

HARBOUR AND TONNAGE RATES ACT.

—
Act No. 12, 1920.

George V. An Act to make provision for levying and collecting
No. 12. harbour, tonnage, and buoyage rates, and
berthing charges, and for the management
and control of public wharfs, and the lands,
buildings, or property connected therewith,
in certain ports ; for regulating the berthing
and removal of vessels to or from such wharfs,
and the discharging, loading, storing, stacking,
and removing of goods on or from such wharfs ;
to amend the Port Kembla Harbour Act, 1898,
and to repeal the Wharfage and Tonnage Rates
Act, 1901, and the Port Kembla Wharfage and
Tonnage Rates Amendment Act, 1916 ; and
for purposes consequent thereon or incidental
thereto. [Assented to, 19th November, 1920.]

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

PART I.

PRELIMINARY.

Repeal and interpretation.

Short title **1.** This Act may be cited as the "Harbour and
Tonnage Rates Act, 1920," and is divided into Parts
and Divisions, as follows :—

PART I.—PRELIMINARY—ss. 1-5.

PART

PART II.—HARBOUR AND TONNAGE RATES AND George V,
No. 12.
BERTHING CHARGES—

DIVISION 1.—*Harbour rates—ss. 6-8.*

DIVISION 2.—*Tonnage rates and berthing charges—ss. 9-11.*

PART III.—BUOYAGE RATES—s. 12.

PART IV.—MISCELLANEOUS MATTERS—ss. 13-20.

SCHEDULES.

2. This Act shall commence and come into force on Commence-
ment.
a date to be proclaimed by the Governor.

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Act are to the extent therein expressed hereby repealed.

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repealed.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

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repealed.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

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

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

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

“Officer-in-charge” means the officer charged with the control and management of any port.

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

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

“Port” includes any harbour or haven, whether natural or artificial, and any estuary, channel, river,

Harbour and Tonnage Rates Act.

George V,
No. 12.

river, creek or roadstead, or any navigable water in which ships may lie for shelter, or for shipping or unshipping goods or passengers.

“Public wharf” means and includes any wharf, dock, pier, jetty, landing-stage, slip, or platform vested in the Crown, but does not include a public wharf the control and management of which is vested in the council of a municipality or shire.

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

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

“Wharfinger” means wharfinger appointed under this Act.

Ports to
which Act
applies.

5. This Act shall apply only to the ports mentioned in Schedule Two to this Act: Provided that the Governor may, by proclamation in the Gazette, add any other port to such Schedule.

PART II.

HARBOUR AND TONNAGE RATES AND BERTHING
CHARGES.

DIVISION 1.—*Harbour rates.*

Harbour
rates to be
levied.

6. (1) Towards meeting the expenditure annually incurred in dredging, improving, and maintaining the ports to which this Act applies, the Governor may, by regulations, fix and impose under this Act for the use of His Majesty, and to form part of the Consolidated Revenue Fund, inward harbour rates on all goods brought by sea to such ports for landing or transhipment therein, and outward harbour rates on all goods shipped on any vessel in such ports. (2)

(2) Such rates, whether inward or outward, may be by weight or measurement, but inward harbour rates shall not exceed five shillings per ton by weight or five shillings per ton of forty cubic feet measurement, and outward harbour rates shall not exceed half that sum.

George V.
No. 12.
Amount of
inward and
outward
harbour
rates.

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

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

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

Rates on
goods
transhipped.

(4) On goods transhipped no outward harbour rates shall be payable.

Savings

(5) Passengers' luggage shall be exempt from all harbour rates.

7. Inward and outward harbour rates shall be paid by the owners of the goods.

Payment of
harbour
rates.

Inward harbour rates shall be paid on the vessel entering the port, and before the landing or transhipment from the vessel of any goods.

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

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

8. For the purpose of carrying out the above provisions as to harbour rates, any officer duly appointed and authorised in that behalf may at any time board any vessel in a port and enter any place where goods are landed or shipped, and may inspect any goods thereon or therein.

Power to
enter private
wharves.

DIVISION

George V,
No. 12.

Levy of
tonnage rates.

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

9. Towards meeting the cost of construction and maintenance of public wharves in the ports to which this Act applies, there shall on and after the commencement of this Act be charged, levied, collected, and paid for the use of His Majesty, and to form part of the Consolidated Revenue Fund, tonnage rates upon every vessel (except vessels under two hundred and forty tons of register tonnage and lighters) whilst lying berthed at any public wharf in any such port at a rate not exceeding one penny for each ton of the gross tonnage measurement of the vessel for each complete period of twenty-four hours, and for periods of less than twenty-four hours at a rate not exceeding one-fourth of a penny for each period of six hours or part thereof :

Provided that when a vessel is detained at a public wharf by the officer in charge for purposes connected with the management of the port, or is allowed by him to take up or continue to occupy a public wharf owing to stress of weather, tonnage rates shall not be levied, but in all such cases the circumstances shall be fully reported to the Colonial Treasurer.

Berthing
charges on
small vessels
and lighters.

10. On vessels under two hundred and forty tons of registered tonnage and lighters, the Governor may, by regulation, impose charges for berthing at any public wharf in any port to which this Act applies, and provide for the collection of such charges. Such charges may be fixed charges for berthing, or may be in the form of licenses for a fixed period.

Payment of
tonnage rates
or berthing
charges.

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

PART III.

George V,
No. 12.

BUOYAGE RATES.

12. (1) Towards meeting the cost of providing and maintaining buoys at the ports to which this Act applies, there shall on and after the commencement of this Act be charged, levied, collected and paid for the use of His Majesty, and to form part of the Consolidated Revenue Fund, buoyage rates upon every vessel occupying a Government mooring buoy at any such port, according to the following scale :—

Imposing of
buoyage
rates.

For each complete period of twenty-four hours or part thereof after the first two clear days—

Every vessel of one thousand register tonnage or under, one pound.

Every vessel of over one thousand and not over two thousand register tonnage, two pounds.

Every vessel of over two thousand register tonnage, three pounds.

Exemption from buoyage rates shall be allowed—

- (a) when a vessel does not occupy a Government buoy for more than two clear days; or
- (b) when, by permission of the officer in charge, a vessel is detained at a buoy through stress of weather rendering her departure unsafe; or
- (c) when any unforeseen circumstance arises which, in the opinion of the officer in charge, renders it desirable that the vessel should occupy or continue to occupy a Government mooring.

(2) The owner, or the agent of the owner, or the master of a vessel shall pay all buoyage rates on the vessel before she leaves the port. If any vessel leave the port before such rates are paid such owner, agent, and master shall, in addition to liability for such rates, be severally liable to a penalty not exceeding five pounds.

(3) The Crown will not be liable for any damage, however caused, to a vessel while occupying a Government mooring buoy.

George V,
No. 12.

PART IV.

MISCELLANEOUS MATTERS.

Wharfingers. **13.** (1) The Governor may appoint such wharfingers or other persons as may be necessary who may demand, collect, and receive rates and charges payable by or under the authority of this Act.

Provision as to appointment. (2) The appointment of wharfingers and other persons under this Act shall be made in accordance with the provisions of the Public Service Act, 1902, and any Acts amending the same.

Salaries and fees. (3) The salaries and fees of such wharfingers and other persons employed under this Act shall be paid out of moneys to be appropriated by Parliament for that purpose.

Inward manifest to be lodged. **14.** After entering any port to which this Act applies, and at which goods are to be landed or transhipped, the master of a vessel shall, before any goods are landed or transhipped from his vessel, lodge or cause to be lodged at the office of a wharfinger or officer in charge a true and complete manifest of all goods intended to be so landed or transhipped.

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

Every manifest, inward or outward, shall show the weight and measurement of each class of goods.

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

Power to sell goods, &c., for payment of rates, charges, &c. **15.** (1) Any rates and charges leviable under this Act and the regulations thereunder may be recovered as a Crown debt in any court of competent jurisdiction.

(2) The period within which any rates and charges under this Act are to be paid may, where not prescribed by this Act, be prescribed by regulations under this Act.

(3)

(3) Any person duly appointed and authorised in that behalf to collect such rates and charges may retain any goods on which rates and charges are due until such rates and charges are paid. **George V,
No. 12.**

(4) If such rates and charges in respect of goods be not paid within the prescribed time, or if the owner cannot be found, the person authorised to collect such rates and charges may sell such goods by public auction, provided that such goods, if perishable, may be sold without demand after twenty-four hours.

(5) The proceeds of any such sale shall be applied in payment of—

- (i) customs duties and dues in respect of such goods ;
- (ii) rates and charges payable under this Act in respect of such goods and any expenses of sale ;
- (iii) freight due on such goods (in case the person claiming such freight has given notice in writing that such freight has not been paid).

The surplus (if any) and also such of the said goods as remain unsold (the rates and charges et cetera due in respect thereof having been discharged as aforesaid) shall be rendered to the person entitled thereto on demand.

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

16. The Governor may exempt any goods or classes of goods from inward or outward harbour rates, and may reimpose and fix, under this Act, harbour rates on such goods. **Exemption as to goods.**

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

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

18.

George V,
No. 12.
Power to
make regula-
tions.

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

- (a) the berthing of vessels at any public wharf in any port to which this Act applies;
- (b) the removal of vessels from any such public wharf;
- (c) the discharging and loading of goods on or from any such public wharf;
- (d) the storing, stacking, and removing of goods which are on any such public wharf, and the fixing, levying, and collecting of charges for such storage, stacking, or removing;
- (e) the management and control and the cleansing of any such public wharf, and any lands, buildings, or other property connected therewith;
- (f) the fixing and collecting of charges, and imposing any necessary conditions for the use of any of the property of the Crown used on or in connection with any such public wharf;
- (g) the collection of harbour, tonnage, and buoyage rates;
- (h) the fixing, levying, and collecting of berthing charges;
- (i) prescribing penalties, not exceeding one hundred pounds, for the contravention of any such regulation. Every such penalty may be defined by a minimum as well as a maximum limit; and
- (j) the seizure, retention, and sale of any goods on which rates and charges have not been paid within the prescribed time.

Publication of
regulations.

(2) Such regulations shall—

- (i) be published in the Gazette;
- (ii) take effect from the date of publication, or from a later date to be specified in such regulations; and
- (iii) be laid before both Houses of Parliament within fourteen days after publication if Parliament is in session, and if not, then within fourteen days after the commencement of the next session.

19.

19. (1) Where a penalty is not otherwise provided in this Act any person guilty of a breach of any of the provisions of this Act shall be liable to a penalty not exceeding one hundred pounds for each such breach. George V,
No. 12.
Penalty.

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

20. Nothing in this Act shall affect any lease or agreement for a lease of any public wharf granted or entered into by or on behalf of the Crown before the commencement of this Act. Saving.

SCHEDULES.

SCHEDULE ONE.

Section 3.

Reference to Act.	Short title.	Extent of repeal.
No. 16, 1902 ...	Wharfage and Tonnage Rates Act, 1901.	The whole.
No. 34, 1898 ...	Port Kembla Harbour Act, 1898	Section 4.
No. 23, 1916 ...	Port Kembla Wharfage and Tonnage Rates Amendment Act, 1916.	The whole.

George V,
No. 12.

Section 5.

SCHEDULE TWO.

Tweed River.	Broken Bay.
Byron Bay.	Botany Bay.
Richmond River.	Wollongong.
Clarence River.	Port Kembla.
Woolgoolga.	Kiana.
Coff's Harbour.	Shoalhaven.
Bellinger River.	Crookhaven.
Nambucca River.	Ulladulla.
Macleay River.	Clyde River.
Port Macquarie.	Moruya.
Camden Haven.	Wagonga Inlet (Narooma).
Harrington Inlet (Manning River).	Bermagui.
Cape Hawke (Forster).	Tathra.
Port Stephens.	Merimbula.
Port Hunter (Newcastle Harbour).	Twofold Bay.
Lake Macquarie.	