

MARITIME SERVICES (AMENDMENT) ACT.

Act No. 63, 1966.

Elizabeth II,
No. 63, 1966

An Act to make further provisions with respect to the powers, authorities, duties, functions and obligations of the Maritime Services Board of New South Wales; for this and other purposes to amend the Maritime Services Act, 1935, the Sydney Harbour Rates Act, 1904, the Navigation Act, 1901, the Fisheries and Oyster Farms Act, 1935, and certain other Acts; and for purposes connected therewith. [Assented to, 16th December, 1966.]

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 :—

Short title,
citation
and com-
mencement.

1. (1) This Act may be cited as the "Maritime Services (Amendment) Act, 1966".

(2) The Maritime Services Act, 1935, as amended by subsequent Acts and by this Act, may be cited as the Maritime Services Act, 1935–1966.

(3)

(3) The Sydney Harbour Rates Act, 1904, as No. 63, 1966 amended by subsequent Acts and by this Act, may be cited as the Sydney Harbour Rates Act, 1904–1966.

(4) The Navigation Act, 1901, as amended by subsequent Acts, by proclamations thereunder, and by this Act, may be cited as the Navigation Act, 1901–1966.

(5) The Fisheries and Oyster Farms Act, 1935, as amended by subsequent Acts and by this Act, may be cited as the Fisheries and Oyster Farms Act, 1935–1966.

(6) The several provisions of this Act shall commence upon such day or days as may be appointed by the Governor in respect thereof and notified by proclamation published in the Gazette.

2. The Maritime Services Act, 1935–1965, is amended—
Amendment of Act No. 47, 1935. (Part I.—Preliminary.)

(a) by inserting in subsection one of section two next after the definition of “Owner” the following new definition :—

“Prescribed” means prescribed by regulations.

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

“Regulations” means regulations under this Act.

“Secretary of the Board” includes an officer of the Board for the time being acting as Secretary of the Board.

(c) by inserting in the same subsection in the definition of “Vessel” after the word “hydroplanes” the words “, hydrofoils, hovercraft”;
Sec. 2. (Interpretation.)

(d) by inserting next after the same subsection the following new subsection :—

(1A) A reference in this Act, and in any Act, by-law, regulation or rule with the administration of which the Board is charged, to “navigable waters”

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waters" (whether or not the reference is to inland navigable waters) includes, except where the expression is otherwise defined or unless the context in which the reference occurs otherwise indicates or requires, all waters that are from time to time capable of navigation and are open to or used by the public for navigation, whether upon payment of a charge or fee or otherwise.

Amendment
of Act No.
47, 1935.

(Part II.—
Constitution
of the
Maritime
Services
Board of
New South
Wales.)

Sec. 3.
(Consti-
tution of
Board.)

3. The Maritime Services Act, 1935–1965, is further amended—

- (a) by omitting from paragraph (e) of subsection four of section three the words "Sydney Harbour Trust Fund" and by inserting in lieu thereof the words "Maritime Services Board Fund established under section 24B of this Act";
- (b) by omitting from subparagraph (iii) of paragraph (a) of subsection nine of the same section the word "fourteen" and by inserting in lieu thereof the word "twenty-eight".

Amendment
of Act No.
47, 1935.

(Part III.—
Powers,
Authorities,
Duties,
Functions
and Obligations of the
Maritime
Services
Board of
New South
Wales.)

Sec. 13R.
(Patrolling
and working
of lands
and installa-
tions.)

4. The Maritime Services Act, 1935–1965, is further amended—

- (a) by inserting in section 13R after the words "vested in it" where firstly occurring the words "or under its control or management";

(b)

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- (b) by inserting in section 13S after the words “vested in it” the words “or under its control or management”;

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Sec. 13S.
(Rescue and fire-extinguishing operations.)

- (c) by inserting next after section 13S the following new section : —

New sec. 13SA.

13SA. (1) The Board may, by notification published in the Gazette, limit the speed of vessels within navigable waters.

Speed limits of vessels within navigable waters.

(2) Any such notification may apply—

- (a) to vessels generally, to any class or classes of vessels specified in the notification or to vessels other than vessels of a class or of classes so specified;
- (b) to navigable waters generally, to any navigable waters specified in the notification or to navigable waters other than navigable waters so specified; and
- (c) at all times or at such times as may be specified in the notification.

(3) For the purposes of any such notification, vessels may be classified by reference to their size, the method of their propulsion, the purpose for which they are used or such other circumstance as may be specified in the notification.

(4) If any vessel to which any such notification applies exceeds the speed specified in the notification, the master of the vessel shall be liable to a penalty not exceeding two hundred dollars.

(5)

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(5) Nothing in this section affects any power to regulate or control the navigation or other use of vessels conferred on the Board or any officer of the Board by this Act or by any other Act, by-law, regulation or rule with the administration of which the Board is charged.

Subst.
sec. 13T.

(d) by omitting section 13T and by inserting in lieu thereof the following section :—

Obstructions
and en-
croachments
in waters.

13T. (1) In this section, "structure" includes any post, pile, stake, fence, pipe, chain, cable or wire, that is fixed to the soil or to anything fixed to the soil, any rubble or reclamation, and any other article, material or thing that is so fixed.

(2) For the purposes of this section a reference to the bed of any waters vested in or controlled by the Board includes a reference to any land which, but for the existence of a structure, would be covered by any such waters.

(3) Any person who erects any structure in, upon or over the bed of any waters vested in the Board without first obtaining the permission of the Board, or who makes use of any structure in, upon or over 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 structure, shall be liable to a penalty not exceeding two hundred dollars.

(4) The Board may cause any structure, erected without its permission in, upon or over the bed of any waters vested in it or not removed in accordance with any notice given under subsection three of this section, to be removed.

(5) Any person who, without lawful authority, erects any structure in, upon or over the bed of any waters controlled by the Board, not being waters vested in the Board, or who, without lawful authority, makes use of any structure in, upon or over the bed of any such waters after the expiration of the time specified in a notice from the Board served

served upon him requiring him to remove the structure shall be liable to a penalty not exceeding two hundred dollars. No. 63, 1966

(6) Proof of the existence of lawful authority to erect or make use of a structure in respect of which a person is prosecuted for an offence under subsection five of this section shall be upon that person.

(7) Where the existence of a structure in, upon or over any waters controlled by the Board, not being waters vested in the Board, is not authorised by a continuing authority granted in accordance with law or is in breach of any term or condition subject to which any such authority was granted, the Board may remove or authorise the removal of the structure.

(8) If, for a period of three months, a notice is displayed on or adjacent to any structure erected in, upon or over the bed of any waters controlled by the Board, not being waters vested in the Board, requiring any person who has been granted an authority to erect, maintain or use the structure or any part thereof to deliver to the Secretary of the Board a statement in writing signed by that person stating by what authority he erected or is entitled to maintain or use the structure or part thereof, any person who, within one month after the expiration of that period, fails to deliver such a statement to the Secretary of the Board shall have no claim against the Board or any other person removing the structure in accordance with subsection seven of this section.

(9) The Board may at its option cause or authorise any structure or part thereof removed in pursuance of subsection four or seven of this section to be destroyed or stored or sold, or may sell the structure on condition that it be removed, and may recover in any court of competent jurisdiction the expenses incurred in the removal, destruction, storage

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Sec. 13U.
(Obstruction
of waters
or lands
by vessels
or articles.)
New sec.
13YA.

storage or sale of the structure or part thereof from the person who erected the structure or caused the structure to be erected or has made use of it after service upon him of a notice referred to in subsection three of this section or after the expiration of the period of three months for which a notice referred to in subsection eight of this section and relating to the structure was displayed.

- (e) by omitting from subsection two of section 13U the words "or upon the bed or shores of" and by inserting in lieu thereof the words ", or upon the bed or shores of,";
- (f) by inserting next after section 13Y the following new section :—

Liability
of owners
of vessels,
etc., for
damage to
Board's
property.

13YA. (1) This section shall apply—

- (a) to any damage done by any vessel, any floating timber or other material, or any person employed about the vessel, timber or material to any installation, structure or fixed or movable property of any kind vested in or in the possession of the Board, and
- (b) to the obstruction of the full and proper use of any port to which section 13W of this Act applies, or of any installation or structure vested in or in the possession of the Board, occasioned by or resulting from the sinking, stranding or breaking up of any vessel or of any timber or other material.

(2) Where any damage or obstruction to which this section applies occurs—

- (a) the owner of the vessel, timber or material concerned, shall be liable ; and
- (b) if the damage or obstruction was occasioned by the negligent act or default of the master of the vessel concerned or the person having charge

charge of the timber or material concerned, No. 63, 1966
the owner thereof and also such master or
person shall be jointly and severally liable,

to pay to the Board all costs and expenses incurred in the repair and reinstatement of the installation, structure or property damaged, or in the removal of the obstruction and restoration of full and proper use of the port, installation or structure concerned, as the case may be.

(3) Any amount payable under subsection two of this section which is not paid to the Board may be recovered by it as a debt in any court of competent jurisdiction.

- (g) (i) by inserting in subsection two of section fifteen after the word "approval" the words "given either generally or in a particular case"; Sec. 15. (Appointment of officers and employees.)
- (ii) by inserting in the same subsection after the words "statutory body" where secondly occurring the words "and for the purpose of any prosecution or legal proceedings it shall be deemed, in the absence of proof to the contrary, that any approval required by this section has been obtained";

- (h) by inserting next after section twenty-one the following new sections :— New secs. 21A, 21B.

21A. (1) A person employed by the Board as a pilot who has the conduct of a ship is subject to the authority of the master of the ship and the master is not relieved from responsibility for the conduct and navigation of the ship by reason only of the ship being under pilotage. Liability of master and owner of ship under pilotage.

(2) The master and the owner of a ship navigating under circumstances in which pilotage is compulsory shall jointly and severally be answerable for any loss or damage caused by the ship or by any fault of navigation of the ship in the same manner as if pilotage were not compulsory.

21B.

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Immunity of
Crown,
pilots, etc.

21B. (1) Neither the Crown, nor the Minister nor the Board shall be liable for any loss or damage occasioned by the neglect or want of skill of any person employed by the Board as a pilot while he is acting as a pilot.

(2) No person employed by the Board as a pilot shall be personally liable in pecuniary damages for any loss or damage occasioned by his neglect or want of skill while he is acting as a pilot.

Sec. 24B.
(Funds to be
established.)

(i) by inserting next after subsection four of section 24B the following new subsection :—

(5) Subject to this Act, the provisions of the Audit Act, 1902, as amended by subsequent Acts, shall apply to and in relation to the Fund and the Renewals Fund in the like manner as those provisions apply to and in relation to the consolidated revenue fund or the general loan account respectively.

Sec. 24C.
(Payments
into
Fund.)

(j) (i) by omitting from paragraph (f) of subsection one of section 24C the words “by the Board or any of its officers or employees” and by inserting in lieu thereof the words “other than fines and penalties recovered upon informations laid by members of the police force, and all penalties paid under section 30D of this Act”;

(ii) by inserting at the end of the same subsection the following new paragraphs :—

(i) any moneys borrowed under section 24K of this Act;

(j) any moneys payable to the Fund under subsection six of section 24L of this Act.

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

(d) all fines and penalties recovered under this Act or the Sydney Harbour Trust Act, 1900, as amended by subsequent Acts, upon informations laid by members of the police force.

(k)

(k) by omitting from subsection two of section 24I the words "Any moneys" and by inserting in lieu thereof the words "Subject to paragraph (a) of subsection four of section 24L of this Act, any moneys";

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Sec. 24I.
(Banking and investment of Board's moneys.)

(l) by omitting section 24J and by inserting in lieu thereof the following section :—

Subst.
sec. 24J.

24J. The Treasurer may, with the approval of the Governor, advance moneys to the Board upon such terms and conditions as to repayment and interest as may be agreed upon.

Advances by Treasurer to Board.

(m) by inserting next after section 24J the following new sections :—

New secs.
24K-24R.

24K. The Board may from time to time with the concurrence of the Treasurer and the approval of the Governor borrow money for—

Purposes for which money may be borrowed.

- (a) the purpose of carrying out and performing any of its powers, authorities, duties and functions;
- (b) the renewal of loans;
- (c) the discharge or partial discharge of any loan or any indebtedness to the Treasurer; or
- (d) any other purpose of this Act.

24L. (1) The Board shall establish a reserve for loan repayment fund in respect of each loan or renewal loan raised by the Board.

Reserves for repayment.

(2) The Board shall during each year transfer to each such fund from the revenue of the Board a sum not less than the sum that the Board in its application for approval of the loan intimated that it proposed to transfer as aforesaid.

(3) Where any land or property of any kind which has been provided out of moneys borrowed under section 24K of this Act is sold before those moneys have been wholly repaid, the net proceeds of the sale shall be added to the reserve for loan repayment in the appropriate fund or paid directly to the lender.

(4)

(4) (a) Moneys held as reserve for loan repayment may be invested with the Government of the State of New South Wales or in government securities of the Commonwealth of Australia or of the State of New South Wales, or in debentures, bonds, inscribed stock or other prescribed securities in any loan of the Board, or in any securities guaranteed by the Government of the said State, or in such other securities as the Governor may approve or as may be prescribed, in each case at their current market price.

(b) Any interest or profits realised on such investments shall be added to and form part of the reserve for loan repayment fund from which the investments were made.

(c) All moneys paid into the reserve for loan repayment fund in respect of any loan or renewal loan may be applied in or towards repayment of any other loan or renewal loan but may not be applied for any other purpose until the loan or renewal loan in respect of which the fund has been established has been repaid.

(5) Where the Board decides to cancel debentures, bonds, inscribed stock or other prescribed securities purchased from the reserve for repayment of the loan for which they were issued, then, in addition to the sum otherwise payable to the reserve for loan repayment in respect of that loan, the Board shall, subject to any agreement to which it is a party whereby it undertakes to pay interest at a higher rate to such reserve, pay to such reserve interest at the rate of four and one-half per centum per annum on the face value of the cancelled securities from the date of their cancellation until the maturity of the loan.

(6) If after a loan has been repaid there remains in the reserve for repayment of that loan any balance, it shall form part of the funds of the Board and shall be paid into the Fund.

(7)

(7) The reserve for loan repayment shall No. 63, 1966 not be subject to seizure in satisfaction of any debt other than for the loan in respect of which the reserve was created.

(8) This section shall not apply to any loan to be repaid by instalments at intervals of one year or less.

24M. (1) For securing repayment of the prin- Debentures,
cipal and interest on any moneys borrowed, the ^{etc.} Board may as provided by the regulations issue debentures, bonds, inscribed stock or other prescribed securities.

(2) Every such debenture or bond and every coupon originally annexed to the debenture or bond and whether separated therefrom or not shall be transferable by simple delivery.

(3) Inscribed stock shall be transferable in the books of the Board in accordance with the regulations.

(4) Debentures, bonds, inscribed stock or prescribed securities issued under this Act shall as regards both the issue and transfer thereof for full consideration or money or money's worth be deemed to be included in the general exemptions from stamp duty under Part III of the Stamp Duties Act, 1920, as amended by subsequent Acts, contained in the Second Schedule to that Act.

(5) The holder of a coupon originally annexed to a debenture or bond and whether separated therefrom or not shall be entitled to receive payment from the Board of the interest mentioned in the coupon upon its presentation on or after the date when and at the place where the interest is payable.

(6)

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(6) (a) The due repayment of the debentures, bonds, stock and the interest thereon and of any loan in respect of which any other prescribed security is issued and the interest thereon shall be a charge upon the income and revenue of the Board from whatever source arising and is hereby guaranteed by the Government.

(b) Any liability arising from the guarantee shall be payable out of moneys provided by Parliament.

(c) The charge created by paragraph (a) of this subsection shall not prejudice or affect the power of the Board to sell or convey any property vested in it free of the charge.

Raising
loan in
any
country.

24N. (1) Notwithstanding anything contained in this Part any money which the Board is authorised to borrow may be borrowed by a loan raised wholly or in part in such country as the Governor may approve, and may be negotiated and raised in any currency.

(2) Any such loan may be raised wholly or in part by the issue of debentures, bonds, stock or other securities in any form and containing any term, condition or provision permitted under the law of the place where such loan is raised and the Board may establish and conduct in such country registries relating to the securities issued in respect of such loan.

(3) The Board may in respect of any such loan agree that a sinking fund shall be established and controlled at such place, by such person and in such manner as may be found necessary or expedient in the circumstances of the case and, where any such sinking fund is so established, the provisions of section 24L of this Act shall apply

with

with regard to that loan only in respect of the amount, if any, the repayment of which is not provided for by the sinking fund established under the agreement. No. 63, 1966

(4) In connection with the raising of any loan under this section, the Board may enter into such agreements as the Board shall think fit with respect to the form of such debentures, bonds, stock or other securities, or for the sale of such debentures, bonds, stock or other securities, or the granting of an option to purchase such debentures, bonds, stock or other securities, or for services to be performed by any person in Australia or in any other part of the world in connection with such loan or with the issue, management and redemption of or otherwise with respect to such debentures, bonds, stock or other securities, and such agreements may be upon such terms and conditions and may contain such provisions for the giving or receipt of consideration as the Board shall think fit.

Copies of any such agreement shall be forwarded to the Minister who shall cause the same to be laid before both Houses of Parliament as soon as possible after the loan is raised.

(5) The Governor may upon the recommendation of the Board appoint two or more persons to enter into for and on behalf of the Board all such agreements as the Board is by this section authorised to enter into and to sign, execute, or otherwise perfect all such agreements, debentures, bonds, stock or other securities as are by this section provided for and to do all such things as may be necessary or convenient to be done for the purpose of raising any loan under this Act, and may upon the like recommendation revoke or vary any such appointment and make any fresh appointment.

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The production of a copy of the Gazette containing a notification of any such appointment or revocation as aforesaid shall in favour of a lender or of any holder of a security be conclusive evidence of the appointment or revocation.

(6) All debentures, bonds, stock or other securities bearing the signatures of such persons so appointed in that behalf shall be deemed to be securities lawfully issued under seal by the Board and the principal moneys and interest secured thereby shall be a charge upon the income and revenue of the Board from whatsoever source arising, and the due repayment of such principal moneys and interest is hereby guaranteed by the Government, and all agreements and any instruments purporting to be made or issued under the authority of this section and bearing the signatures of such persons shall be deemed to have been lawfully made or issued by the Board, and if the same shall purport to have been sealed by such persons to have been lawfully executed by the Board under seal.

A holder of any such debenture, bond, stock or other security shall not be bound to enquire whether the issue of such security was in fact duly authorised.

(7) Subject to this section and the law in force in the place where any loan is raised under this section and applicable to such loan and the securities issued in connection therewith the provisions of this Part other than subsection one of section 24M and subsections three and four of section 24P of this Act shall apply, mutatis mutandis, to and in respect of such loan and such securities.

Trustees.

240. (1) Any trustee unless expressly forbidden by the instrument (if any) creating the trust, may invest any trust moneys in his hands in stock inscribed by the Board, and the investment shall be

deemed

deemed to be an investment authorised by the No. 63, 1966 Trustee Act, 1925, or any Act amending or replacing that Act.

(2) Any debenture issued or stock inscribed by the Board shall be a lawful investment for any moneys which any company, council, as defined in the Local Government Act, 1919, as amended by subsequent Acts, or body corporate incorporated by any Act is authorised or directed to invest in addition to any other investment expressly provided for the investment of such moneys.

(3) No notice of any trust expressed, implied or constructive, shall be received by the Board or by any officer of the Board in relation to any debenture or coupon issued or stock inscribed by the Board.

24P. (1) If any debenture or bond issued by the Board is lost or destroyed or defaced before it has been paid, the Board may, subject to the provisions of this section, issue a new debenture or bond in lieu thereof. ^{Lost debentures.}

(2) The new debenture or bond with interest coupon annexed shall bear the same date, number, principal sum, and rate of interest as the lost, destroyed or defaced debenture or bond.

(3) When the debenture or bond is lost or destroyed the new debenture or bond shall not be issued unless and until—

- (a) a judge of the Supreme Court has been satisfied by affidavit of the person entitled to the lost or destroyed debenture or bond, or of some person approved by the judge, that it has been lost or destroyed before it has been paid off;
- (b) such advertisement as the judge may direct has been published;

(c)

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- (c) six months have elapsed since the publication of the last of the advertisements; and
- (d) sufficient security had been given to the Board to indemnify it against any double payment if the missing debenture or bond is presented for payment.

(4) When the debenture or bond is defaced the new debenture or bond shall not be issued unless and until the defaced debenture or bond is lodged with the Board for cancellation.

(5) The provisions of this section shall, mutatis mutandis, extend to the case of a lost, destroyed, or defaced coupon.

(6) Notwithstanding any other provision of this section, in case of the loss, theft, destruction, mutilation or defacement of any debenture or bond issued under section 24N of this Act, a duplicate or new debenture or bond may be issued upon proof to the satisfaction of the Board of such loss, theft, or destruction, or upon surrender of the mutilated or defaced debenture or bond, as the case may be, and upon the Board receiving security or indemnity satisfactory to it against double payment if the missing debenture or bond be at any time thereafter presented for payment.

Protection
of invest-
ments.

24Q. (1) A person advancing money to the Board shall not be bound to enquire into the application of the money advanced, or be in any way responsible for its non-application or misapplication.

(2) A notification in the Gazette of the approval of the Governor having been given to a borrowing by the Board shall, in favour of a lender and of any holder of a security given by the Board, be conclusive evidence that all conditions precedent to the borrowing have been complied with, and where the approval notified is to the
borrowing

borrowing by the Board in a country outside New South Wales and in a particular currency shall also be conclusive evidence in favour of such persons of the approval of the Governor to the borrowing in the country and in the currency specified in the notification.

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24R. All debentures, bonds, stock, or other securities which are secured upon the income and revenue of the Board shall rank pari passu without any preference one above another by reason of priority of date or otherwise.

Debentures and bonds to rank pari passu.

5. (1) The Maritime Services Act, 1935-1965, is further amended—

Amendment of Act No. 47, 1935. (Part IV.—Miscellaneous.)

(a) by inserting at the end of section 30A the following new subsection :—

Sec. 30A. (Service of notices and legal processes.)

(3) The service of any notice, summons or process under this section may be proved in any legal proceedings either by the oath or by the affidavit of the person by whom it was served or otherwise.

(b) (i) by inserting in subsection one of section 30B after the words "employee of the Board" the words "or any member of the police force";

Sec. 30B. (Powers of entry and inspection.)

(ii) by inserting in subsection two of the same section after the word "employee" the words "or member of the police force";

(c) by inserting next after section 30B the following new sections :—

New secs. 30C, 30D, 30E, 30F.

30C. (1) When a parking offence occurs in relation to any vehicle the person who at the time of the occurrence of the offence is the owner of the vehicle shall, by virtue of this section, be guilty of an

Liability of vehicle owner for parking offences. cf. Act No. 5, 1909, s. 18A.

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an offence under the regulation concerned in all respects as if he were the actual offender guilty of the parking offence unless—

- (a) in any case where such offence is dealt with under section 30D of this Act, such owner satisfies the prescribed officer under the said section 30D that such vehicle was at the relevant time a stolen vehicle or a vehicle illegally taken or used;
- (b) in any other case the court is satisfied that such vehicle was at the relevant time a stolen vehicle or a vehicle illegally taken or used.

(2) Nothing in this section shall affect the liability of the actual offender but where a penalty has been imposed on or recovered from any person in relation to any parking offence no further penalty shall be imposed on or recovered from any other person in relation thereto.

(3) Notwithstanding anything in the foregoing provisions of this section no owner of a vehicle shall by virtue of this section be guilty of an offence if—

- (a) in any case where such offence is dealt with under section 30D of this Act, he—
 - (i) within twenty-one days after service on him of a notice under the said section 30D alleging that he has been guilty of such offence, supplies by statutory declaration to the prescribed officer under the said section 30D the name and address of the person who was in charge of the vehicle at all relevant times relating to the parking offence concerned; or

(ii)

(ii) satisfies such prescribed officer that No. 62, 1966 he did not know and could not with reasonable diligence have ascertained such name and address;

(b) in any other case he—

(i) within twenty-one days after service on him of a summons in respect of such offence, supplies by statutory declaration to the informant the name and address of the person who was in charge of the vehicle at all relevant times relating to the parking offence concerned; or

(ii) satisfies the court that he did not know and could not with reasonable diligence have ascertained such name and address.

(4) A statutory declaration under subsection three of this section if produced in any proceedings against the person named therein and in respect of the parking offence concerned shall be prima facie evidence that such person was in charge of the vehicle at all relevant times relating to such parking offence.

(5) A statutory declaration which relates to more than one parking offence shall not be deemed to be a statutory declaration under or for the purposes of subsection three of this section.

(6) In this section—

“Owner” in relation to a vehicle includes—

(a) every person who is the owner or joint owner or part owner of the vehicle and any person who has the
use

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use of the vehicle under a hire-purchase agreement but not the lessor under any such agreement;

(b) in the case of a motor vehicle—

- (i) the person in whose name the vehicle is registered under and in accordance with the regulations made under the Motor Traffic Act, 1909, as amended by subsequent Acts, except where such person has sold or otherwise disposed of the vehicle and has complied with the provisions of those regulations applicable to him in regard to such sale or disposal; or
- (ii) where the motor vehicle has affixed to it a trader's plate, issued under the Motor Traffic Act, 1909, as amended by subsequent Acts, for use as prescribed by regulations under that Act, the person to whom such trader's plate is on issue.

“Parking offence” means any offence of standing or parking a vehicle or of causing or permitting a vehicle to stand, wait or be parked in contravention of any regulation under this Act.

(7) The provisions of this section shall be in addition to and not in derogation of any other provisions of this or any other Act.

30D. (1) Where it appears to a member of the police force or a prescribed officer that any person has committed, or by virtue of section 30C of this Act is guilty of, any offence under section 13SA of this Act or of any prescribed offence under any regulation, such member of the police force or prescribed officer may serve a notice on such person to the effect that if such person does not desire to have the matter determined by a court, such person may pay to an officer specified in such notice within the time specified therein an amount of penalty prescribed for such offence if dealt with under this section.

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Penalty notices for certain offences.
cf. Act No. 5, 1909, s. 18B.

(2) Any notice under subsection one of this section—

- (a) may be served in a manner provided by section 30A of this Act; or
- (b) if it relates to an offence of which the owner of a vehicle is guilty by virtue of section 30C of this Act, may be addressed to the owner without naming him or stating his address and may be served by leaving it on or attaching it to the vehicle.

(3) Any person alleged to have committed or be guilty of an offence to which subsection one of this section applies shall have the right to decline to be dealt with under this section.

Any person who fails to pay the penalty within the time specified in the notice given to him under subsection one of this section or within such further time as may in any particular case be allowed shall be deemed to have declined to be dealt with under this section.

(4) Where the amount of any prescribed penalty for an alleged offence is paid pursuant to this section no person shall be liable for any further proceedings for the alleged offence.

(5)

No. 63, 1966

(5) Payment of a penalty pursuant to this section shall not be regarded as an admission of liability for the purpose of nor in any way affect or prejudice any civil claim, action or proceeding arising out of the same occurrence.

(6) The regulations may—

- (a) prescribe the offences which shall be prescribed offences for the purposes of this section by setting out such offences or by a reference to the regulation or part of the regulation creating the offence;
- (b) prescribe the amount of penalty payable under this section for any prescribed offence or any offence under section 13SA of this Act;
- (c) for the purposes of this section, prescribe different amounts of penalties for different offences or classes of offences or for offences or classes of offences having regard to the circumstances thereof;
- (d) prescribe the persons or classes of persons who shall be prescribed officers for the purposes of this section.

(7) No penalty prescribed under this section for any offence shall exceed any maximum amount of penalty which could be imposed for such offence by a court.

(8) The provisions of this section are supplemental to and not in derogation of the provisions of any other section of this Act or any other Act in relation to proceedings which may be taken in respect of offences.

30E. (1) Where—

- (a) the matter of an information for an offence referred to in subsection one of section 30D of this Act has been substantiated by the oath of the informant;
- (b)

Ex parte
procedure
for offences
referred to
in section
30D.
cf. Act No.
5, 1909,
s. 18c.

- (b) a summons for the appearance of the defendant has been served on him in the manner provided by the Justices Act, 1902, as amended by subsequent Acts; and
- (c) the defendant does not appear at the time and place fixed for the hearing of the information,

the court before which the information comes for hearing may, if it is satisfied that the facts as alleged in the summons constitute such an offence and reasonably sufficient particulars thereof are set out in the summons, make an order imposing on the defendant a penalty to be paid within such time as may be specified in the order, and may, if it thinks fit, make an order under section eighty-one of the Justices Act, 1902, as amended by subsequent Acts, for the payment by the defendant of costs.

(2) The provisions of section 556A of the Crimes Act, 1900, as amended by subsequent Acts, apply to any proceedings under subsection one of this section as if the defendant had been charged before the court with the offence referred to in the information.

(3) A penalty imposed by an order under subsection one of this section shall not exceed the amount of the penalty specified in section 13SA of this Act or in the regulation creating the offence in respect of which the penalty is so imposed, as the case may be.

(4) In determining the amount of the penalty to be imposed by an order under subsection one of this section, the court may take into account any report made to it by or on behalf of the informant with respect to the penalties or previous convictions, under the regulations or under section 13SA of this Act, of the defendant and to the circumstances of the offence and any information that the defendant causes to be brought to the notice of the court.

(5)

No. 63, 1966

(5) An order under subsection one of this section shall, for the purposes of section eighty-two and Part V of the Justices Act, 1902, as amended by subsequent Acts, be deemed to be an order under that Act, as so amended.

(6) Section seventy-five of the Justices Act, 1902, as amended by subsequent Acts, does not apply in any case where an information is dealt with under subsection one of this section.

(7) A reference in subsection one of this section to the time and place fixed for the hearing of an information shall, where the hearing of the information has been adjourned and notice of the time and place to which the hearing has been adjourned has been given to the defendant or sent to him at his last known place of abode or business, include a reference to the time and place specified in that notice.

(8) Section fifteen of the Justices Act, 1902, as amended by subsequent Acts, shall be construed as if this section formed part of that Act, as so amended.

(9) The jurisdiction of a court under this section shall not be exercised except by a stipendiary magistrate.

(10) The provisions of this section are supplemental to and not in derogation of the provisions of any Act in relation to proceedings that may be taken in respect of offences referred to in subsection one of section 30D of this Act.

Information
to be given
to identify
master of
vessel.

cf. Act
No. 5,
1909, s. 5
(3), (4).

30F. (1) Where the master of a vessel is alleged to be guilty of an offence under any Act, by-law, regulation or rule with the administration of which the Board is charged—

(a) the owner of the vessel, or the person having the control of the vessel, or where such owner or person is a company the secretary

of

of the company shall, when required so to do by an officer of the Board or a member of the police force, forthwith furnish a statement in writing and signed by such owner, person or secretary, stating the name and address of such master, and if any such owner, person or secretary fails to do so he shall be guilty of an offence against this Act and liable to a penalty not exceeding two hundred dollars unless he proves to the satisfaction of the court that he was unable to furnish such statement and that his inability to do so was not due to any lack of proper supervision on his part of the use made of the vessel; and

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- (b) any other person shall, if required as aforesaid, give any information which it is in his power to give and which may lead to the identification of such master and, if he fails to do so, he shall be guilty of an offence against this Act and liable to a penalty not exceeding two hundred dollars.

(2) Where a statement in writing purporting to be furnished under paragraph (a) of subsection one of this section and to contain particulars of the name and address of the master of a vessel at the time of the commission of an alleged offence referred to in that subsection is produced in any court in proceedings for the offence against the person named in the statement as the master, the statement shall be evidence without proof of signature that he was the master of such vessel at such time.

- (d) by inserting next after paragraph (c) of section 31A the following new paragraph :—
- (d) the Motor Traffic Act, 1909, the Motor Vehicles Taxation Management Act, 1949, the Motor Vehicles (Taxation) Act, 1962, and

Sec. 31A.
(Board to be Crown for purposes of certain enactments.)

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and the Road Maintenance (Contribution) Act, 1958, as severally amended by subsequent Acts.

Subst.
secs. 32, 33.

(e) by omitting sections thirty-two and thirty-three and by inserting in lieu thereof the following sections :—

Variations
in pro-
ceedings.

32. (1) Any direction, authorisation or approval by the Board or by a Commissioner given, pursuant to this Act or to any other Act, by-law, regulation or rule with the administration of which the Board is charged, for the commencing of any prosecution or legal proceedings against any person shall be deemed a direction, authorisation or approval for the commencing of any other prosecution or proceedings against such person arising from or connected with the same or substantially the same facts.

(2) The provisions of section sixty-five of the Justices Act, 1902, as amended by subsequent Acts, apply to any such direction, authorisation or approval in the same manner as those provisions apply to an information, complaint, summons or warrant.

Officers may
represent
Board.

33. In all proceedings in any inferior court, any officer of the Board appointed by the President in writing under his hand for the purpose may represent the Board in all respects as though that officer were the Board.

Sec. 34.
(Proof of
certain
matters not
required.)

(f) (i) by inserting in paragraph (c) of subsection one of section thirty-four after the word "Board" the words "or any member of the police force";

(ii) by inserting in paragraph (d) of the same subsection after the word "officer" the words "or any member of the police force";

(iii)

(iii) by omitting paragraphs (j) and (k) of the same subsection and by inserting in lieu thereof the following paragraphs :—

(j) the fact that, at any relevant time, any vessel or ship was not used solely for pleasure or was used for profit or reward;

(k) the fact that any vessel or ship was, at any relevant time, of such a net tonnage, gross tonnage or length that any provision of any Act, by-law, regulation or rule with the administration of which the Board is charged applied to it;

(iv) by inserting at the end of the same subsection the following new paragraphs :—

(m) the appointment of any person under any Act, by-law, regulation or rule with the administration of which the Board is charged;

(n) the fact that any land in question is, or at any relevant time was, vested in the Board or in the Crown or any Minister of the Crown or any statutory body;

(o) the fact that the control and management of any land vested in the Crown or any Minister of the Crown or any statutory body is, or at any relevant time was, properly placed in the Board or in The Housing Commission of New South Wales or in the Board as deputy, attorney or agent of The Housing Commission of New South Wales.

(v)

Maritime Services (Amendment) Act.No. 63, 1966

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

(3) For the purposes of this section—

(a) a certificate purporting to be signed by the Secretary of the Board and certifying that the Board has directed that any prosecution or legal proceedings referred to in the certificate be commenced shall be evidence of that direction;

(b) any prosecution or legal proceedings undertaken by an officer of the Board shall be deemed to have been directed by the Board in the absence of proof to the contrary; and

(c) any prosecution undertaken by a member of the police force in pursuance of any Act, by-law, regulation or rule with the administration of which the Board is charged, shall be deemed to have been directed by the Board in the absence of proof to the contrary.

(4) In any prosecution or legal proceedings by or under the direction or authority of or on behalf or for the benefit of the Board—

(a) any writing purporting to be a copy of a license, certificate or permission granted by the Board, or of a direction under the hand of an officer or employee of the Board that compliance with a requirement of any Act, by-law, regulation or rule with the administration of which the Board is charged be dispensed with, or of an instrument granting exemption from
any

any such requirement, or of any conditions subject to which such dispensation or exemption was granted, and purporting to be certified as a true copy of such license, certificate, permission, direction, instrument or conditions by the Secretary of the Board, shall be prima facie proof of the terms of such license, certificate, permission, direction, instrument or conditions and that it was duly granted or given and duly issued, and production of the original license, certificate, permission, direction, instrument or conditions shall not be required ;

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- (b) a certificate purporting to be signed by the Secretary of the Board that any certificate, license, permit, registration or exemption under any Act, by-law, regulation or rule with the administration of which the Board is charged or any renewal of any such certificate, license, permit, registration or exemption has not been issued, granted or effected or was not in force on a day specified in the certificate purporting to be so signed shall be prima facie proof of the facts stated therein ;
- (c) a copy of the Gazette containing any notification purporting to be made under any Act, by-law, regulation or rule with the administration of which the Board is charged shall be prima facie proof of the due making of the notification and of its contents ;
- (d) a certificate purporting to be signed by the Secretary of the Board that any license, registration, certificate, permission or direction granted, effected, issued

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issued or given by the Board, was cancelled, suspended or revoked by the Board or that any application made to the Board was refused by the Board shall be prima facie proof of such cancellation, suspension, revocation or refusal and where the certificate purporting to be so signed specifies the grounds upon which the license, registration, certificate, permission, direction or application was cancelled, suspended, revoked or refused, of the grounds for the cancellation, suspension, revocation or refusal;

- (e) the statement in a daily newspaper circulating throughout New South Wales of the times of sunrise and sunset on any day shall be prima facie proof of such times.

New sec.
36A.

- (g) by inserting next after section thirty-six the following new section :—

Appoint-
ment
of persons
to exercise
powers, etc.,
of harbour
masters.

36A. (1) The Board may appoint any person to exercise or perform—

- (a) in relation to any port for which there is a harbour master, any of the powers, authorities, duties or functions of that harbour master under any Act, by-law, regulation or rule with the administration of which the Board is charged;
- (b) in relation to any navigable waters, other than a port for which there is a harbour master, any of the powers, authorities, duties or functions that a harbour master has in relation to the Ports of Sydney, Newcastle and Botany Bay under section 13W of this Act.

(2)

(2) A harbour master may appoint any person to exercise or perform in relation to the port for which he is the harbour master any of his powers, authorities, duties or functions under any Act, by-law, regulation or rule with the administration of which the Board is charged.

(3) An appointment under subsection one or two of this section may be evidenced by an instrument in writing signed by the Secretary of the Board, or by the harbour master concerned, as the case may be, and may be general or may apply only to the exercise or performance of such powers, authorities, duties or functions as are specified in the instrument evidencing his appointment.

(4) A person appointed under subsection one or two of this section shall have and may exercise and perform all the powers, authorities, duties and functions specified in the instrument evidencing his appointment.

(5) The appointment under paragraph (a) of subsection one, or under subsection two, of this section, of a person to exercise or perform, in relation to a port, any of the powers, authorities, duties or functions of a harbour master does not prevent that harbour master from exercising or performing those powers, authorities, duties or functions.

- (h) by omitting from section thirty-seven the words “the production of”; Sec. 37.
(Proof of regulations.)
- (i) by inserting at the end of section 37A the following new subsection :— Sec. 37A.
(Application of penalties.)

(2) All proceedings for offences against this Act or the regulations shall be disposed of summarily before a stipendiary magistrate or any two justices in petty sessions.

(j)

Maritime Services (Amendment) Act.

No. 63, 1966
—
Sec. 38.
(Board may
make
regulations.)

- (j) (i) by inserting in paragraph (ai) of subsection two of section thirty-eight after the words "owner thereof" wherever occurring the words ", or by the owner of a vessel who has received such cargo or goods for shipment on that vessel,";
- (ii) by inserting in the same paragraph after the words "particular times" the words "or calculated by reference to the average dimensions or weight of any separate portions of any cargo or goods or by reference to such method as may be prescribed by the regulations";
- (iii) by inserting next after the same paragraph the following new paragraph :—
- (aii) the imposition, in respect of vessels which enter or leave any port or ports or which are berthed at any installation or any class or classes of installations in any port or ports, of passenger rates calculated by reference to any one or more of the following, namely, the number of passengers carried, embarked, or disembarked on, on to or from any such vessel, the voyage or class of voyage made or to be made, the class of accommodation provided, the passage money charged, or any other circumstances specified in the regulations;
- (iv) by omitting paragraph (b) of the same subsection and by inserting in lieu thereof the following paragraph :—
- (b) controlling and regulating the occupation of navigable waters by structures or floating objects or apparatus or by vessels occupying navigable waters for a purpose other than the normal incidents of a voyage, and the use of moorings;
- (v)

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

(f) generally controlling and regulating the navigation, use and equipment of vessels in the ports and inland navigable waters of New South Wales and, without limiting the generality of the foregoing—

(i) the proper, safe, and efficient conduct of navigation and of maritime and aquatic activities ;

(ii) preventing interference by or in the use of any vessel with the operation or use of any other vessel ;

(iii) preventing the operation or use of any vessel in a manner that may cause annoyance, nuisance, injury or danger to any person or damage or risk of damage to any property ; and

(iv) preventing or limiting the emission from vessels of noise, smoke, dust, cinders, solid particles of any kind, gases, fumes, mist, odours, radio-activity or radio-active substances, prescribing the equipment to be installed in vessels to prevent or limit any such emission, and preventing or regulating the use, movement or operation of vessels in such manner as may cause, increase, or render more serious the effect of, any such emission ;

(fi)

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(fi) the issue by the Board and the use and return to the Board of special plates for attachment to vessels, the conditions subject to which any such plates may be issued or used, the fees payable in respect of any such plates, the exemption of the owner or master of any vessel to which any such plate is attached from such of the provisions of any Act, by-law, regulation or rule with the administration of which the Board is charged as may be specified in the regulations made under this paragraph or in any conditions subject to which any such plates may be issued or used, and the imposition of penalties not exceeding two hundred dollars for any breach of any regulation made under this paragraph or of any condition subject to which any plate may be used.

(vi) by inserting next after the same subsection the following new subsection : —

(2A) Without limiting the generality of any other provision of this section, the power of the Board, with the approval of the Governor, to make regulations under this section includes power to make regulations for or with respect to—

(a) the erection by the Board of signs and notices for the purpose of prohibiting or regulating the movement, standing, waiting or parking of vehicles on any wharf or property vested in the Board or under its control or management and the imposing of penalties not exceeding two hundred dollars for any failure to comply with any such sign or notice;

(b)

- (b) the installation by the Board of parking meters on any such wharf or property for the purpose of regulating the standing, waiting or parking of vehicles in any place on any such wharf or property and the operation and protection from damage of any parking meters so installed;
 - (c) the demanding, recovery or collection by the Board of such charges or fees as may be fixed by the Board in respect of any vehicle standing, waiting or parked in any place on any such wharf or property where the regulations require the payment of such fees or charges in respect of vehicles standing, waiting or parked in that place;
 - (d) the prohibition or regulation of the entry of vehicles on to, and the movement of vehicles on, any such wharf or property;
 - (e) the production, by the driver of any vehicle on any such wharf or property to a member of the police force or a person appointed by the Secretary of the Board, of any license required by law to be held by him as the driver of that vehicle.
- (vii) by inserting in paragraph (f) of subsection three of the same section after the words "incurred by the Board" the words "or the Crown";
- (viii) by inserting next after subsection four of the same section the following new subsection : —
- (4A) (a) If it appears to the Board, on the application of any person affected by any regulation or part thereof, that compliance with that regulation or part is impracticable or unnecessary, the Board may direct that compliance with that regulation or part may be

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be dispensed with, and may, by the same direction, direct that some other requirement be substituted for the requirement of the regulation or part thereof.

(b) A breach of any requirement directed by the Board to be substituted for any regulation or part of a regulation specified in the direction shall be deemed to be a breach of that regulation.

(c) Any direction under this subsection may be given under the hand of any officer or employee of the Board appointed by the Board in that behalf.

(2) On and from the commencement of subparagraph (v) of paragraph (j) of subsection one of this section, the provisions of section eight of the Interpretation Act of 1897, as amended by subsequent Acts, apply to any regulations made under paragraph (f) of subsection two of section thirty-eight of the Maritime Services Act, 1935–1965, as if those regulations were enactments in a former Act repealed by this Act.

Amendment
of Act No.
26, 1904.

6. The Sydney Harbour Rates Act, 1904–1965, is amended—

New sec. 2A.

(a) by inserting next before section three and the heading thereto the following new section :—

Interpre-
tation.

2A. In this Act, unless the context or subject matter otherwise indicates or requires—

“Board” means the Maritime Services Board of New South Wales.

“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.

“Secretary” means the Secretary of the Board and includes an officer of the Board for the time being acting as Secretary of the Board.

(b)

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

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Subst.
sec. 8.

8. (1) The owner of a vessel shall on demand pay to the Board all tonnage rates payable upon such vessel and in default of such payment those rates may be recovered from such owner as a debt in any court of competent jurisdiction.

Payment of
tonnage
rates.

(2) If any vessel leaves the port of Sydney, after a demand in writing signed by the Secretary has been served on the owner requiring the payment of tonnage rates, and before such rates have been paid, the owner shall be liable to a penalty not exceeding two hundred dollars.

- (c) by omitting section twelve and by inserting in lieu thereof the following section :—

Subst.
sec. 12.

12. (1) For the purposes of this Act, the tonnage of a vessel shall be either the gross register tonnage stated in the ship's register, or the gross register tonnage stated in the latest publication of Lloyd's Register, as the Board shall elect.

Tonnage
of vessels.

(2) The owner of a vessel shall on demand produce to the Board the register of such vessel.

(3) Where the tonnage of a vessel cannot be ascertained in accordance with subsection one of this section or, where in the opinion of the Board the tonnage so ascertained is inaccurate, the Board may determine such tonnage.

(4) The owner of any vessel, the tonnage of which is determined by the Board under subsection three of this section, may have the tonnage of such vessel determined at his expense by a Lloyd's surveyor.

(5) The tonnage of a vessel determined under subsection three or four of this section, as the case may be, shall, notwithstanding subsection one of this section, be the tonnage of the vessel for the purposes of this Act.

Maritime Services (Amendment) Act.

No. 63, 1966
Amendment
of Act No.
60, 1901.
Subst. sec.
18.

Assessors.

7. The Navigation Act, 1901, as amended by subsequent Acts and by proclamations thereunder, is amended by omitting section eighteen and by inserting in lieu thereof the following section :—

18. (1) Assessors to assist in a Court of Marine Inquiry shall be appointed by the Treasurer from a list of persons compiled by him in accordance with the rules made under subsection four of this section.

(2) Such list shall be in force for one year only, but persons included in any such list may be included in any subsequent list.

(3) The Treasurer may at any time add any person to or withdraw any person from any such list.

(4) The Governor may make rules—

(a) generally for or with respect to the compilation by the Treasurer of the list of assessors from persons of nautical, engineering or special skill and in particular for or with respect to—

(i) the grouping of persons included in the list in different classes according to their skills;

(ii) the qualifications or experience necessary to enable a person to be eligible for inclusion in the list;

(b) the appointment to Courts of Marine Inquiry of assessors from the list compiled by the Treasurer.

Amendment
of Act No.
58, 1935.
Sec. 4.
(Interpre-
tation.)

8. (1) The Fisheries and Oyster Farms Act, 1935, as amended by subsequent Acts, is amended by inserting in subsection one of section four in the definition of "Crown lands" after the words "public purpose" the words "or any land vested in the Maritime Services Board of New South Wales by section 13A or 13H of the Maritime Services Act, 1935, as amended by subsequent Acts".

(2) The Maritime Services Act, 1935-1965, is further No. 63, 1966 amended—

Further amendment of Act No. 47, 1935.

(a) by inserting at the end of section 13J the following new subsection :—

Sec. 13J.
(Rights, liabilities, etc.)

(2) This section shall not apply and shall be deemed never to have applied to a lease of an oyster farm under Part V of the Fisheries and Oyster Farms Act, 1935, as amended by subsequent Acts.

(b) (i) by inserting next after subsection one of section 13Z the following new subsection :—

Sec. 13Z.
(Leases and licenses under Mining Act, 1906, and Petroleum Act, 1955.)

(1A) The Under Secretary of the Chief Secretary's Department shall give to the Board not less than twenty-one days' notice of any proposal to grant any lease under Part V of the Fisheries and Oyster Farms Act, 1935, or any Acts amending the same, in respect of land vested in the Board by section 13A or 13H of this Act or contained in that Part of the bed and shores of the Hunter River to which section 13D of this Act applies.

(ii) by omitting from subsection two of the same section the words "such lease" and by inserting in lieu thereof the words "any such lease".

9. (1) In this section, "the Principal Act" means the Fisheries and Oyster Farms Act, 1935-1965.

Provisions applicable to certain expired oyster leases.

(2) Where—

(a) any land which, or part of which, was comprised in a lease under Part V of the Principal Act was, by virtue of section 13H of the Maritime Services Act, 1935, as amended by subsequent Acts, vested in the Maritime Services Board of New South Wales;

(b)

610 **Maritime Services (Amendment) Act.**

- No. 63, 1966**
- (b) that lease (in this section referred to as "the expired lease") expired before the commencement of this Act;
 - (c) the lessee under the expired lease purported to apply under the Principal Act to the Minister administering that Act for a further lease of the land comprised in the expired lease;
 - (d) that lessee remained in occupation, by himself, his executors, administrators or assigns or by a sub-lessee approved or purporting to be approved by the Minister administering the Principal Act, of the land comprised in the expired lease from the date of its expiry until the commencement of this section,

that lessee shall, subject to this section, have the same rights to a lease under Part V of the Principal Act of the land comprised in the expired lease as he would have had to a further lease of that land had the amendments made by section eight of this Act been in force at the time the expired lease expired.

(3) A person shall not be entitled, by virtue of subsection two of this section, to a lease under Part V of the Principal Act unless, within ninety days after notice has been given to him by the Minister notifying him of the rental that will be payable by him under any such lease, he pays to the Minister an amount equal to that rental in respect of the period from the date of expiry of the expired lease to a date specified in the notice as the date on and from which the term of any lease to be granted to him by virtue of subsection two of this section will commence.

(4) A lease granted by virtue of subsection two of this section shall be for a term expiring on the day upon which, had a further lease, under Part V of the Principal Act, of the land comprised in the expired lease been granted to commence on and from the date of expiry of the expired lease, that further lease would have expired.

PARLIAMENTARY