligible for reappointment.

(3) Nothing contained in this section shall prejudice or affect the continuity of the body corporate constituted under subsection two of section three of the Maritime Services Act, 1935, as amended by subsequent Acts, but the same shall continue notwithstanding the provisions of this section.

(4) (a) For the purposes only of the appointment of the additional commissioners of the Maritime Services Board of New South Wales, and of any matters necessary for or incidental to such appointment the provisions of subsection five of this section shall commence on the day upon which the assent of Her Majesty to this Act is signified.

(b) The persons so appointed shall assume their offices as commissioners of the Maritime Services Board of New South Wales upon the appointed day, and on that day the provisions of subsection five of this section shall come into force for all purposes.

(5)

Maritime Services (Amendment).

(5) The Maritime Services Act, 1935-1953, is further amended—

Further
amendment
of Act No.
47, 1935.

(a) by omitting from paragraph (a) of subsection one of section three the word "five" and by inserting in lieu thereof the word "seven";

Sec. 3.
(Constitu-
tion of
Board.)

(b) by omitting paragraph (b) of the same subsection and by inserting in lieu thereof the following paragraph :—

(b) Of the commissioners so to be appointed :—

(i) three shall be nominated by the Minister, one of whom shall be identified with the interests of the Port of Newcastle, and two of whom shall be identified with such interests concerned with the administration of this Act as the Minister may think advisable;

(ii) one shall be the Permanent Head of the Department of Public Works.

The commissioners nominated under subparagraph (i) of this paragraph are in this Act referred to as "nominated commissioners".

The provisions of subsections seven, eight, nine, ten, eleven and twelve of this section shall not apply to or in respect of the Permanent Head of the Department of Public Works.

(c) by inserting at the end of paragraph (a) of subsection three of the same section the following new paragraph :—

This paragraph shall not extend to or in respect of the Permanent Head of the Department of Public Works.

(d) (i) by inserting in paragraph (a) of subsection four of the same section after the words "nominated commissioners" the words "and the Permanent Head of the Department of Public Works";

(ii) by omitting paragraph (b) of the same subsection;

(iii)

Maritime Services (Amendment).

(iii) by inserting at the end of paragraph (c) of the same subsection the following new paragraph :—

5 The provisions of this subsection shall apply, mutatis mutandis, to and in respect of the Permanent Head of the Department of Public Works and the Permanent Head of the Department of Public Works shall, notwithstanding the provisions of any Act or of any rule
10 or regulation made under any Act, be entitled to receive remuneration and expenses under this section in addition to any remuneration to which he is otherwise entitled.

4. The Maritime Services Act, 1935-1953, is further
15 amended— Further amendment of Act No. 47, 1935.

(a) by inserting in subsection three of section one after Sec. 1. the matter relating to Division 3 of Part III the (Division into Parts.) following new matter :—

20 DIVISION 3A.—*Port of Newcastle.*
DIVISION 3B.—*Port of Botany Bay.*
DIVISION 3C.—*Additional powers of Board.*

(b) by inserting next after section thirteen the following New Divisions 3A, 3B, 3C.
new Divisions :—

25 DIVISION 3A.—*Port of Newcastle.*
13A. Upon a date to be appointed by the Governor Vesting of Port of Newcastle in Board. and notified by proclamation published in the Gazette, there shall be vested in the Board the lands included in Parts 1, 2, and 3 of Schedule Three to this Act which immediately before the appointed day
30 were vested in the Crown or any Minister of the Crown or the Commissioner for Railways.

Nothing

Maritime Services (Amendment).

Nothing in this section shall apply to :—

(a) structures, cranes and fixed apparatus owned by the Grain Elevators Board of New South Wales erected on such lands; or

(b) wharves, structures, cranes and fixed apparatus owned or operated by the New South Wales Government Engineering and Ship Building Undertaking or owned or operated by the Minister for Public Works for the purposes of the construction and maintenance of harbour works or for the conduct and maintenance of the said Minister's dredging fleet.

13B. (1) The Board and any Minister of the Crown or the Commissioner for Railways shall arrange and agree upon :—

Transfer of works and operations in the Port of Newcastle.

(a) the vesting in the Board of land, other than land to which section 13A of this Act applies, vested in or controlled by such Minister or Commissioner, as the case may be, which may be found necessary for the conduct of the Port of Newcastle, and the removing from the Board of land which before its vesting in the Board was vested in or controlled by such Minister or Commissioner, as the case may be, and which may be found unnecessary for the conduct of the Port of Newcastle;

(b) the transfer to the Board of such vessels, floating and movable plant, vehicles, mobile cranes, machinery, apparatus and things used on or in connection with the Port of Newcastle, or wharves, structures, cranes and fixed apparatus referred to in paragraph (b) of section 13A of this Act, as may be agreed to be appropriate, and the severance and removal by such Minister or Commissioner, as the case may be, from the lands vested in the

Maritime Services (Amendment).

the Board for the conduct of the Port of Newcastle of such fixed plant, apparatus and installations as may be agreed to be appropriate;

- 5 (c) the delivery to or by the Board, the Minister or the Commissioner for Railways, as the case may require, of such books, documents, records or papers relating to or concerning
10 any lands vested in or removed from the Board and works and operations carried out thereon, or anything the subject of any transfer or severance and removal pursuant to paragraph (b) of this subsection, as may be agreed to be appropriate; and
- 15 (d) the transfer to the service of the Board of such officers or employees of the Department concerned in any such arrangement and agreement as may be agreed to be appropriate and the adjustment of liability for the future
20 rights of the officers so transferred in respect of their antecedent service.

(2) (a) A Joint Committee constituted as hereinafter provided shall recommend to the Governor a basis for the determination of—

- 25 (i) any dispute arising under or in connection with subsection one of this section between the Board and the Minister of the Crown concerned in such dispute or the Commissioner for Railways;
- 30 (ii) the financial adjustment of all matters arising out of the vestings, transfers, assignments and other dealings and matters referred to in section 13A of this Act and this section in respect of which such Joint
35 Committee is constituted, including the loan liability of the Board to the Treasurer, and

matters

Maritime Services (Amendment).

matters which appear to it to be equitable should be adjusted by virtue of the operation of section 13C of this Act.

5 (b) A Joint Committee shall consist of five members, namely a chairman who shall be from time to time appointed by the Treasurer and who shall convene and preside at all meetings, two members who shall be from time to time appointed by the Board to represent the Board, and two
10 members who shall be from time to time appointed by the Minister, who is concerned in the matters in respect of which such Joint Committee is constituted, or by the Commissioner for Railways, as the case may require, to represent him.

15 (c) Any determination made by the Governor in pursuance of paragraph (a) of this subsection shall be final and binding on the Board and the Minister so concerned, or the Commissioner for Railways, as the case may require, and shall have
20 the like force and effect as if such determination had been embodied in any arrangement and agreement entered into pursuant to this section.

(3) (a) Any lands in respect of which an arrangement and agreement for their removal has
25 been entered into pursuant to subsection one of this section and any fixed plant, apparatus and installations in respect of which any such arrangement and agreement for their severance and removal has been so entered into shall vest in or be
30 transferred to such person as may be specified in such arrangement and agreement as from a date to be specified therein.

(b) Any lands in respect of which an arrangement and agreement for their vesting in the
35 Board has been entered into pursuant to subsection one of this section and any vessels, floating and movable plant, vehicles, mobile cranes, machinery,

apparatus

Maritime Services (Amendment).

apparatus and things, or wharves, structures, cranes and fixed apparatus referred to in paragraph (b) of section 13A of this Act, in respect of which any such arrangement and agreement for their transfer to the Board has been so entered into shall vest in or be transferred to the Board as from a date to be specified in such arrangement and agreement.

(4) Sufficient records of all arrangements and agreements and determinations made pursuant to this section shall be filed in the offices of the Treasury, the Board and the Minister concerned or the Commissioner for Railways, as the case may require, and the production by the Board or such Minister or the Commissioner for Railways of a document purporting to be the record of any such arrangement and agreement or determination shall be sufficient evidence in any proceedings of the matters contained therein.

13C. As on and from the date upon which any land or personal property vests in the Board pursuant to section 13A or 13B of this Act the following provisions shall have effect : —

(a) All moneys, liquidated and unliquidated claims which, immediately before such date are payable to or recoverable by the Crown or any Minister of the Crown or the Commissioner for Railways in relation to or in connection with any such land or personal property, shall respectively be moneys, liquidated and unliquidated claims payable to or recoverable by the Board.

(b) All suits, actions and proceedings pending immediately before such date at the suit of the Crown or any Minister of the Crown or the Commissioner for Railways in relation to or in connection with any such land or

personal

Maritime Services (Amendment).

personal property shall respectively be suits, actions and proceedings pending at the suit of the Board.

5 (c) All contracts, agreements and undertakings entered into with and all securities lawfully given to or by the Crown or any Minister of the Crown or the Commissioner for Railways in relation to or in connection with any such land or personal property and in force
10 immediately before such date shall respectively be deemed to be contracts, agreements and undertakings entered into with and securities given to or by the Board.

15 (d) The Board may pursue the same remedies for the recovery of any such moneys and claims, and for the prosecution of such suits, actions and proceedings, as the Crown or any Minister of the Crown or the Commissioner for Railways might respectively have done but
20 for this Division of this Part of this Act.

(e) The Board may enforce and realise any security or charge existing immediately before such date in favour of the Crown or any Minister of the Crown or the Commissioner for Railways in respect of any such moneys and claims as if such security or charge were
25 existing in favour of the Board.

(f) All debts due and moneys payable by the Crown or any Minister of the Crown or the Commissioner for Railways relating to any such land or personal property and all claims, liquidated or unliquidated, recoverable against the Crown or any Minister of the Crown or the Commissioner for Railways relating to any such land or personal property shall respectively be debts due and moneys payable by and claims recoverable against
30 the Board.
35

(g)

Maritime Services (Amendment).

(g) No attornment by a lessee of any land vested in the Board by section 13A or 13B of this Act shall be necessary.

5 13D. (1) This section shall commence upon the date appointed by the Governor under section 13A of this Act.

Control of construction of certain works in Hunter River.

10 (2) In that part of the bed and shores of the Hunter River including the channels and bays thereof extending upstream from the area included in Part 1 of Schedule Three to this Act to a line extending due west across the Hunter River from the point where the left bank of the Williams River meets the left bank of the Hunter River, no person shall without the consent of the Board—

15 (a) construct or authorise the construction of any embankment, retaining wall, reclamation, wharf, dock, pier, jetty, landing stage, mooring apparatus, slip or platform; or

(b) carry out any dredging operations.

20 (3) This section shall bind the Crown but shall not apply to works or dredging undertaken or authorised by the Crown under the Newcastle Harbour Improvements Act, 1953, the Broken Hill Proprietary Company Limited (Reclamation and Exchange) Agreement Ratification Act, 1950, or the
25 Broken Hill Proprietary Company Limited (Steelworks) Agreement Ratification Act, 1950, or otherwise undertaken by the Crown for the purpose of flood control in the Hunter River.

30 (4) For the purposes of section 13r of this Act, any work carried out in contravention of paragraph (a) of subsection two of this section shall be deemed to have been carried out on land vested in the Board.

13E.

Maritime Services (Amendment).

5 13E. The Minister for Public Works in the exercise of his powers or authorities under the Newcastle Harbour Improvements Act, 1953, and the Hunter Valley Flood Mitigation Act, 1956, shall in respect of any works to be carried out upon lands vested in the Board do so at such times and in such manner as may be agreed upon between the Minister for Public Works and the Board.

Carrying out of certain works by Minister for Public Works.

10 13F. In the exercise of the powers provided for in section 13N of this Act in so far as the Port of Newcastle and the Hunter River are concerned it shall be incumbent upon the Board at all times :—

Obligations of Board in exercise of certain powers.

15 (a) to have regard to the likely effect of its proposals upon the river control and flood problems of the Hunter River;

(b) to inform the Minister for Public Works of any proposed works likely to affect the river control and flood problems of such river; and

20 (c) to consider all objections to such works which may be raised by the Minister for Public Works, and inform such Minister of the Board's decision before proceeding with any construction work involved.

25 13G. If the Board and the Minister for Public Works are unable to agree upon any question or matter arising under or in connection with section 13E or 13F of this Act, the question or matter shall be referred to a Joint Committee and shall be determined by the Treasurer in accordance with the provisions of subsection two of section 13B of this Act. The provisions of the said subsection applicable to the constitution of Joint Committees shall apply, mutatis mutandis, to the constitution of a Joint Committee under this section.

Disagreements under secs. 13E, 13F.

DIVISION

*Maritime Services (Amendment).*DIVISION 3B.—*Port of Botany Bay.*

13H. Upon a date to be appointed by the Governor and notified by proclamation published in the Gazette, there shall be vested in the Board the lands included in Schedule Four to this Act which immediately before the appointed day were vested in the Crown or any Minister of the Crown.

Vesting of
Port of
Botany Bay
in Board.

13I. (1) The Board and any Minister of the Crown shall arrange and agree upon : —

Transfer of
works and
operations
in the Port
of Botany
Bay.

(a) the vesting in the Board of land, other than land to which section 13H of this Act applies, vested in or controlled by such Minister which may be found necessary for the conduct of the Port of Botany Bay, and the removing from the Board of land which before its vesting in the Board was vested in or controlled by such Minister and which may be found unnecessary for the conduct of the Port of Botany Bay;

(b) the transfer to the Board of such vessels, floating and movable plant, vehicles, mobile cranes, machinery, apparatus and things used on or in connection with the Port of Botany Bay as may be agreed to be appropriate, and the severance and removal by such Minister from the lands vested in the Board for the conduct of the Port of Botany Bay of such fixed plant, apparatus and installations as may be agreed to be appropriate;

(c) the delivery to or by the Board or the Minister of such books, documents, records or papers relating to or concerning any lands vested in or removed from the Board and works and operations carried out thereon, or anything the subject of any transfer or severance and removal pursuant to paragraph (b) of this subsection, as may be agreed to be appropriate; and

(d)

Maritime Services (Amendment).

5 (d) the transfer to the service of the Board of such officers or employees of the Department concerned in any such arrangement and agreement as may be agreed to be appropriate and the adjustment of liability for the future rights of the officers so transferred in respect of their antecedent service.

10 (2) (a) A Joint Committee constituted as hereinafter provided shall recommend to the Governor a basis for the determination of—

(i) any dispute arising under or in connection with subsection one of this section between the Board and the Minister of the Crown concerned in such dispute;

15 (ii) the financial adjustment of all matters arising out of the vestings, transfers, assignments and other dealings and matters referred to in section 13H of this Act and this section in respect of which such Joint Committee is
20 constituted, including the loan liability of the Board to the Treasurer, and matters which appear to it to be equitable should be adjusted by virtue of the operation of section 13J of this Act.

25 The loan liability of the Board to the Treasurer shall not include any capital liability in respect of loan expenditure incurred in the area included in Schedule Four to this Act before the first day of July, one thousand nine hundred and fifty-four.

30 (b) A Joint Committee shall consist of five members, namely a chairman who shall be from time to time appointed by the Treasurer and who shall convene and preside at all meetings, two mem-
35 bers who shall be from time to time appointed by the Board to represent the Board, and two members who shall be from time to time appointed by the

Minister,

Maritime Services (Amendment).

Minister, who is concerned in the matters in respect of which such Joint Committee is constituted, to represent him.

5 (c) Any determination made by the
Governor in pursuance of paragraph (a) of this
subsection shall be final and binding on the Board
and the Minister so concerned and shall have the
like force and effect as if such determination had
10 been embodied in any arrangement and agreement
entered into pursuant to this section.

15 (3) (a) Any lands in respect of which an
arrangement and agreement for their removal has
been entered into pursuant to subsection one of this
section and any fixed plant, apparatus and installa-
tions in respect of which any such arrangement and
agreement for their severance and removal has been
so entered into shall vest in or be transferred to such
person as may be specified in such arrangement and
agreement as from a date to be specified therein.

20 (b) Any lands in respect of which an
arrangement and agreement for their vesting has
been entered into pursuant to subsection one of this
section and any vessels, floating and movable plant,
25 vehicles, mobile cranes, machinery, apparatus and
things in respect of which any such arrangement and
agreement for their transfer to the Board has been
so entered into shall vest in or be transferred to the
Board from a date to be specified in such arrange-
ment and agreement.

30 (4) Sufficient records of all arrangements
and agreements and determinations made pursuant
to this section shall be filed in the offices of the
Treasury, the Board and the Minister concerned and
the production by the Board or such Minister of a
35 document purporting to be the record of any such
arrangement and agreement or determination shall
be sufficient evidence in any proceedings of the
matters contained therein.

Maritime Services (Amendment).

13J. As on and from the date upon which any Rights,
land or personal property vests in the Board pursuant liabilities,
to section 13H or 13I of this Act the following pro- etc.
visions shall have effect : —

- 5 (a) All moneys, liquidated and unliquidated
claims, which, immediately before such date
are payable to or recoverable by the Crown
or any Minister of the Crown in relation to
10 or in connection with any such land or per-
sonal property, shall respectively be moneys,
liquidated and unliquidated claims payable to
or recoverable by the Board.
- 15 (b) All suits, actions and proceedings pending
immediately before such date at the suit of the
Crown or any Minister of the Crown in rela-
tion to or in connection with any such land
or personal property shall respectively be
suits, actions and proceedings pending at the
suit of the Board.
- 20 (c) All contracts, agreements and undertakings
entered into with and all securities lawfully
given to or by the Crown or any Minister of
the Crown in relation to or in connection with
25 any such land or personal property and in
force immediately before such date shall
respectively be deemed to be contracts, agree-
ments and undertakings entered into with,
and securities given to or by the Board.
- 30 (d) The Board may pursue the same remedies for
the recovery of such moneys and claims, and
for the prosecution of such suits, actions and
proceedings as the Crown or any Minister
of the Crown might respectively have done
but for this Division of this Part of this Act.
- 35 (e) The Board may enforce and realise any
security or charge existing immediately before
such date in favour of the Crown or any

Minister

Maritime Services (Amendment).

Minister of the Crown in respect of any such moneys and claims as if such security or charge were existing in favour of the Board.

- 5 (f) All debts due and moneys payable by the Crown or any Minister of the Crown relating to any such land or personal property and all claims, liquidated or unliquidated, recoverable against the Crown or any Minister of the Crown relating to any such land or personal property shall respectively be debts due and moneys payable by and claims recoverable against the Board.
- 10
- 15 (g) No attornment by a lessee of any land vested in the Board by section 13H or 13I of this Act shall be necessary.

DIVISION 3C.—Additional powers of Board.

- 20 13k. (1) The Governor may at any time vest in the Board any lands the property of the Crown deemed to be necessary for the purpose of carrying out the provisions of this Act.

In this subsection "lands" shall not include lands referred to in section 13A or 13H of this Act.

General vesting of lands.
cf. Act No. 1, 1901, ss. 27, 28.

- 25 (2) The Governor may remove from the Board such lands as shall be found unnecessary for the purpose of carrying out the provisions of this Act.

- 30 (3) Upon the publication in the Gazette of a proclamation withdrawing any lands from the Board under the provisions of subsection two of this section, the lands so described shall vest in such person as the Governor may by the same or any other proclamation direct.

- 35 In this subsection "person" shall be deemed to include the Crown, or any person or corporation entitled to hold any land on behalf of the Crown.

13L.

Maritime Services (Amendment).

5 13L. (1) The Board may grant leases or licenses in respect of any land, the whole or any part of any wharf, dock, pier, jetty, landing stage, mooring apparatus, slip, platform, depot, shed, warehouse or building of any description, vested in it or under its control or management otherwise than by virtue of section seven of this Act, upon such rent or fee reserved and such conditions as it may deem appropriate.

Granting of
leases and
licenses.

10 (2) The term of any lease or license so granted shall not exceed ninety-nine years.

15 13M. (1) The Board may upon any land vested in it construct and enclose any embankment, retaining wall, reclamation, wharf, dock, pier, jetty, landing stage, mooring apparatus, slip, platform, or other structure or apparatus, or remove, alter, or repair the same.

Construction
of works and
provision of
services.
cf. Act
No. 1,
1901, s. 46.

20 (2) The Board may authorise the construction of any shed, warehouse, building of any description, embankment, retaining wall, reclamation, wharf, dock, pier, jetty, landing stage, slip, platform, tramway, railway, hoisting crane, shears, engine, or other structure or apparatus on any land subject to any lease or license granted by it.

25 (3) The Board may upon any land vested in it—

30 (a) construct, erect, remove, alter or repair such depots, sheds and warehouses for the reception of goods, such other buildings of any description, and such tramways, railways, engines, cranes, hoisting and weighing machines, and other apparatus for facilitating the loading and discharging or the masting or unmasting of vessels or the testing of chains and anchors; and

35 (b) provide such other conveniences,

as

Maritime Services (Amendment).

as it may think expedient for the efficient use of such land, or for the proper administration of its functions.

5 The Board may operate any such depots, sheds, warehouses, buildings, tramways, railways, engines, cranes, hoisting and weighing machines, and other apparatus and conveniences for the loading, unloading, transporting or storage of goods or otherwise on such conditions and for such fees as it deems appropriate, or may make such charges as it deems
10 reasonable for the use thereof and for the services of any persons engaged in the conduct and operation thereof.

13N. (1) The Board may, for the purpose of
15 maintaining and improving the navigation of the rivers and channels within, or leading into, the areas
vested in it, dredge, cleanse, and scour the said rivers and channels and alter, deepen, cleanse, scour, cut,
20 enlarge and otherwise alter and improve the bed of the said rivers and channels.

Improve-
ment of
navigable
waters.
cf. Act No.
1, 1901,
s. 47.

25 The Board may reduce or remove any banks or shoals whatsoever within the said rivers and channels; and may abate and remove all impediments, obstructions, and annoyances, and all nuisances and abuses whatsoever in the said rivers and channels, or on the banks and shores thereof :

30 Provided that no work shall be carried out pursuant to this subsection in any area which is not vested in the Board without the prior consent and approval of all proper authorities having jurisdiction or control over such area.

(2) The Board may remove, scour, and take away any shoal, mud-bank or other accumulation which impedes the navigation of any area vested in

it

Maritime Services (Amendment).

it and may shorten any bend or remove any angle in the course of the rivers and channels within any such area.

5 (3) The Board may cut the banks of the rivers within any area vested in it for the purpose of making, enlarging, or repairing any dock, canal, drain, sewer, or watercourse, or altering, laying down, or repairing any suction or other pipe, or for any other purpose whatsoever, and may
10 authorise any person to cut the banks for any of the purposes aforesaid, under such restrictions and upon such terms and conditions as the Board may deem appropriate.

15 (4) The Board may within any such area place and lay down or take up such buoys and beacons and construct and erect such marker piles, channel markers, leading marks, shoal or reef marks and such other apparatus as may be necessary and
20 convenient for navigation or for the protection of vessels or installations.

25 13o. The Board may enter into contracts with any person or with the Crown for the execution of any work or the provision of any services authorised by this Act to be done or provided by it or for furnish-
ing materials or labour, or for providing proper engines or other power, or for any other matters and things whatsoever necessary for enabling it to carry
30 the purposes of this Act into full and complete effect, in such manner, and upon such terms, and for such sum of money, and under such stipulations, regula-
tions, and restrictions as the Board may deem appropriate :

35 Provided that, in the carrying out of any construction, property maintenance and dredging work in the Port of Newcastle, the Board shall have regard to the availability of services, equipment and plant controlled and operated by the Minister for Public Works

Power to make contracts for works to be carried out.
cf. Act No. 1, 1901, s. 48.

Maritime Services (Amendment).

Works and with the agreement of the said Minister shall use such services, equipment and plant where it is available.

5 13P. The powers hereby granted to the Board to ^{Method of} make contracts may lawfully be exercised as follows ^{contracting.} (that is to say):—

10 With respect to any contract which if made between private persons would be by law required to be in writing and under seal, the Board may make such contract in writing in the corporate name of the Board under its common seal, and in the same manner may vary or discharge the same.

15 With respect to any contract which if made between private persons would be by law required to be in writing and signed by the parties to be charged therewith, the Board may make such contract in writing in the corporate name of the Board signed by the secretary and by any two of the commis-
20 sioners, and in the same manner may vary or discharge the same.

25 13Q. The Board may make such provision as it ^{Provision of} deems necessary upon any land vested in it for the ^{roadways} construction and maintenance of roads and ^{and} approaches to any installation and the adequate ^{lighting.} lighting of such installation, roads and approaches.

30 13R. The Board may appoint or may arrange for the provision of such persons as it deems necessary ^{Patrol-} from time to time to preserve order on or in relation ^{ling and} to any lands and installations vested in it, to prevent ^{working of} the entry of or to remove any persons making use of ^{lands and} any such lands and installations for purposes other ^{installations.} than those for which they are intended to be used
35 or loitering thereon or adjacent thereto and to assist any vessel in making use of any such lands and installations and to conduct and operate any depot, shed, warehouse, building, tramway, railway, engine,
crane,

Maritime Services (Amendment).

crane, hoisting or weighing machine or other apparatus or convenience on any land vested in it or under its control or management.

5

13s. The Board may provide and maintain such plant, apparatus and things as it deems necessary for the rescue and resuscitation of drowning or apparently drowned persons and for the recovery of drowned persons and for the extinguishing of any fire on vessels or on any property vested in it and may employ such persons as it deems necessary for the proper operation and use thereof.

Rescue and
fire-extin-
guishing
operations.

10

15

13t. (1) Any person who drives a pile or stake, wholly or partly erects any structure or wall, carries out any reclamation, or causes or permits the deposit of any earth, rock, timber, iron or other material in or upon the bed of any waters vested in the Board without first obtaining the permission of the Board, or who makes use of any pile, stake, structure, wall, reclamation or material in or upon the bed of any such waters after the expiration of the time specified in a notice from the Board served upon him requiring him to remove the same, shall be liable to a penalty not exceeding one hundred pounds.

Obstructions
and
encroach-
ments on
waters.

20

25

30

35

(2) The Board may cause any pile, stake, structure, wall, reclamation or material driven, erected, carried out, or deposited, without its permission, in or upon the bed of any waters vested in it or not removed in accordance with any notice given under subsection one of this section, to be removed, and may at its option cause the same or any part thereof to be destroyed or stored or sold, or may sell the same or any part thereof on condition that it be removed, and may recover from the person responsible for the driving, erection, carrying out, depositing or making use of the same in any court of competent jurisdiction the expenses incurred in such removal, destruction, storage or sale.

13u.

Maritime Services (Amendment).

5 13U. (1) Any person who moors, runs ashore, cuts loose, or abandons any vessel, buoy, or floating object or apparatus, or cuts or slips any chain or anchor, or places or deposits any article, material or thing in, or upon the bed or shores of, any waters vested in or controlled by the Board, or on any land or wharf or in any building vested in or controlled by the Board, with the intention of avoiding responsibility for the same or with the intention that the rights of the owner of the same shall be impeded or rendered ineffective, shall be liable to a penalty not exceeding one hundred pounds.

Obstruction
of waters
or lands
by vessels
or articles.

15 (2) The owner of any vessel, buoy, floating object or apparatus, chain, anchor, article, material or thing in or upon the bed or shores of any waters vested in or controlled by the Board, or on any land or wharf or in any building vested in or controlled by the Board shall remove the same within such time as may be specified in a notice from the Board served upon him requiring him so to do, and in default shall be liable to a penalty not exceeding one hundred pounds.

25 (3) If the owner of any such vessel, buoy, floating object or apparatus, chain, anchor, article, material or thing fails to comply with the requirements of the notice served upon him under subsection two of this section, or if the identity or address of the owner of the same cannot be established after such enquiry as the Board considers reasonable, or if in the opinion of the Board it is essential in the interests of navigation or for the proper and efficient use of any such land, wharf or building, or for the safe keeping or preservation of such vessel, buoy, floating object or apparatus, chain, anchor, article, material or thing in or upon the bed or shores of any waters vested in or controlled by the Board, or on any land or wharf or in any building vested in or controlled by the Board, that the same be removed without delay, or if it appears to

the

Maritime Services (Amendment).

5 the Board that the same is occupying such waters,
land, wharf, or building as aforesaid in contravention
of any Act, by-law, regulation or rule with the
administration of which the Board is charged,
the Board may assume possession of the same, and
may if it deems that the circumstances so require
remove the same and, in the case of a sunken or
unseaworthy vessel, or other object or article which
10 in its opinion cannot otherwise reasonably be dealt
with, may blow up or demolish the same for the
purpose of removal.

15 (4) Any vessel, buoy, floating object or
apparatus, chain, anchor, article, material or thing
possession of which has been assumed or which has
been removed by the Board in accordance with
subsection three of this section, or any component
part thereof, shall be dealt with as follows : —

20 (a) if in the opinion of the Board the same has
no value it shall be destroyed, otherwise it
shall be held in the custody of the Board in
such place as the Board deems appropriate,
and may be so repaired and treated as shall in
the Board's opinion be necessary to preserve
its utility and value;

25 (b) if any person establishes to the Board's
satisfaction his ownership of the same he
shall be entitled to receive the same upon
payment of the expenses incurred in respect
of the assuming possession, removal, custody,
30 repair and treatment thereof, as fixed by the
Board;

35 (c) if no person has established his ownership of,
and paid such expenses as aforesaid in respect
of, the same, the Board, after such lapse of
time and such enquiry or public advertisement
as it shall in the circumstances deem appro-
priate, may sell the same in such manner as
it thinks fit, or if in its opinion the value of

the

Maritime Services (Amendment).

the same to the Board would exceed the proceeds of sale, may appropriate the same and credit the owner thereof with such value;

5 (d) if the net proceeds of sale of, or the credit allowed as aforesaid for, the same exceeds the expenses incurred in respect of the assuming possession, removal, custody, repair and treatment thereof as fixed by the Board, the surplus shall be paid by the Board on
10 demand to the owner thereof;

(e) the Board may recover from the owner of the same the expenses incurred in the assuming possession, removal, custody, repair and treatment thereof, as fixed by the Board, after
15 deduction therefrom of the net proceeds of any sale thereof or any credit allowed therefor.

(5) Nothing in this section shall affect or diminish the rights of the owner of any land
20 in respect of such land, or of any lessee, tenant, or licensee in respect of the premises included in his lease, tenancy or license.

13v. The Board may hire or lease to any person Hiring
any vessels, floating and movable plant, mobile and
25 cranes, vehicles, machinery or apparatus together disposal of plant.
with the services of any persons employed in the operation thereof upon such terms as it deems fit, and may dispose of any vessels, floating and movable
30 plant, mobile cranes, vehicles, machinery, apparatus, tools or materials which are or have become unnecessary for the conduct of its functions by sale or otherwise to any person in such manner as it deems fit.

13w. (1) This section shall apply to the Ports of Powers of
Sydney, Newcastle and Botany Bay. harbour master.

cf. Act No.
1, 1901,
ss. 21-25.
(2)

Maritime Services (Amendment).

(2) The harbour master of any port to which this section applies may direct and control the time and manner in which any vessel shall enter or leave the port, the movements of any vessel within the port, the position where and the manner in which any vessel may anchor or be moored within the port, the time and manner of the taking in or discharging by any vessel within the port of cargo, stores, fuel, water or ballast, and the mooring, unmooring, placement or removal of any vessel within the port in, from or to any position as he shall think fit :

Provided that in the exercise of his powers under this subsection the harbour master shall not give any direction which would result in contravention of any statute or regulation relating to the area or vessel concerned or impeding the proper administration of the customs or quarantine services within the port.

(3) The master of any vessel who refuses or neglects to comply with any direction which may be given by the harbour master under this section shall be liable to a penalty not exceeding one hundred pounds.

(4) If there is no person on board any vessel to whom the direction of such harbour master requiring the mooring, unmooring, placement or removal of such vessel or any alteration in its manner of anchoring or mooring, may be given, or if the direction is not complied with, the said harbour master may cause such vessel to be moored, unmoored, placed or removed or otherwise dealt with as required by him, and the Board may recover from the master or owner thereof in any court of competent jurisdiction the whole charges and expenses thereby incurred together with costs.

13x. (1) If in the opinion of the Board any vessel in or on the shores of any port to which section 13w of this Act applies is unseaworthy or likely for any reason to cause damage to property or persons or to become a danger to shipping, the Board may require work to be carried out on vessel.

Maritime Services (Amendment).

5 Board may serve notice on the owner thereof, or alternatively may affix to the vessel (if practicable) and publish in the Gazette and one newspaper circulating in the district a notification requiring that such work be carried out in and about the vessel as the Board deems necessary within the time stated in such notice or notification or that the vessel be destroyed.

10 (2) If the requirements of the Board are not so carried out, the Board may at its option :—

- (a) carry out the work required;
- (b) contract with any person for the carrying out of such work on such terms as it deems fit;
- 15 (c) destroy the said vessel or contract with any person for the destruction of the said vessel and sell in such manner as it deems fit any material or other property recovered from the vessel which in the Board's opinion has
- 20 a sale value; or
- (d) sell the said vessel for purposes of destruction to any person on such terms as it deems fit.

25 (3) Any surplus moneys remaining after deduction from the proceeds of any sale pursuant to paragraph (c) or (d) of subsection two of this section of the charges and expenses incurred in the publication of any notification, the destruction of the vessel and the conducting of such sale shall be paid by the Board on demand to the person who at the

30 time of the serving or publication of the said notice or notification was the owner of the vessel.

(4) Any moneys remaining due to the Board in respect of—

- 35 (a) the charges and expenses incurred in the publication of any notification and the carrying out of any work pursuant to paragraph (a) or (b) of subsection two of this section, or
- (b)

Maritime Services (Amendment).

5 (b) the charges and expenses incurred in the publication of any notification and the destruction of the vessel and the conducting of any sale pursuant to paragraph (c) or (d) of subsection two of this section, after allowing for the net proceeds of such sale,

10 shall be paid on demand to the Board by the person who at the time of the serving or publication of the said notice or notification was the owner of the vessel, and if unpaid may be recovered as a debt in any court of competent jurisdiction.

15 13y. Any person who obstructs or hinders the Board or any of its officers, servants or agents, or any person who has contracted with the Board or the officers, servants or agents of any such person, in the doing of anything authorised by sections 13w and 13x of this Act shall be liable to a penalty not exceeding one hundred pounds.

20 13z. (1) The Under Secretary of the Department of Mines shall give to the Board not less than twenty-one days' notice of any proposal to grant any lease or license under the Mining Act, 1906, or the Petroleum Act, 1955, or any Acts amending the same, in respect of any land vested in the Board, or contained in that part of the bed and shores of the Hunter River to which section 13D of this Act applies.

30 (2) If, notwithstanding representations of the Board to the contrary, it is decided that such lease or license shall be granted, the Board shall be notified accordingly and may, within fourteen days of such notice, refer the dispute to the Treasurer for settlement by the Governor.

35 (3) The Governor may make such order in the public interest and in the circumstances of the case as may seem to him to be just and equitable.

(c)

Maritime Services (Amendment).

- (c) by inserting next after Schedule Two the following new Schedules :—

New
Schedules
Three and
Four.

SCHEDULE THREE.

PART 1.

- 5 All that area within the following boundaries exclusive of the State Dockyard at Dyke End as bounded by existing fences and high water mark, all lands controlled by the Commonwealth of Australia, and all public roads: Commencing at the toe of the outer extremity of the Northern Breakwater at the entrance to the Port of Newcastle and
- 10 bounded thence by a direct line south-easterly to the toe of the outer extremity of the Southern Breakwater thence by the south-eastern toe of this breakwater south-westerly and continuing by high water mark around Nobbys Head
- 15 thence by the toe of an existing breakwater wall south-westerly to a point due East of the easternmost corner of an area of 4A. 1R. 18½P. acquired by the Commonwealth of Australia as shown on a plan catalogued MS.6003 Md. in the office of the Department of Lands, Sydney, thence
- 20 by a line due West to the aforesaid corner and thence by the boundaries of this area north-westerly, westerly, generally south-westerly and south-easterly to the easternmost corner of an area of 1A. 0R. 11P. as shown on a plan catalogued Ms.6181 Md. in the office of the Department of Lands, Sydney, thence by the boundaries of this
- 25 area south-westerly, westerly and north-westerly to its westernmost corner thence by a line bearing approximately 327 degrees to the rear edge of Kings Wharf thence generally south-westerly by the rear edge of this wharf to
- 30 an existing post and rail fence near the rear edge of Hunter Wharf thence by this fence along the rear edge of Hunter Wharf and continuing by the rear edge of Market Street Wharf to its western end thence generally westerly by high water mark and by the northern edge of the bridge crossing
- 35 the entrance to a Boat Harbour near Brown Street and again generally westerly by high water mark to the eastern boundary of an area of 1R. 16½P. appropriated for the purpose of the Newcastle Wharf (Merewether Street) Act, 1950, vide Government Gazette of 16th August, 1957,
- 40 thence by the boundaries of this area southerly and south-westerly and by the prolongation south-westerly of the last mentioned boundary to the easternmost corner of an area of 2R. 38P. resumed for the purposes of the above-mentioned Act thence by the boundaries of this area
- 45 south-westerly and westerly to the eastern alignment of Merewether Street thence by the eastern alignment of this street

Exclusions.

Commencing
at Northern
Breakwater.

Southern
Breakwater.

Nobbys Head.

Common-
wealth land
at Southern
Wave-trap.

Pilot Station.

Kings Wharf.

Hunter Wharf.

Market Street
Wharf.

Old Boat
Harbour.

Merewether
Street Wharf.

Maritime Services (Amendment).

street northerly, by its northern alignment westerly and by Lee Wharf
its western alignment southerly to the south-eastern corner Road.
of Lee Wharf Road thence by part of the south-western
alignment of this road to the easternmost corner of an
5 area of 2R. 17½P. acquired in connection with Public
Wharves at Lee and Merewether Streets by Government
Gazette of 30th January, 1959, thence by the southern
boundary of this area and the generally northern boundary
10 of an area of 9A. 0R. 16P. acquired for Railway Purposes
by Government Gazette of 26th May, 1916, generally
westerly to the north-eastern corner of an area of 38½
perches vested in the Hunter District Water Supply and
Sewerage Board thence by the north-eastern and north-
western boundaries of this area north-westerly and south-
15 westerly to its westernmost corner thence by part of the
northern boundary of Railway Lands westerly to the
southernmost corner of an area of 2A. 0R. 12½P. dedicated
for Road Widening by Government Gazette of 26th
September, 1919, as shown on a plan catalogued R.13570-
20 1603 in the office of the Department of Lands, Sydney
thence by the generally north-eastern boundaries of this
area north-westerly to the westernmost corner of the land
contained in Certificate of Title Volume 6090 Folio 157
thence by the north-western boundary of this land and
25 the land comprised in Book 2077 No. 929 produced north-
easterly across Lee Wharf Road to its north-eastern align-
ment thence by the alignments of this road north-westerly
and south-westerly to the south-eastern corner of the areas
resumed for road widening by Government Gazette of
30 3rd April, 1958, thence north-westerly by the north-eastern
boundaries of these areas to the south-eastern alignment
of Cowper Street and thence north-easterly, north-westerly
and south-westerly by the boundaries of the road and
proposed road as shown on a plan catalogued R. 23306.1603
35 in the office of the Department of Lands, Sydney, to the
eastern alignment of Hannell Street thence generally by
this alignment northerly across Throsby Creek Stormwater
Channel to the southern side of Elizabeth Street thence by
this side easterly across Throsby Creek to high water mark
40 thence generally south-westerly by the high water mark of
Throsby Creek around the eastern embankment of Cowper
Street Bridge thence by high water mark around the
Carrington foreshore to the wire fence which encloses the
wharf premises known as No. 2 Silo Wharf thence by this
45 fence generally northerly and easterly to the south-western
alignment of Denison Street thence by a direct line to the
southernmost corner of an area vested in the Grain
Elevators Board of New South Wales thence by part of Grain
Elevators.

the

Maritime Services (Amendment).

- the south-eastern boundary of this area north-easterly to the southernmost boundary of Portion 3006 Dedicated for Wheat Elevator (Addition) by Government Gazette of 14th December, 1956, thence by this boundary easterly to
- 5 the south-eastern corner of Portion 3006 thence by a direct line to the point "L" mentioned in a description of water-front lands and wharves prepared in the Department of Railways as set out in the annexure to this schedule and described therein as being "in the Railway Boundary at
- 10 the southern end of the Electric Crane Wharf" and thence by the various lines mentioned in such description between the said point "L" and the Point "A" described as being "8 feet from the centre line down side of Port Waratah
- 15 Departure Line in the existing Railway Boundary near No. 8 Nest" thence by part of this Railway Boundary northerly to the south-western alignment of Selwyn Street (extended) thence by this alignment south-easterly to the high water mark of the right bank of the South Channel of the Hunter River thence by this high water mark around
- 20 lands owned by Broken Hill Proprietary Company Limited to the point "Y" as shown on the plan mentioned in section 4 of the Newcastle Harbour Improvements Act, 1953, thence continuing upstream by the proposed training walls designed for the right bank of the South Channel as shown on the plan mentioned in the aforesaid section 4 to a point where
- 25 the prolongation of the eastern alignment of Tourle Street meets the aforesaid proposed training wall thence by this prolongation produced northerly to the proposed training wall designed for the left bank of the South Channel thence by this proposed training wall downstream and by
- 30 the proposed training wall around Rotten Row thence by high water mark on the western side of Walsh Island, again by proposed training walls off the southern end of Walsh Island thence north-easterly by high water mark on the south-eastern side of Walsh Island thence continuing
- 35 generally northerly by the proposed training wall for the right bank of the North Channel of the Hunter River upstream to a point due West from No. 2 Beacon thence by the parallel of latitude passing due East through No. 2 Beacon being approximately 32 degrees 53 minutes 12 seconds South Latitude to the proposed training wall designed for the left bank of the North Channel of the Hunter River thence by this proposed training wall down-stream to high water mark on the Stockton foreshore thence
- 40 by high water mark generally south-westerly and south-easterly along the Stockton foreshore and continuing north-easterly by high water mark around Pirate Point to a point where high water mark meets the southern side of the

Carrington
Railway
LandsPoint "A"
Railway Plan.

Selwyn Street.

B.H.P. Lands.

Tourle Street.

Rotten Row.
Walsh Island.

No. 2 Beacon.

Stockton
Foreshore.Pirate Point
Stockton.

Northern

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Northern Breakwater aforesaid thence by a line due North to the northern toe of the said breakwater thence easterly and north-easterly by the northern toe and the north-western toe of the said breakwater to the point of commencement.

Point of commencement.

PART 2.

Commencing at the point "M" mentioned in a description of lands prepared in the Department of Railways as set out in the annexure to this schedule and described therein as being "the junction of the eastern alignment of Bourke Street and the southern alignment of Cowper Street North", thence by the various lines mentioned in such description between the said point "M" through the points "N", "O" and "P" to the point "R" which is described as being "30 feet from the centre line up side and at right angles to No. 4 storage siding" thence generally southerly 30' 0" from the centre line up side of No. 4 Storage Siding to the dead end and extended to the north-eastern side of the Elevated Roadway leading to the State Dockyard thence north-westerly by this side and generally westerly by the toe of the embankment which retains this roadway to the eastern alignment of Bourke Street aforesaid thence generally southerly by this alignment to "M", the point of commencement.

Carrington
Railway
Land (Power
House, Coal
Loader,
Overhead
Bridge).

PART 3.

All that area known as Boatmans Terrace occupied by the Maritime Services Board of New South Wales situated at the corner of Nobbys Road and Stevenson Place Newcastle comprising sixteen terrace dwellings together with access from Nobbys Road and a lane way at the rear of the terrace.

Boatmans
Terrace.

All bearings quoted in this schedule are relative to True Meridian.

Maritime Services (Amendment).

ANNEXURE TO SCHEDULE THREE.

Description of Waterfront Lands and Wharves.—Prepared in the Department of Railways.

5 That area of land between the waters edge of the Hunter River and Basin or the Railway Boundary between the waters edge and a line between points "A" to "L" described hereunder:—

10 Commencing from a point "A", 8'-0" from the centre line, down side, of Port Waratah Departure Line in the existing railway boundary near No. 8 Nest, and running in a southerly direction 8'-0" from the centre line, down side of the Port Waratah Departure Bullock Island Arrival Line and Run Round Siding to a point "B" 3'-0" past the lead connecting the Run Round and No. 4 Reception Sidings.

15 From point "B" and at right angles to No. 4 Reception Siding out to a point "C" 6'-0" from the centre line, up side of No. 2 Empty 10 Dyke Siding.

20 From point "C" in a south easterly direction 6'-0" from the centre line, up side, of No. 2 Empty 10 Dyke Siding to a point "D" 10'-0" past the buffer stop of the Water column Siding.

25 From point "D" and at right angles to No. 2 Empty 10 Dyke Siding to a point "E" 6'-9" from the centre line, down side of No. 1 Full 9 Dyke Siding.

30 From point "E" in a north westerly direction 6'-9" from the centre line, down side of No. 1 Full 9 Dyke Siding and Top South Arrival Line to a point "F" half way between the lead connecting the Top South Arrival Line and Sulphide Empties Siding and the lead connecting the Top South Arrival Line and No. 3 Reception Siding.

35 From point "F" in a south westerly direction across the Top South Arrival and Top South Departure Lines to a point "G" 6'-9" from the centre line, down side of the Water Loop Siding.

40 From point "G" and commencing in a southerly direction 6'-9" from the centre line, down side of the Water Loop Siding, the crossover between the Water Loop and West Basin Run Round Sidings, West Basin Run Round and short Loop Sidings to a point "H" at the lead, connecting Nos. 21 and 22 Western Basin Sidings.

From

Maritime Services (Amendment).

From point "H" and at right angles to No. 20 Western Basin Siding, to a point "J" 5'-0" from the centre line, up side of No. 20 Western Basin Siding.

5 From point "J" in a southerly direction 5'-0" from the centre line, up side of No. 20 Western Basin Siding to a point "K" at right angles to and 100'-0" from the face of the Electric Crane Wharf.

10 From point "K" in a southerly direction 100'-0" from the face of the Electric Crane Wharf to a point "L" in the railway boundary at the southern end of the Electric Crane Wharf.

Also that area of land bounded by a continuous line described hereunder:—

15 Starting from a point "M", the junction of the eastern alignment of Bourke Street and the southern alignment of Cowper Street and commencing in a north easterly direction 7'-9" from the centre line, up side of No. 1 Compound Siding, No. 2 Bullock Island Departure and New Departure Lines to a point "N" 3'-0" past the lead connecting No. 4 Storage and Shunting Neck Sidings.

20 From point "N" across the Shunting Neck Siding at right angles to a point "O" 8'-0" from the centre line up side of the Shunting Neck Siding.

25 From point "O" in a southerly direction 8'-0" from the centre line, up side of No. 4 Storage Siding to a point "P" opposite the control cabin of the coal loader.

From point "P" out to a point "R" 30'-0" from the centre line, up side and at right angles to No. 4 storage siding.

30 From point "R" commencing in a southerly direction 30'-0" from the centre line, up side of No. 4 Storage Siding, to the dead end and extended to the north-eastern side of the Elevated Roadway leading to the State Dockyard thence north-westerly by this side and generally westerly by the toe of the embankment which retains this roadway to the eastern alignment of Bourke Street aforesaid thence generally southerly by this alignment to "M" the point of commencement.

SCHEDULE FOUR.

40 All that area within the following boundaries exclusive of Bare Island and Carter's Island: Commencing at high water mark on the southernmost extremity of Cape Banks at the entrance to the Port of Botany Bay and bounded thence by a line at high water mark generally north-westerly and

Commencing
at Cape Banks.

Maritime Services (Amendment).

and northerly around all the bays and headlands of the shore of Botany Bay to the western alignment of Bumborah Point Road at the mouth of the Bunnerong Power Station outlet channel thence northerly by this alignment across the channel to high water mark and thence by the high water mark of the shore of Botany Bay north-westerly to its intersection with a boundary of the area proclaimed as Kingsford Smith Airport by Government Gazette dated 20th July, 1950, thence by this boundary generally westerly to the toe of the north-eastern breakwater at the mouth of the Cooks River as diverted, thence by this toe south-easterly to its outer extremity, thence by a straight line to the toe of the outer extremity of the south-western breakwater of this river thence by the toe of this breakwater north-westerly to the Airport boundary aforesaid, thence generally south-westerly by this boundary and by the high water mark of the western shore of Botany Bay to Dolls Point, thence generally south-westerly by high water mark around the bays and headlands of Georges River to the southernmost extremity of Rocky Point, thence by a straight line southerly across Georges River to the easternmost extremity of Taren Point, thence by the deed or title boundaries of the properties adjoining the shores of Woollooware Bay, Georges River and Botany Bay including Quibray Bay to Bonna Point at Kurnell, thence by high water mark along the southern shore of Botany Bay easterly and north-easterly to Sutherland Point on Kurnell Peninsula thence generally south-easterly by high water mark around the bays and headlands of this peninsula to the easternmost extremity of Cape Solander thence by a straight line north-easterly to the point of commencement.

Bunnerong
Power Station.Kingsford
Smith Airport.Cooks River
Diversion.

Dolls Point.

Georges River.

Quibray Bay.

Sutherland Pt.

Point of com-
mencement.

All bearings quoted in this schedule are relative to True Meridian.

5. The Maritime Services Act, 1935-1953, is further
35 amended—

Further
amendment
of Act No.
47, 1935.

(a) by inserting next after subsection two of section fourteen the following new subsections :—

Sec. 14.
(Transfer
of
officers.)

(2A) Any officer or employee of any Department of the Crown or of the Department of Railways transferred to the service of the Board pursuant to

40

paragraph

Maritime Services (Amendment).

paragraph (d) of subsection one of section 13B of this Act or paragraph (d) of subsection one of section 13I of this Act shall—

- 5 (a) upon and after the date of such transfer become and be an officer or employee of the Board, as the case may be;
- 10 (b) have and enjoy privileges and leave rights not less beneficial than if he had continued to be an officer or employee of the Department from which he is transferred;
- 15 (c) retain any rights, and continue to be bound by any obligations, to which he was entitled or subject as an officer or employee of the Department from which he is transferred under the Superannuation Act, 1916, or under Part IX of the Government Railways Act, 1912, or any Acts amending the same.

20 For the purposes of paragraphs (b) and (c) of this subsection, service with the Board shall be deemed to be service with the Department from which such officer or employee is transferred.

- 25 (2B) Whenever the length or period of service with the Board of an officer or employee of the Board is relevant or in question, the service of any person who has become an officer or employee of the Board under subsection (2A) of this section shall be deemed to include his service, as an officer or employee, as the case may be, with the Department from which he is transferred.

- 30 (b) by omitting from subsection three of the same section the words “so transferred” and by inserting in lieu thereof the words “who has become an officer or employee of the Board in accordance with this section”;

(c)

Maritime Services (Amendment).

- 5 (c) by omitting from subsection four of the same section the words "so transferred" and by inserting in lieu thereof the words "who has become an officer or employee of the Board in accordance with this section".

6. The Maritime Services Act, 1935-1953, is further amended by inserting next after section twenty-four the following new sections :—

Further amendment of Act No. 47, 1935.

New secs. 24A-24J.

10 24A. The loan liability of the Board to the Treasurer on behalf of the State shall, as at the date of establishment of the Fund referred to in section 24B of this Act, be the sum of—

Board's loan liability.

15 (a) the capital debt existing under and by virtue of the Sydney Harbour Trust Act, 1900, as amended by subsequent Acts, at such date; and

20 (b) such amount as may be determined by the Treasurer as the net expenditure from the General Loan Account on works within the area included in Schedule Four to this Act after the first day of July, one thousand nine hundred and fifty-four, and up to the said date.

The loan liability of the Board to the Treasurer on behalf of the State shall be varied from time to time as provided by section 24G of this Act.

25 24B. (1) The Treasurer shall establish in the Treasury the following funds :—

Funds to be established.

(a) the Maritime Services Board Fund, in this Act referred to as the "Fund";

30 (b) the Maritime Services Board Renewals Fund, in this Act referred to as the "Renewals Fund".

35 (2) The amounts standing to the credit of the Board in the Sydney Harbour Trust Fund and the Sydney Harbour Trust Renewals Fund shall respectively be credited to the Board in the Maritime Services Board Fund and the Maritime Services Board Renewals Fund when so established.

(3)

Maritime Services (Amendment).

(3) (a) Subject to this Act all moneys in the Funds so established shall be vested in and shall be expended by the Board for the purposes for which the same are appropriated by Parliament and, save as expressly provided in this Act or permitted under the provisions of the Audit Act, 1902, not otherwise.

(b) The Board may, with the approval of the Governor, expend from the Fund or Renewals Fund in anticipation of appropriation by Parliament such sums as may be necessary to provide for expenditure in respect of such services as cannot be reasonably postponed without injury to the public interest, or to carry on any work, the vote in respect of which has become exhausted prior to the completion of the work.

(c) The Board may, with the approval of the Governor, on the recommendation of the Treasurer and without further appropriation than this Act, expend from the Fund and the Renewals Fund, for a period not exceeding one year from the date of the establishment of such Funds, such moneys as may be necessary for the carrying out of the functions of the Board.

(d) A statement setting out details of any proposal to expend a sum from the Fund or Renewals Fund in pursuance of paragraphs (b) and (c) of this subsection shall be laid before both Houses of Parliament within fourteen sitting days after the approval of the Governor to the proposal has been signified, if Parliament is then in session, and if not, then within fourteen sitting days after the commencement of the next session of Parliament.

(4) Section forty-six of the Constitution Act, 1902, as amended by subsequent Acts, shall apply to and in respect of any appropriation of the said Funds.

24c. (1) There shall be paid into the Fund :—

Payments
into Fund.

(a) all wharfage, harbour, transhipment and tonnage rates, berthing charges, wharf storage charges, license fees and all other rates, charges and fees

levied

Maritime Services (Amendment).

- 5 levied or collected by the Board pursuant to the provisions of this Act, the Sydney Harbour Trust Act, 1900, the Sydney Harbour Rates Act, 1904, and the Harbour and Tonnage Rates Act, 1920, and any Acts amending the same, and the regulations made under those Acts, in so far as such rates, charges and fees apply to the Port of Sydney and any other area vested in the Board;
- 10 (b) all moneys payable to the Board such as rents, occupation fees, payments for services rendered, things hired, or work performed by the Board in so far as such moneys apply to the Port of Sydney and any other area vested in the Board;
- 15 (c) all harbour, transhipment and tonnage rates and berthing charges levied or collected by the Board pursuant to the Harbour and Tonnage Rates Act, 1920, as amended by subsequent Acts, and the regulations made thereunder, in so far as such rates and charges apply to that portion of the
- 20 Hunter River to which section 13D of this Act applies;
- 25 (d) all loan moneys appropriated by Parliament for construction of new wharves, for purchase of plant, for the purchase or resumption of land, or for any other service or work to be undertaken by the Board;
- (e) all interest received in respect of the investment of moneys belonging to the Fund;
- 30 (f) all fines and penalties recovered under this Act or the Sydney Harbour Trust Act, 1900, as amended by subsequent Acts, by the Board or any of its officers or employees;
- 35 (g) moneys by this or any other Act authorised or directed to be paid into the Fund or the Sydney Harbour Trust Fund;
- (h) any sums advanced by the Treasurer in pursuance of this Act.

Maritime Services (Amendment).

(2) There shall be paid into the Consolidated Revenue Fund :—

- 5 (a) all rates, charges, fees and other moneys levied or collected by the Board pursuant to the Navigation Act, 1901, as amended by subsequent Acts, and the regulations made thereunder;
- 10 (b) all rates, charges, fees and other moneys levied or collected by the Board pursuant to this Act, and the Harbour and Tonnage Rates Act, 1920, and Acts amending the same, and the regulations made under those Acts (other than those rates and charges referred to in paragraph (c) of subsection one of this section) in so far as such rates, charges, fees and other moneys are levied or collected other-
- 15 wise than in respect of the Port of Sydney and any other area vested in the Board;
- 20 (c) all moneys payable to the Board such as rents, occupation fees, payments for services rendered, things hired, or work performed by the Board in so far as such moneys are payable otherwise than in respect of the Port of Sydney and any other area vested in the Board.

24D. There shall be paid from the Fund into the Consolidated Revenue Fund :—

- 25 (a) five per centum of the amount of harbour, trans-shipment and tonnage rates and berthing charges collected and paid into the Fund in each financial year by the Board in respect of the area included in Schedule Four;
- 30 (b) such proportion of the annual expense of works carried out under the Newcastle Harbour Improvements Act, 1953, as the Treasurer determines as hereinafter provided. Such proportion shall not exceed one-third;
- 35 (c) the annual costs of all dredging and other works met from the Consolidated Revenue Fund and carried out in that portion of the Hunter River to which

Payments
from
Fund to
Consoli-
dated
Revenue
Fund.

Maritime Services (Amendment).

5 which section 13D of this Act applies, other than works carried out under the Newcastle Harbour Improvements Act, 1953, necessary for the maintenance or facilitation of navigation or the operation of port facilities in the said portion.

10 In paragraph (b) of this section "annual expense" means the amount arrived at by deducting from the capital debt charges for the year in respect of such works a proportion of the net revenue for such year derived from leases or licenses granted in respect of any lands benefited by such works after allowing for maintenance costs relating to the access to and facilities of such land.

15 For the purposes of paragraph (b) of this section the Treasurer may make such determination as he considers proper in the circumstances and he shall have regard to any work done or facilities or materials provided by the Board during the relevant year benefiting the works referred to.

20 In paragraph (c) of this section "costs" shall be deemed to include such capital debt charges as may be determined by the Treasurer in respect of port facilities, dredging and other works on the said portion which have been provided from moneys from the General Loan Account.

25 24E. (1) The Renewals Fund shall be available only to meet such appropriations as Parliament may make for renewals and reconstruction of wharves, buildings, equipment, plant, or other assets of the Board. All expenditure on any such renewals and reconstruction shall be paid out of money so appropriated.

30 (2) The Board shall in each year prepare a statement showing the amount which it proposes to transfer from the revenue of the Board to the credit of the Renewals Fund.

Such

Maritime Services (Amendment).

5 Such statement, after having been submitted to the Committee of Review appointed under this Act for investigation and report, shall be forwarded together with such report to the Governor, who shall determine the amount to be so transferred, and such amount shall be carried to the Renewals Fund without further appropriation by Parliament than this Act.

There shall also be carried to the Renewals Fund such further amounts as may be appropriated by Parliament.

10 (3) All interest received in respect of the investment of moneys belonging to the Renewals Fund in pursuance of subsection two of section 24i of this Act shall be paid into the Renewals Fund.

15 24F. (1) The sum which the Auditor-General certifies to the Governor to be the net profit of the operations of the Board in any financial year shall be transferred into a Maritime Services Board Reserve Account to be kept in the books of the Board. Reserve Account.

20 (2) The amount at the credit of such Reserve Account shall be available only :—

- (a) to meet any losses incurred in any year by the Board;
- (b) for the reduction of rates and other charges;
- (c) to meet such appropriations as may be made by Parliament.

25 (3) There shall be transferred to such Reserve Account, upon its establishment, any balance remaining in the Sydney Harbour Trust Reserve Account.

24G. (1) There shall be a Committee of Review (in this Division referred to as the Committee) which shall exercise and discharge such powers, authorities, duties and functions as may be conferred or imposed upon it by or under this Act. Committee of Review.

(2)

Maritime Services (Amendment).

(2) The Committee shall consist of the Auditor-General, the President of the Maritime Services Board, and the Under Secretary to the Treasury. Each of the members may appoint in writing a representative to act on his behalf.

(3) The Committee shall certify to the Governor, as soon as practicable after the close of each financial year, and at such other times as may be appropriate, the amount by which the loan liability of the Board to the Treasurer should be varied in respect of that financial year having regard to:—

(a) the moneys appropriated from the General Loan Account and provided for the Board during that financial year;

(b) any repayment by the Board during that financial year in respect of the loan liability of the Board to the Treasurer;

(c) such amounts as may be determined by the Governor in respect of adjustments to be made under subsection two of section 13B of this Act and subsection two of section 13I of this Act;

(d) such other adjustments to the loan liability of the Board as may be determined from time to time by the Treasurer.

24H. The Board shall pay to the Treasurer in respect of its loan liability such amounts for interest, exchange, sinking fund contributions, flotation expenses, discount, loan management expenses and other charges as the Treasurer may from time to time determine, in all respects as if this Act were included in the Schedule to the Capital Debt Charges Act, 1957: Provided that in determining such amounts, the Treasurer shall have regard to such amount of sinking fund payments made by the Commonwealth of Australia in pursuance of the Financial Agreement Ratification Act, 1928, and the Financial Agreement Act, 1944, as relate to the loan liability of the Board to the Treasurer.

Maritime Services (Amendment).

24I. (1) All moneys received on account of the Fund and the Renewals Fund shall be paid into such accounts and at such banks as the Treasurer may in writing direct, and shall be deemed to be accounts of the Government within the meaning of and under the Audit Act, 1902, as amended by subsequent Acts.

Banking
and invest-
ment of
Board's
moneys.

(2) The Board shall have power to withdraw from the Fund or the Renewals Fund any moneys in excess of its immediate requirements. Any moneys so withdrawn shall be invested with the Treasurer at such rate of interest as may be agreed upon or in such other manner as the Treasurer may approve.

24J. (1) The Treasurer may from time to time advance to the Board such sums as the Governor may approve upon such terms and conditions as to repayment and interest as the Governor may direct.

Borrowings
by Board.

(2) Except as provided in this section the Board shall not borrow any moneys.

7. The Maritime Services Act, 1935-1953, is further amended—

Further
amendment
of Act No.
47, 1935.

(a) by inserting next after section thirty the following new sections :—

New secs.
30A, 30B.

30A. (1) Any notice required to be given under any Act, by-law, regulation or rule with the administration of which the Board is charged may be sufficiently served by posting the same duly stamped and addressed to the person to whom such notice is directed at his place of abode or business last known to the Board, or in the manner herein prescribed for service of any summons or process.

Service of
notices
and legal
processes.

(2) Any summons or other process in any legal proceeding under any such Act, by-law, regulation or rule may be sufficiently served by delivering the same—

(a) personally to the person to be served; or

(b)

Maritime Services (Amendment).

(b) at his place of abode or business last known to the Board; or

(c) on board any ship or vessel 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 ship or vessel.

30B. (1) Any officer or employee of the Board may enter and inspect any ship, structure or wharf, or any land or building, in any waters controlled by the Board, or in or adjacent to or in the vicinity of any area vested in or controlled by the Board, for the purpose of ascertaining if any breach of any Act, by-law, regulation or rule, with the administration of which the Board is charged, has been committed, at any time reasonable in the circumstances, and may there make such measurements or tests, take such photographs and remove such specimens or samples of any substance, material or thing as may in the circumstances be reasonable.

(2) Any person who prevents or obstructs the entry of any such officer or employee, or the making by him of such measurements or tests, the taking by him of such photographs or the removal by him of such specimens or samples, shall be liable to a penalty not exceeding one hundred pounds.

(b) by inserting next after section thirty-one the following new section :—

31A. The Board shall be deemed to be the Crown for the purposes of—

(a) the Landlord and Tenant (Amendment) Act, 1948, as amended by subsequent Acts, in respect of the areas vested in the Board pursuant to Division 3A or 3B of Part III of this Act;

Powers of entry and inspection.

New sec. 31A.

Board to be Crown for purposes of certain enactments.

(b)

Maritime Services (Amendment).

- (b) the provisions of the Local Government Act, 1919, as amended by subsequent Acts, relating to the definition of land as ratable land;
- 5 (c) the provisions of the Metropolitan Water, Sewerage, and Drainage Act, 1924, the Hunter District Water, Sewerage and Drainage Act, 1938, and any Act amending the same, relating to the exemption of lands from rates.
- 10 Lands vested in the Board shall for the purposes of paragraph (c) of subsection one of section twenty-one of the Broken Hill Proprietary Company Limited (Reclamation and Exchange) Agreement Ratification Act, 1950, be deemed to be Crown land.
- 15 (c) by inserting next after section thirty-seven the following new section : — New sec. 37A.
- 37A. All penalties recovered for offences against this Act or any regulation made under this Act shall Application of penalties. be paid to the Board.
- 20 (d) (i) by inserting in paragraph (b) of subsection one of section thirty-eight after the word "to" the words "any land vested in the Board or"; Sec. 38. (Board may make regulations.)
- (ii) by omitting from paragraph (a) of subsection two of the same section the words "and management" and by inserting in lieu thereof the words
- 25 "or management";
- (iii) by inserting at the end of the same paragraph the following new paragraph : —
- (ai) the removal of such cargo or goods by
- 30 the owner thereof from such port, wharf or land, the removal by the Board of any such cargo or goods or any class thereof to any other place vested in or
- controlled

Maritime Services (Amendment).

- controlled by the Board, or the deposit-
ing of the same by the Board in any
bond or store, the imposition in respect
of any cargo or goods or any class
thereof not removed by the owner
thereof from any such port, wharf or
land within any time or times specified
in the regulations of charges either
general in application or specifically
applying to particular classes of cargo or
goods, particular wharves or areas or
particular times, and the recovery by
the Board of the costs and expenses
incurred in the removal of any such
cargo or goods and in cleansing or
reinstating any wharf or land affected by
such cargo or goods;
- (iv) by inserting in paragraph (b) of the same
subsection after the word "port" the words "and
in any inland navigable waters or upon lands
adjacent to such port or waters";
- (v) by inserting in paragraph (c) of the same
subsection after the word "continuance" the
words ", in or on any waters or lands vested in
or controlled by the Board or in the vicinity
thereof,";
- (vi) by omitting from paragraph (d) of the same
subsection the word "and" wherever occurring
and by inserting in lieu thereof the word "or";
- (vii) by inserting at the end of the same subsection
the following new paragraphs:—
- (l) the payment of fees to assessors engaged
in a court of marine inquiry;
- (m) the keeping and using, by persons
concerned with the marking, sorting,
stacking, loading, unloading, delivery
and the handling generally of cargo or
goods

Maritime Services (Amendment).

- 5 goods in any port or on any wharf or
land vested in or controlled by the Board,
of records and forms relating to such
operations, providing for inspection of
such records and forms by or on behalf
of the Board, providing for the furnish-
ing of such records and forms, or copies
or extracts thereof, for use in any legal
proceedings instituted by the Board or
by its direction;
- 10 (n) prohibiting or regulating on any vessel,
or on any land or in any building vested
in or controlled by the Board, the
carrying on of operations involving risk
of fire, explosion or other damage to
persons or property or any danger to
health, and prohibiting the entry to any
port or place, and in general controlling
the movements, of vessels which for any
reason constitute such a risk or danger;
- 15 (o) the conduct of persons using or being
upon or in any land, wharf, depot, shed,
warehouse or other place vested in or
controlled by the Board, the prevention
of the improper use of the same and of
objectionable or dangerous conduct
thereon or therein, and the prevention
of damage or injury to any such land,
wharf, depot, shed, warehouse or place,
or to any goods, cargo, plant, machinery,
vehicles or things, or to other persons,
thereon or therein.
- 20 (viii) by inserting at the end of subsection three of
the same section the following new para-
graphs :—
- 25 (g) make both the owner and the master of
any vessel liable for any breach of any
such regulation committed from or in the
use of such vessel;

Maritime Services (Amendment).

5 (h) provide that any license therein referred to may be issued, or any consent or approval therein referred to may be given, upon any conditions deemed appropriate by the Board, that any such condition may be varied or revoked, and that a breach of any such condition shall constitute a breach of such regulation.

10 (ix) by inserting in subsection four of the same section next after the definition of "inflammable liquid" the following new definition :—

15 "mooring" means the whole of the apparatus used to secure a vessel in any navigable waters for any purpose other than the normal incidents of a voyage, whether or not such apparatus or any part thereof is itself beyond the shores of such waters, and whether or not such apparatus, or
20 any part thereof, is, has been, or is proposed to be used by the same or any other person for any other purpose, and any apparatus or group thereof used to secure more than one vessel shall constitute as many moorings as there are
25 vessels so secured, but does not include the gear or equipment of a vessel by which such vessel is so secured.

(e) by inserting next after section thirty-eight the following new sections :— New secs.
39, 40.

30 39. The Board may waive or refund the whole or any part of any rate, toll, due, fee or charge, or any similar claim or requirement levied, imposed or
35 authorised to be demanded or made under any Act, by-law, regulation or rule with the administration of which the Board is charged, in any particular case or in any class of case, as it may think appropriate to the circumstances : Provided that any waiver or refund of any single amount in excess of twenty-five pounds payable into the Consolidated Revenue Fund
under

Maritime Services (Amendment).

under subsection two of section 24C of this Act shall only be made or granted with the general or special approval of the Treasurer.

5 40. (1) All actions against the Board or any per- Legal pro-
son for anything done or omitted or purporting to ceedings
have been done or omitted, under the provisions of against
any Act, by-law, regulation or rule with the adminis- Board.
tration of which the Board is charged, shall be
commenced within the period of twelve months next
10 after the act or omission complained of was com-
mitted or occurred : Such period is in this subsection
referred to as "the prescribed period" :

15 Provided that where an application is made to a
judge of the Supreme Court in accordance with rules
of court for an extension of the prescribed period,
the judge may, if he is satisfied that sufficient cause
has been shown, or that having regard to all the
circumstances of the case, it would be reasonable so
to do, make an order for extension of the prescribed
20 period for such further period and subject to such
terms and conditions (if any) as may be set out in
the order.

25 Such application for extension may be made either
within the prescribed period or at any time within
twelve months thereafter.

30 Any person who is dissatisfied with the decision
of the judge on any such application may appeal to
the Supreme Court and that court may on the appeal
make any order which ought to have been made in
the first instance.

Every such appeal shall be made in accordance
with rules of court.

35 (2) In the case of injury to a person, any
legally 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

Maritime Services (Amendment).

ascertain fully the nature and extent of the injury, and any loss or expenses arising or likely to arise therefrom, shall be given to him.

5 (3) In the case of damage to property, any person who produces on demand his authority from the Board shall be permitted to inspect and survey the property damaged, and all facilities and information necessary to enable him to ascertain fully the value of the property, the nature, extent, source and cause of the damage, and the amount, if any, expended in repairing or salvaging the same and any loss or expenses arising or likely to arise from the damage, shall be given to him.

15 (4) No action shall be commenced against the Board or any person for anything done or omitted, or purporting to have been done or omitted, by it or him under the provisions of any Act, by-law, regulation or rule with the administration of which the Board is charged, until one month, at least, after a notice in writing of such intended action has been delivered to or left at—

- 20 (a) in the case of any intended action against the Board or any one or more of the Commissioners thereof—the office of the Board;
- 25 (b) in the case of an intended action against any other person—his usual place of abode;

by the party intending to commence such action or by his attorney or agent.

30 (5) Such notice shall state clearly and explicitly the cause of action and the court in which the same is intended to be brought, and upon the back thereof shall be endorsed the name and usual place of abode of the party intending to sue, and also the name and usual place of abode or of business of the attorney or agent, if such notice was

35 served by such attorney or agent.

(6)

Maritime Services (Amendment).

5 (6) A notice under this section shall not be deemed invalid by reason of any defect or inaccuracy therein, unless the judge before whom the action is tried is of opinion that the defendant in the action has been prejudiced in his defence by such defect or inaccuracy.

(7) The defendant in any such action may plead the general issue, and at the trial thereof give this Act and the special matter in evidence.

10 (8) The plaintiff shall not recover in any such action if tender of sufficient amends has been made before such action was brought, or if a sufficient sum of money has been paid into court after the commencement of such action by or on behalf of the defendant.

15 (9) If the matter or thing complained of appears to have been done or omitted under the authority and in the execution of any Act, by-law, regulation or rule with the administration of which the Board is charged, or if any such action is brought after the time limited for bringing the same, or if any such notice has not been given as aforesaid, the jury shall find or judgment shall be given for the defendant.

25 8. The Navigation Act, 1901-1954, is amended—

(a) by omitting section nineteen;

Amendment
of Act No.
60, 1901.

Sec. 19.

(Fees to
assessors.)

(b) by omitting sections ninety to ninety-four inclusive.

Part VI,
Division 2.

(Examina-
tions and
certificates
of marine
surveyors.)

(c) by inserting at the end of section one hundred and forty-one the following new subsection :—

Sec. 141.

30

(4) This section shall not apply to waters the bed of which is vested in the Board.

(Unautho-
rised works
on navigable
waters pro-
hibited.)

(d'

Maritime Services (Amendment).

- (d) by inserting at the end of section one hundred and forty-two the following new subsection :—
 (3) This section shall not apply to waters the bed of which is vested in the Board.
- 5 (e) by omitting section one hundred and forty-three;
 (f) by omitting section one hundred and fifty-four;
 (g) by omitting section one hundred and sixty.
9. (1) The Sydney Harbour Trust Act, 1900-1953, is amended—
- 10 (a) by omitting sections twenty-one to twenty-six inclusive;
 (b) by omitting sections thirty and 30A;
 (c) by omitting section fifty-seven;
 (d) by omitting sections sixty-four and sixty-five;
- 15 (e) by inserting at the commencement of Part V immediately before section seventy-three the following new section :—
- 20 72A. As from the date of the establishment in the Treasury of the Maritime Services Board Fund and the Maritime Services Board Renewals Fund, any provisions of this Part of this Act inconsistent with Division 5 of Part III of the Maritime Services Act, 1935, as amended by subsequent Acts, shall cease to apply to the operations of the Board.
- (f)

Sec. 142.
 (Authorised works on navigable waters.)

Sec. 143.
 (Vessel sunk or stranded to be removed.)

Sec. 154.
 (Leasing of public wharfs.)

Sec. 160.
 (Service of summons, etc., when good.)

Amendment of Act No. 1, 1901.

Part II.
 (Officers.)

Secs. 30, 30A.
 (Reclamation.)

Sec. 57.
 (Power to remove wrecks.)

Secs. 64, 65.
 (Repeal.)

New sec. 72A.

Inconsistency with Maritime Services Act.

Maritime Services (Amendment).

- (f) by omitting section ninety-seven. Sec. 97.
(Service of
summons,
etc.)
- (2) (a) The Sydney Harbour Trust (Amendment) Amendment
Act, 1930, is amended by omitting paragraph (a) of subsection of Act No.
one of section three. 32, 1930.
Sec. 3.
(Consequen-
tial.)
- 5 (b) The Sydney Harbour Trust (Amendment) Amendment
Act, 1931, is amended by omitting paragraph (b) of section of Act No.
two. 69, 1931.
Sec. 2.
(Consequen-
tial.)
- (c) The Maritime Services (Amendment) Act, Amendment
1953, is amended by omitting paragraphs (b) and (c) of of Act No.
10 section three. 18, 1953.
Sec. 3.
(Consequen-
tial.)
10. The Harbour and Tonnage Rates Act, 1920-1953, is Amendment
amended— of Act No.
12, 1920.
- (a) by inserting in section four in the definition of Sec. 4.
"Public wharf" after the word "Crown" the words (Interpre-
15 "or any Minister of the Crown or the Board"; tation.)
- (b) (i) by omitting from subsection one of section six Sec. 6.
the words "for the use of His Majesty, and to (Harbour
form part of the Consolidated Revenue Fund,"; rates to be
levied.)
- (ii) by inserting next after subsection three of the
20 same section the following new subsection :—
- (3A) The inward and outward harbour rates
and transhipment rates herein provided for may
be fixed generally for all ports concerned, or
25 special rates may be fixed for a particular port
or ports, or for a particular area or areas within
any port or ports, or for particular times or
other particular circumstances in all ports or in
particular ports or particular areas therein.
- (c)

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- (c) by omitting from section nine the words "for the use of His Majesty, and to form part of the Consolidated Revenue Fund,"; Sec. 9.
(Levy of tonnage rates.)
- 5 (d) by inserting next after section eleven the following new sections :— New secs.
11A, 11B,
11C.
- 10 11A. The tonnage rates and berthing charges prescribed and imposed pursuant to sections nine and ten of this Act may be expressed to apply generally in all ports concerned, or special rates or charges may be fixed for a particular port or ports, or for a particular area or wharf or particular areas or wharves within any port or ports, or for particular times or other particular circumstances in all ports or in particular ports or at or in particular areas or wharves. Differential tonnage rates and berthing charges.
- 15 11B. All harbour rates, tonnage rates and berthing charges shall be paid to the Board and shall be applied as provided for by the Maritime Services Act, 1935, as amended by subsequent Acts. Rates and charges payable to Board.
- 20 11C. The Board, in partial or full consideration of such rent, payment or other benefit as it deems appropriate to the circumstances, may by express agreement exempt all vessels, or any particular vessel or vessels or class or classes thereof, from tonnage rates or berthing charges in respect of the berthing of such vessels or vessel at any wharf vested in it. Exemptions from tonnage rates or berthing charges.
- 25 (e) by inserting next after subsection one of section eighteen the following new subsection :— Sec. 18.
(Power to make regulations.)
- 30 (1A) Any such regulations may be of general or specially limited application according to time, place or circumstance, and may be general or restricted to any specified class of subject matter.
- 35 **11.** The Rivers and Foreshores Improvement Act, 1948-1955, is amended by omitting from section three the words "in the port of Sydney by the Constructing Authority" and by inserting in lieu thereof the words "by the Constructing Authority in any area vested in the Maritime Services Board of New South Wales". Amendment of Act No. 20, 1948.
Sec. 3.
(Works within areas vested in Maritime Services Board.)