

SYDNEY HARBOUR TRUST (AMENDMENT) ACT.

Act No. 69, 1931.

George V.
No. 69, 1931.

An Act to amend the Sydney Harbour Trust Act, 1900–1930, and the Sydney Harbour Rates Act, 1904, in certain respects; to validate certain actions of the Commissioners; and for purposes connected therewith. [Assented to, 29th December, 1931.]

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

Short title
and citation.

1. (1) This Act may be cited as the “Sydney Harbour Trust (Amendment) Act, 1931.”

(2) The Sydney Harbour Trust Act, 1900–1930, as amended by this Act, may be cited as the “Sydney Harbour Trust Act, 1900–1931.”

Amendment
of Act No. 1,
1901.

Sec. 3.
(Definitions.)

Sec. 57.
(Power to
remove
wrecks)

2. The Sydney Harbour Trust Act, 1900–1930, is amended—

(a) by inserting at the end of the definition “vessel” in section three the words “seaplanes, hydroplanes, and similar craft”;

(b) by omitting section fifty-seven and by inserting in lieu thereof the following section:—

57. (1) Whenever any vessel is sunk or stranded in any part of the port the commissioners may cause such vessel to be raised or to be blown up or otherwise destroyed, and may recover from the owner of such vessel at the time of the sinking or stranding thereof all expenses incurred by the commissioners in raising or saving such vessel or any furniture, tackle

tackle, or apparel belonging thereto, or any goods, chattels, or effects raised or saved therefrom, or in watching or controlling such vessel, or in blowing up or in otherwise destroying the same. ^{No. 69, 1931.}

The commissioners may, if they think fit, and shall, if so required by such owner in writing, cause any such vessel, furniture, tackle, apparel, goods, chattels, or effects, or any part of the same respectively so raised or saved as aforesaid, to be sold in such manner as they think fit, and out of the proceeds of such sale may reimburse themselves for any such expenses, and shall hold the surplus, if any, of such proceeds in trust for such owner, and in case such proceeds shall be insufficient to reimburse the commissioners such expenses, the deficiency shall be paid to the commissioners by such owner on demand, and in default of payment may be recovered by the commissioners from such owner as a debt in any court of competent jurisdiction.

(2) The commissioners may remove anything causing an obstruction or impediment in any part of the port, and also any floating timber which obstructs or impedes the navigation of the port, and may recover the expense of removing the same from the owner thereof as a debt in any court of competent jurisdiction.

The commissioners may, if they think fit, detain such thing or floating timber for securing reimbursement to themselves for such expense, and on non-payment thereof on demand may sell such thing or floating timber and out of the proceeds reimburse themselves for such expenses, rendering any surplus to the owner on demand. Where such proceeds are insufficient to reimburse the commissioners such expense, the commissioners may recover the balance of the expenses from such owner as a debt in any court of competent jurisdiction.

(3)

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(3) The commissioners shall (except in case of emergency), before exercising their power of selling under the provisions of this section, give to the owner of such vessel, floating timber, or other thing seven days notice of their intention to sell the same by posting a prepaid letter addressed to such owner at the place in the State of New South Wales where he carries on business or at his last known place of abode in the said State, or if such owner or his place of business or abode shall not be known to the commissioners, by exhibiting the notice for seven days at the head office of the commissioners.

Sec. 58.
(Obstructions
may be
removed.)

(c) by omitting section fifty-eight ;

New s. 70A.

(d) by inserting the following new section next after section seventy :—

Remission or
refund of
tolls, rates,
or charges.

70A. The commissioners may remit or refund the whole or any part of any toll, rate, or charge which they are authorised to make under this or any other Act in any case in which they are satisfied that such remission or refund is reasonable subject to any claim for remission or refund being made and substantiated to the satisfaction of the commissioners within such time as under the circumstances they deem proper, and subject to such conditions, if any, as they may think reasonable.

Sec. 80.
(Regula-
tions.)

(e) by inserting next after paragraph (x) of section eighty the following new paragraph :—

(y) The licensing, on payment of a prescribed fee, of any vessel within the port.

Amendment
of Act No.
26, 1904.

3. Section six of the Sydney Harbour Rates Act, 1904, as amended by subsequent Acts, is amended—

Sec. 6.
(Tonnage
rates and
berthing
charges.)

(a) by inserting in subsection one immediately before the words "register tonnage" the word "gross" ;

(b)

(b) by inserting at the end of subsection two the words "Any such license may be incorporated in any license of a vessel issued under the provisions of the Principal Act";

(c) by inserting after subsection four the following new subsections:—

(5) (a) The commissioners may, by regulations, impose and provide for the collection of—

(i) tolls or charges on vessels while anchored or moored within the port at such rates under differing conditions as the commissioners may determine, but not in any case exceeding the amount which would be payable if the vessel berthed at a wharf vested in them;

Tolls or charges on vessels anchored or moored.

(ii) such charges (in addition to any rate or charge payable under subsection one or subsection two of this section) for the right to place goods in any shed provided at or in connection with a wharf or for the use of any apparatus and/or conveniences thereat as they may think proper.

Charges for use of sheds on wharves.

(b) The owner or the agent of the owner of a vessel on his behalf shall pay all tolls or charges which may be imposed under this subsection.

Payment of tolls or charges.

(6) The commissioners may accept by way of rent or otherwise in lieu of the rates or charges which they are empowered by this section to impose a gross sum per annum or for any lesser period of the year, and every such sum may be of such amount and shall be payable by such instalments and at such periods as the commissioners may determine.

Gross sum may be accepted in lieu of tonnage rates or berthing charges.

(7) The commissioners may exempt—

(a) any vessel licensed under the Principal Act; or

(b) any vessel which, in their opinion, is out of commission and continuously laid up for a period exceeding fourteen days,

Exemptions on undertakings by owners of licensed vessels and vessels out of commission.

from

No. 69, 1931.

from the payment of the whole or part of the tonnage rates, tolls, or charges payable under this section.

Exemption shall be granted only after—

- (a) an undertaking, that the commissioners will not be held responsible for damage to any such vessel caused by them or their servants, has been given by the owner of the vessel to the commissioners in a form approved by them; and
- (b) security to the satisfaction of the commissioners, that the owner will pay to them the amount—
 - (i) of any damage caused by the vessel to their property; and
 - (ii) of any loss incurred by them in raising, removing, or destroying the vessel in the event of it being sunk or stranded in the porthas been furnished; or
- (c) such other undertaking and/or security in lieu of the foregoing as the commissioners may require has been given or furnished.

Any such exemption shall continue during such time as the undertaking and/or security remains in force.

Nothing in this subsection shall affect the powers conferred on the commissioners by section 70A of the Principal Act.

Validation.

4. The actions of the commissioners, in acting as though the law had been in accordance with section six of the Sydney Harbour Rates Act, 1904, as amended by paragraph (a) of section three of this Act, and as though the word “gross” had been inserted immediately before the words “register tonnage” in those regulations made by the commissioners imposing tonnage rates or berthing charges at the time of the making of the regulations, are hereby validated.

No

Flour Acquisition (Further Amendment) Act.

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No legal proceedings shall lie at the suit of or be continued by any person against the commissioners for the recovery of any moneys paid to the commissioners as a result of any such actions. ^{No. 69, 1931.}
