

**MARITIME SERVICES (FURTHER AMENDMENT)
ACT.**

New South Wales



ANNO VICESIMO TERTIO

ELIZABETHÆ II REGINÆ

Act No. 58, 1974.

An Act to control erosion and siltation in certain ports; to provide for greater safety in the use of pleasure craft and certain other vessels; to extend the operation of certain provisions of the Justices Act, 1902; for these and other purposes to amend the Maritime Services Act, 1935; and for purposes connected therewith. [Assented to, 11th October, 1974.]

BE

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No. 58, 1974 **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. 1. This Act may be cited as the "Maritime Services (Further Amendment) Act, 1974".

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

Sec. 3. (Constitution of Board.) (a) by omitting from section 3 (9) (a) (vi) the matter "Governor." and by inserting instead the following matter :—

Governor;

(vii) when a notice under subsection (10) with respect to the Commissioner is given to the Board.

(b) by omitting section 3 (10) and by inserting instead the following subsection :—

(10) Where—

(a) any proceedings of the Board involve consideration or discussion of any agreement, proposed agreement or other matter in which a Commissioner has a direct or indirect pecuniary interest and that Commissioner takes part in those proceedings; or

(b) a Commissioner exercises or performs, in relation to any such agreement, proposed agreement or other matter, any of his powers, authorities, duties or functions as a Commissioner,

the

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the Minister may, by a notice in writing given No. 58, 1974
to the Board, declare that the office of that
Commissioner is vacant.

- (c) by inserting after section 13T the following Secs. 13TA,
13TB.
sections :—

13TA. (1) For the purposes of this section and Erosion or
siltation
in certain
ports.
section 13TB—

“prescribed land” means land that is within a
distance of ten metres measured horizontally
on the landward side—

- (a) from the top of the bank of any
non-tidal waters; or
- (b) from high water mark on the shore
of any tidal waters,

being in each case waters of which the bed
is vested in the Board;

“prescribed work” means—

- (a) excavation;
- (b) removal of soil, sand, gravel, stone,
rock or other material from land; or
- (c) removal of a retaining wall;

“public authority” means—

- (a) the Board;
- (b) any other body, corporate or
unincorporate, constituted by an Act
where the Governor or a Minister of
the Crown appoints one or more of
the members of the body;
- (c) a corporation sole constituted by an
Act; or
- (d) a corporation constituted under the
Local Government Act, 1919.

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(2) A person (other than a public authority) who does prescribed work on prescribed land is liable on summary conviction to a penalty not exceeding \$400 unless the work is done with the written permission of the Board and in accordance with any conditions subject to which that permission is given.

(3) Where the Board is satisfied—

- (a) that the bank or shore of any waters of which the bed is vested in it is being eroded or is likely to be eroded; or
- (b) that any material of any kind is being deposited, or is likely to be deposited, on the bed or shore of any such waters,

by reason of or as a result of—

- (c) the carrying out on any land of any prescribed work (whether or not the person carrying out the work is liable to a penalty under subsection (2)); or
- (d) the demolition, collapse, partial collapse or disrepair of or any damage to, a retaining wall or other structure on any land,

the Board may give to the person prescribed by subsection (4) in relation to the land the notice prescribed by subsection (5).

(4) The person prescribed by this subsection in relation to any land is—

- (a) where the land is not vested in the Crown or a public authority—the owner of the land; or

(b)

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(b) where the land is vested in the Crown or a public authority and work referred to in subsection (3) (c) has been carried out on the land in connection with land not so vested—

- (i) the person who carried out the work; or
- (ii) the owner of the land not so vested.

(5) The notice prescribed by this subsection is a notice in writing requiring the person to whom it is given to take within a reasonable time specified in the notice such measures as are necessary to ensure—

- (a) in the case referred to in subsection (3) (a)—that the erosion ceases or is prevented and that any erosion that has occurred is made good; or
- (b) in the case referred to in subsection (3) (b)—that the deposit of material ceases or is prevented and that any deposited material is removed.

(6) Where any material of any kind escapes from, or is carried by natural forces from, any land on which a person—

- (a) stored or accumulated that material; or
- (b) carried on any work of excavation, earth-moving, material extraction, demolition, engineering or building construction,

and the material is deposited on the bed or shore of any waters of which the bed is vested in the Board, the Board may give to that person with respect to that land the notice prescribed by subsection (7).

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(7) The notice prescribed by this subsection is a notice in writing requiring the person to whom it is given to take within a reasonable time specified in the notice such measures as are necessary to ensure—

- (a) the prevention of any further deposit on the bed or shore of any waters the bed of which is vested in the Board of any material escaping, or carried by natural forces, from the land in respect of which it is given; and
- (b) that any such material so deposited is removed.

(8) The Board may amend or revoke a notice given under this section.

Compliance
with certain
notices.

13TB. (1) Where a person other than a public authority fails to comply with the requirements of a notice under section 13TA the Board may cause the requirements of the notice to be complied with at its own expense and may recover as a debt in a court of competent jurisdiction the costs and expenses of so doing.

(2) Where, in any proceedings brought under subsection (1), the court is satisfied that the work caused to be done by the Board to carry out or complete the requirements of any notice referred to in that subsection also included work which was not, in the circumstances, necessary for proper and effective compliance with those requirements, the court, in determining the amount of the costs and

expenses

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expenses recoverable by the Board, may deduct No. 58, 1974 from the costs and expenses of the work caused to be done by the Board such amount as it considers proper.

- (d) by inserting at the end of section 31A the following subsection :— Sec. 31A.
(Application of certain Acts.)

(2) For the purposes of the Justices Act, 1902, the Board shall be deemed to be a statutory body representing the Crown.

- (e) by inserting after section 38 (2A) the following subsection :— Sec. 38.
(Board may make regulations.)

(2B) Without limiting the generality of any other provision of this section, the Board may, with the approval of the Governor, make regulations for and with respect to the safety of persons who operate, use, or are carried in, a vessel (not being a vessel engaged in the coasting trade) which is in, or has gone to sea from, any navigable waters within, or within one nautical league from the coast of, New South Wales including, without limiting the generality of the foregoing, regulations relating to—

- (a) the design and construction of vessels;
- (b) the carriage in a vessel of equipment for the safe and proper navigation and use of the vessel;
- (c) the carriage in a vessel of life-saving equipment and apparatus, and of means of making distress signals;

(d)

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- (d) the carriage in a vessel of equipment for facilitating rescue;
- (e) the use to be made of prescribed equipment carried on a vessel;
- (f) the procedures to be followed with respect to the navigation and use of a vessel and its equipment.

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