

MARINE PORT CHARGES BILL 1989

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The object of this Bill is to provide a legislative framework for reform of the pricing policy of the Maritime Services Board.

The charges currently imposed by the Board for the use of port services and facilities are regulated by the Port Rates Act 1975, which is to be repealed by the proposed Act.

The Bill aims to replace the system of charges contained in that Act with a new system in which the charges are more closely related to the cost of the services provided and to the relative values of the benefits derived by users of those services.

The new legislative framework provided by the Bill is designed to be sufficiently flexible to allow a gradual transition towards full cost recovery by the Board and an appropriate rate of return on the Board's assets.

PART 1 - PRELIMINARY

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the provisions of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 defines "designated port", "site" and other expressions used in the proposed Act.

Clause 4 defines the scope of the Act in its application to vessels, passengers and cargoes.

Clause 5 allows the Minister to designate the ports to which the proposed Act is to apply.

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PART 2 - KINDS OF CHARGES

Division 1 - Wharf service charges

Clause 6 provides for a site occupation charge, payable by persons who occupy a wharf or another site used for maritime purposes.

Clause 7 provides for a wharfage charge, payable by cargo owners for the availability of a wharf or other site where stevedoring operations may be carried out.

Division 2 - Other charges

Clause 8 provides for a navigation service charge, payable by the owners of vessels in respect of the use of port staff and facilities generally.

Clause 9 provides for a berthing charge for vessels berthing at a wharf, buoy or dolphin.

Clause 10 allows the Board to levy other charges for services provided.

Division 3 - Charging policy

Clause 11 is an interpretation provision.

Clause 12 allows the Minister to give the Board directions in respect of charges under the proposed Act.

Clause 13 sets out the policy basis on which charges under the proposed Act are to be fixed.

Clause 14 provides for a gradual introduction of the new pricing policies.

Clause 15 requires the Board to obtain the approval of the Minister when fixing charges for services over which the Board holds a monopoly.

PART 3 - FIXING AND COLLECTION OF CHARGES

Clause 16 allows the Board to fix the charges specified, or permitted to be imposed, under the proposed Act.

Clause 17 provides for the collection of charges payable under the proposed Act.

Clause 18 allows the Board to enter into an agreement with any person liable to pay a charge under the proposed Act. The agreements contemplated will regulate the relationship between the Board and its major customers as to the payment of charges under the proposed Act.

PART 4 - GENERAL

Clause 19 provides that unpaid charges attract interest at a rate determined by the Board (subject to a ceiling imposed by the regulations).

Clause 20 allows the Board to require the lodgment, by a person liable to pay port charges, of security for their payment. The security is to be given by way of cash or bank guarantee or in some other form acceptable to the Board.

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Clause 21 provides that the Board may withhold or withdraw services or facilities from persons who fail to comply with requirements of the Board relating to the provision of its services and facilities.

Clause 22 imposes liability for charges incurred by past owners of vessels on the current owners of the vessels if the charges remain unpaid. The clause also provides for liability for charges to pass to persons acting as agents for vessels in certain circumstances.

Clause 23 provides for the making of regulations in aid of the proposed Act. The regulations may create offences punishable by a maximum fine of 20 penalty units (currently \$2,000).

Clause 24 provides for proceedings for offences against the regulations to be taken in the Local Court.

Clause 25 repeals the Port Rates Act 1975 and regulations in force under that Act.

Clause 26 is a formal provision that gives effect to the Schedule of amendments to other Acts.

Clause 27 is a formal provision that gives effect to the Schedule of savings and transitional provisions.

SCHEDULE 1 - CONSEQUENTIAL AMENDMENTS

Schedule 1 amends the Marine Administration Act 1989 and the Pilotage Act 1971 as a consequence of the enactment of the proposed Act.

SCHEDULE 2 - SAVINGS AND TRANSITIONAL PROVISIONS

Schedule 2 allows regulations under the proposed Act to contain provisions of a savings and transitional nature consequent on the enactment of the proposed Act.

The Schedule also makes provision for the construction of references to rates and charges under legislation superseded by the proposed Act and saves liability for rates and charges incurred under the Port Rates Act 1975.
