

## VICTORIA.



ANNO DUODECIMO

ELIZABETHÆ SECUNDÆ REGINÆ

No. 6999.

An Act to amend the *Melbourne Harbor Trust Act 1958*.

[21st May, 1963.]

BE it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):—

1. (1) This Act may be cited as the *Melbourne Harbor Trust (Amendment) Act 1963*. Short title.

(2) The *Melbourne Harbor Trust Act 1958* as amended is in this Act referred to as the Principal Act.

Principal Act.  
No. 6312 as  
amended by  
Nos. 6589,  
6644, 6705  
s. 2, 6871.

2. In section twenty-six of the Principal Act before the word "Sundays" there shall be inserted the word "Saturdays".

Amendment of  
No. 6312 s. 26.  
Attendance  
at office.

3. After section thirty-six of the Principal Act there shall be inserted the following section :—

New section  
36A inserted  
in No. 6312.

"36A. (1) Every employé in the service of the Commissioners who has served for twenty years shall be entitled in accordance with regulations made under this Act to be granted by the Commissioners six months long service leave with pay in respect

Furlough.

of

of that period of twenty years service and one and a half months long service leave with pay in respect of each additional period of five years completed service.

(2) Where—

- (a) an employé retires on account of age or ill health ; or
- (b) the services of an employé are terminated by the Commissioners because his services are no longer necessary ; or
- (c) the appointment of a female employé is terminated on account of or in anticipation of marriage ; or
- (d) an employé dies—

that employé shall in accordance with the regulations made under this Act be entitled, or (in the case of death) shall be deemed to have been entitled, to be granted by the Commissioners—

where the completed years of service are not less than five but are less than twenty, then in respect of such completed years of service ;

where the years of service are more than twenty, then (in addition to any entitlement under sub-section (1) of this section) in respect of such completed years of service (not exceeding four) as exceed the next lower multiple of five—

long service leave with pay on the basis of one-twentieth of six months leave for each such completed year.

(3) The Commissioners shall have discretion as to the time of granting any leave under this section so that the execution of this Act will not be unduly affected by the granting of such leave to numbers of employés at or about the same time.

(4) Where—

- (a) an employé retires on account of age or ill health ; or
- (b) the services of an employé are terminated by the Commissioners because his services are no longer necessary ; or
- (c) the appointment of a female employé is terminated on account of or in anticipation of marriage—

the Commissioners shall grant to that employé pay in lieu of any such leave to which that employé is then entitled.

(5) Where an employé entitled to any such leave or to pay in lieu thereof dies before or while taking such leave or (as the case may be) before such pay in lieu is paid the Commissioners shall to the extent that pay in lieu thereof has not already been paid to that employé grant pay in lieu of the whole or part of the leave not taken or (as the case may be) grant the pay in lieu to the legal personal representative of the deceased employé.

(6) The

(6) The nature of the service and the computation of the period of service which entitles employes to be granted long service leave and the method of computing pay under this section shall be as prescribed by regulations made under this Act and, without affecting the generality of the foregoing, such regulations may provide that service in any prescribed office under the Crown or with a Public or Governmental Authority or service in any office in the service of the Commonwealth of Australia or of any other Australian State shall to the extent prescribed be taken into account in computing the period of service.

(7) In the computation of the period of long service leave or pay in lieu thereof to which an employe is entitled under this section there shall be taken into account any long service leave or pay in lieu thereof already granted to him.

(8) For the purposes of this section an employe shall be deemed to have retired—

- (a) on account of age—if on or after attaining the age of sixty years he ceases to be an employe otherwise than by dismissal because of unsatisfactory service ;
- (b) on account of ill health—if he produces to the Commissioners satisfactory evidence that his ceasing to be an employe is due to ill health which is likely to be permanent and is not due to misconduct or to causes within his own control.

(9) In this section “employe” means officer servant or person appointed or employed by the Commissioners to assist in the execution of this Act.

(10) For the purposes of this section the chairman shall be deemed to be an employe.

(11) If immediately prior to his appointment as chairman the chairman—

- (a) was an officer of the public service ; or
- (b) (having previously been an officer of the public service) was engaged or employed in any office or capacity in which he was eligible on the recommendation of the Public Service Board to be reappointed on the termination of the engagement or employment to some office in the public service—

the period served by him as an officer of the public service or the period served by him in the said office or capacity together with the period previously served by him as an officer of the public service (as the case may be) shall in the computation of the period of service which entitles him to long service leave be added to the period of his service as chairman.”

#### 4. Section

Amendment of  
No. 6312 s. 37.  
Power to  
Commissioners  
to provide  
dwelling  
houses for  
employés.

4. Section thirty-seven of the Principal Act shall be amended as follows :—

(a) For sub-section (1) there shall be substituted the following sub-section :—

“(1) The Commissioners for the purpose of providing dwelling houses for their employés may—

(a) erect and maintain dwelling houses on land purchased by vested in or taken compulsorily by the Commissioner under the powers conferred by this Act ;

(b) purchase any land upon which a dwelling house is erected and maintain the dwelling house ;

(c) sell demise or let to their employés on such terms (including extended terms of payment) and subject to such reservations and restrictions as the Commissioners may determine any dwelling house (except a dwelling house erected on Crown land vested in the Commissioners) erected or purchased pursuant to this section ;

(d) advance to any employé who has been in the service of the Commissioners for not less than two years and has entered into a valid agreement with the Commissioners to remain in their service for a further period of at least three years upon the security of any land owned by such employé either solely or jointly with his wife—

(i) upon which a dwelling house is to be erected to be occupied by such employé ; or

(ii) upon which a dwelling house has been erected and which is or is about to be occupied by such employé—

a sum not exceeding eighty per centum of the value of the house and land but so that the total sum so advanced upon the security of the house and land shall not in any case exceed Four thousand pounds.” ;

(b) At

(b) At the end of the section there shall be inserted the following sub-section :—

‘(3) For the purposes of this section “employé” means officer, servant or person appointed or employed by the Commissioners to assist in the execution of this Act.’

5. (1) In section forty of the Principal Act for the words “Five pounds” there shall be substituted the words “Fifty pounds”. Amendment of No. 6312 s. 40. Penalty.

(2) In section forty-two of the Principal Act—

(a) for the words “employed by him” there shall be substituted the words “acting under his direction”; and

(b) for the words “Five pounds” there shall be substituted the words “Fifty pounds”.

6. The Principal Act shall be amended as follows :—

(a) The proviso to section fifty shall be repealed;

(b) In sub-section (2) of section fifty-two for the words “*habere facias possessionem*” there shall be substituted the word “possession”;

(c) Section fifty-six shall be repealed.

Amendments of No. 6312 s. 50. Leasing powers.

S. 52. Warrant for delivery of possession of land. Repeal of s. 56.

7. In sub-section (1) of section fifty-nine of the Principal Act— Amendment of No. 6312 s. 59. Power to carry on certain business.

(a) in paragraph (b) for the word “repairers” there shall be substituted the expression “repairers; and”; and

(b) after paragraph (b) there shall be inserted the following paragraph :—

“(c) to carry on business as towage contractors and salvage contractors within the port.”

8. After section seventy-two of the Principal Act there shall be inserted the following section :—

New s. 72A inserted in No. 6312.

“72A. The Commissioners may purchase such tugs or other vessels as the Commissioners think expedient for the management and control of the port and for facilitating the movement of vessels and for the assistance or salvage of vessels whether within or outside the port and may make charges and impose conditions for the use of or the services provided by any such tugs and other vessels.”

Power to purchase tugs and make charges, &c. for use thereof.

## 9. Sections

Repeal of  
No. 6312  
ss. 80, 84.

9. Sections eighty and eighty-four of the Principal Act shall be repealed.

Amendment of  
No. 6312 s. 88.  
Removal of  
obstructions.

10. Section eighty-eight of the Principal Act shall be amended as follows :—

- (a) For the words “When any obstruction impedes the navigation and use” there shall be substituted the expression “(1) Where any obstruction impedes the navigation or use”;
- (b) For the words “If such owner” there shall be substituted the expression “(2) If such owner”;
- (c) For the words “shall remove the same” there shall be substituted the words “may destroy or remove it”;
- (d) At the end of the section there shall be inserted the following sub-section :—

“(3) Nothing in this section shall oblige the Commissioners to give notice to the owner of any motor vehicle submerged in the waters of the port but the Commissioners may remove the vehicle without giving any notice and the provisions of sub-section (2) of this section shall apply in all respects as if the owner of the vehicle were an owner who had failed or neglected to remove an obstruction in accordance with notice given pursuant to sub-section (1) of this section.”

Amendment of  
No. 6312 s. 90.  
Preservation  
or order &c.  
on piers.

11. In section ninety of the Principal Act the word “improper” shall be repealed.

New s. 90A  
inserted in  
No. 6312.

12. After section ninety of the Principal Act there shall be inserted the following section :—

Power to  
Commissioners  
to fix by  
resolution  
hours, periods,  
conditions, &c.  
of parking  
on property.

“90A. (1) Without in any way limiting or derogating from any other mode of granting permission the Commissioners may by resolution from time to time—

- (a) permit persons or classes of persons to leave vehicles standing upon any parking area provided by the Commissioners within the port; and
- (b) fix in respect of any such parking area the periods for which and the conditions under which vehicles may be left standing—

and the Commissioners may at any time by resolution rescind amend or vary any resolution so made.

Persons or  
classes  
permitted to  
park and days,  
hours, &c. to  
be shown on  
parking signs.

(2) The persons or classes of persons so permitted to leave vehicles standing and any periods or conditions so fixed may vary according to circumstances of time or place or otherwise

but

but the persons or classes of persons so permitted and the periods and conditions (if any) for the time being in force in respect of any such parking area shall, subject to this section, be sufficiently indicated on a sign marking the parking area.

(3) Every such sign shall, with respect to its situation, shape and dimensions, and the size, colour and background of the inscriptions thereon correspond with signs used for the like purpose in streets and roads pursuant to the regulations for the time being in force under Part I. of the *Road Traffic Act* 1958.

(4) Any person who leaves any vehicle standing (whether unattended or not) in any parking area provided by the Commissioners and in respect of which the provisions of this section apply—

Parking offences.

(a) without the permission of the Commissioners ;

(b) for a period longer than is so fixed ; or

(c) contrary to any condition so fixed—

shall be guilty of an offence against this Act and liable to a penalty of not more than Twenty pounds.

(5) In any prosecution for a contravention of the last preceding sub-section the persons or classes of persons and the periods and conditions proved to have been sufficiently indicated at any time on the sign marking any parking area provided by the Commissioners shall be deemed and taken to be those validly permitted or fixed and in force at that time in respect of that parking area unless the contrary is shown.

Evidence of fixing hours, periods, &c.

(6) Nothing in this section shall limit the application of Part I. of the *Road Traffic Act* 1958 and the regulations for the time being in force thereunder to streets and roads within the port."

13. The *Road Traffic Act* 1958 shall be amended as follows :—

Amendments of No. 6359.

(a) In paragraph (f) of sub-section (1) of section four—

S. 4 (1).

(i) after the words "The Victorian Railways Commissioners" there shall be inserted the words "or The Melbourne Harbor Trust Commissioners" ; and

Delegation to Commissioners of powers in relation to regulations under No. 6359.

(ii) for the words "Board or Commissioners" there shall be substituted the words "Board or The Victorian Railways Commissioners or The Melbourne Harbor Trust Commissioners" ;

(b) In

S. 4 (5).

Power to  
extend  
application  
of No. 6359  
to land  
vested in  
Commissioners.

(b) In sub-section (5) of section four—

- (i) after the word “Commissioners” (where first occurring) there shall be inserted the words “or The Melbourne Harbor Trust Commissioners”;
- (ii) for the words “control of the Commissioners” there shall be substituted the words “control of The Victorian Railways Commissioners or The Melbourne Harbor Trust Commissioners”; and
- (iii) after the word “Commissioners” where last occurring there shall be inserted the words “or The Melbourne Harbor Trust Commissioners”;

S. 7.

(c) In section seven—

- (i) after paragraph (f) of sub-section (1) there shall be inserted the following paragraph :—

“(g) any officer appointed either generally or in any particular case by The Melbourne Harbor Trust Commissioners where the breach occurs in any part of the port of Melbourne vested in the Commissioners or on other land or premises vested in or under the control of the Commissioners”; and

- (ii) after paragraph (f) of sub-section (2) there shall be inserted the following paragraph :—

“(g) where the information is laid by an officer appointed by The Melbourne Harbor Trust Commissioners—into the Harbor Trust Fund”;

Application  
of penalties.

S. 9.

“Authorized  
officer.”

- (d) In the interpretation of “Authorized officer” in section nine for the expression “(e) or (f)” there shall be substituted the expression “(e) (f) or (g)”.

Amendment of  
No. 6312 s. 92.

14. For section ninety-two of the Principal Act there shall be substituted the following section :—

Broken piles,  
&c., to be  
removed.

“92. (1) Where any broken or unnecessary piles mooring chains waterways causeways stairs or other projections are in the opinion of the Commissioners dangerous or injurious to the

navigation



navigation of the port the Commissioners may by notice in writing given to the owner thereof require the owner to remove the same within a specified period.

(2) If the owner fails to remove any broken or unnecessary piles mooring chains waterways causeways stairs or other projections within the time specified in the notice the Commissioners may remove the same and recover the expenses incurred in so doing from the owner."

15. Section ninety-nine of the Principal Act shall be repealed.

Repeal of  
No. 6312 s. 99.

16. After section one hundred and six A of the Principal Act there shall be inserted the following section :—

New s. 106B  
inserted in  
No. 6312.

"106B. Where in Victoria a situation arises or an event occurs, however brought about or caused, as a result of which public safety or order is endangered or interfered with to such an extent or injury loss or damage is caused to so many persons that in the opinion of the Commissioners a state of emergency exists the Commissioners, if they think they can do so without jeopardizing the normal activity of the port, may hire lease lend or otherwise make available any plant or equipment of the Commissioners to any person or authority responsible for or lawfully engaged in dealing with or controlling the situation or event or the consequences thereof or organizing or directing assistance to persons whose lives are endangered or who have suffered injury loss or damage."

Power to make  
plant or  
equipment  
available in  
emergency.

17. In section one hundred and seven of the Principal Act the words "guano bones bone-dust" shall be repealed.

Amendment of  
No. 6312 s. 107  
Power to  
collect tolls  
rates and  
charges.

18. Section one hundred and thirty-six of the Principal Act shall be amended as follows :—

Amendment of  
No. 6312 s. 136.  
Regulations.

(a) After paragraph (q) there shall be inserted the following paragraph :—

"(qa) The prohibition or regulation of the leaving standing of vehicles on any road wharf pier or other place whatsoever within the port and the removal and disposal of vehicles so left standing on any day before the hour of seven in the morning or after the hour of six in the evening contrary to any regulation made under this paragraph and the imposition of charges for such removal and disposal ;" ;

(b) For paragraph (u) there shall be substituted the following paragraphs :—

"(u) The manner of handling oils and inflammable liquids within the port ;

(ua) The

(ua) The prescription of penalties not exceeding One thousand pounds for breach of any regulation made under paragraph (u) of this section and the prescription of penalties not exceeding Fifty pounds for any breach of any other regulation made under this Act and, in the case of breaches of a continuing nature, of further penalties not exceeding Ten pounds for every day during which the breach continues after conviction ;” ;

(c) For the words “ and generally for carrying out the objects and purposes of this Act ” there shall be substituted the words “ and generally for maintaining the good rule and government of the port and carrying out the objects and purposes of this Act or for giving effect to any of the provisions of this Act ” ;

(d) The paragraph beginning with the words “ Any breach of such regulations ” shall be repealed.

Amendments  
of No. 6312.  
Repeal of S.145.  
  
S. 146.  
Conditions  
as to wages  
rates in  
contracts.

19. The Principal Act shall be amended as follows :—

(a) Section one hundred and forty-five shall be repealed ;

(b) In section one hundred and forty-six for the words “ that the recognized standard ” there shall be substituted the words “ that not less than the recognized standard ”.

Amendment of  
No. 6312  
s. 150.  
Owners, &c., of  
vessels severally  
liable for  
damage by  
vessels to  
property of  
Commissioners.

20. In sub-section (1) of section one hundred and fifty of the Principal Act after the words “ owner master and agent of any vessel ” there shall be inserted the words “ or any of them ”.

Amendment of  
No. 6312 s. 155.

21. For section one hundred and fifty-five of the Principal Act there shall be substituted the following section :—

Penalty for  
throwing  
rubbish, &c.,  
or discharging  
dangerous, &c.,  
matter  
into port.

“ 155. Every person who unloads puts or throws into any part of the port any rubbish earth ashes dirt mud soil or other matter or allows any dangerous inflammable corrosive or offensive matter to flow into the port shall for every such offence be liable to a penalty of not more than One hundred pounds.”

Amendment of  
No. 6312 s. 156.  
Penalty for  
defacing  
boards used  
for publishing  
regulations.

22. In section one hundred and fifty-six of the Principal Act for the words “ Five pounds ” there shall be substituted the words “ Twenty pounds ”.

23. The

**23. The Principal Act shall be amended as follows :—**

Amendments  
of No. 6312.  
S. 165.  
Service of  
process.

**(a) In section one hundred and sixty-five—**

(i) for the word “Service” there shall be substituted the expression “(1) Service”;

(ii) at the end of the section there shall be inserted the following sub-section :—

“(2) This section shall be construed as in aid of and not in derogation from any provision in any other Act relating to the service of summonses or legal process.”;

**(b) After section one hundred and sixty-five of the Principal Act there shall be inserted the following section :—**

New section  
165A inserted.  
Service of  
informations  
on owners and  
masters of  
vessels.

“165A. An information and summons against the owner or master of a vessel for an offence against this Act or the regulations may be served by serving it on the agent for the vessel.”

**24. Section one hundred and sixty-eight of the Principal Act shall be amended as follows :—**

Amendment of  
No. 6312 s. 168.  
Penalties.

**(a) At the beginning of the section there shall be inserted the following sub-section :—**

“(1) Every person who contravenes or fails to comply with any provision of this Act or of the regulations or who fails to comply with any direction or notice given pursuant to this Act shall be guilty of an offence against this Act and shall be liable where no penalty is specially provided to a penalty of not more than Fifty pounds and where the contravention or failure is of a continuing nature to a further penalty of not more than Ten pounds for every day during which the contravention or failure continues after conviction.”;

**(b) For the words “All penalties” there shall be substituted the expression “(2) All penalties”.**