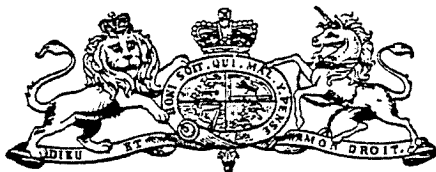


Queensland



ANNO VICESIMO QUINTO

ELIZABETHAE SECUNDAE REGINAE

No. 51 of 1976

An Act to provide for the constitution of a Port of Brisbane Authority and its powers and functions; to provide for vesting in the Authority of assets and assumption by the Authority of liabilities and obligations, the establishment of a Compensation Reference Tribunal and for related purposes

[ASSENTED TO 1ST OCTOBER, 1976]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY

1. Short title. This Act may be cited as the *Port of Brisbane Authority Act 1976*.

2. Commencement of Act. (1) The provisions of this Act other than this Part and section 19 shall come into operation on a date to be appointed by Proclamation.

(2) This Part and section 19 shall come into operation on the date on which this Act is assented to for and on behalf of the Crown.

3. Arrangement of Act. This Act is divided into Parts and Divisions as follows:—

- PART I—PRELIMINARY (ss. 1–4);
- PART II—THE PORT AUTHORITY (ss. 5–21);
 - Division 1—Constitution;*
 - Division 2—Powers and Functions;*
- PART III—FINANCIAL PROVISIONS (ss. 22–58);
 - Division 1—Funds of Port Authority;*
 - Division 2—Budgets;*
 - Division 3—Borrowings of Port Authority;*
 - Division 4—Accounts and Audit;*
 - Division 5—Proceedings and Business of Port Authority;*
- PART IV—PORT OF BRISBANE (ss. 59–60);
- PART V—ASSETS AND LIABILITIES OF PORT AUTHORITY (ss. 61–73);
 - Division 1—Transfer of Assets and Liabilities;*
 - Division 2—Liability for Compensation;*
- PART VI—GENERAL PROVISIONS (ss. 74–77).

4. Meaning of terms. (1) In this Act, save where a contrary intention appears—

- “appointed day” means the date on which this Act comes into operation pursuant to Proclamation;
- “Brisbane City Council” means Brisbane City Council constituted under the *City of Brisbane Act 1924–1974*;
- “contiguous Local Authorities” means the Councils of the Cities of Ipswich and Redcliffe and of the Shires of Albert, Beaudesert, Esk, Moreton, Pine Rivers and Redland;
- “Corporation” means the corporation constituted under *The Harbour Boards Acts, 1892 to 1952*, under the name and style The Corporation of the Treasurer of Queensland and continued in existence by section 11 of the *Harbours Act 1955–1976* under the name and style The Harbours Corporation of Queensland and includes that corporation as continued in existence at any time hereafter, by whatever name called;
- “Director” in relation to the Department of Harbours and Marine includes any person who at the material time is performing the duties of the Director of that department;
- “General Manager” includes any person who at the material time is performing the duties of the General Manager of the Port Authority;
- “Minister” means the Minister for Tourism and Marine Services or other Minister of the Crown for the time being charged with the administration of this Act and includes any person who for the time being performs the duties of the Minister;
- “port” means the Port of Brisbane;
- “Port Authority” means the Port of Brisbane Authority constituted as prescribed by this Act;
- “tribunal” means the Port of Brisbane Compensation Reference Tribunal constituted under this Act.

(2) Save where a contrary intention appears in this Act, any term or expression to which a meaning is assigned by the *Harbours Act 1955–1976* has the meaning so assigned when used in this Act.

PART II—THE PORT AUTHORITY

Division 1—Constitution

5. Constitution of Port Authority. (1) There shall be constituted from time to time as prescribed by this Act a body corporate under the name and style "Port of Brisbane Authority" which, by that name and style, shall have perpetual succession and a common seal, and shall be capable in law of suing and being sued in its corporate name and, subject to this Act (where it so provides) or, where this Act does not so provide, to the *Harbours Act 1955-1976* (where it so provides), of acquiring, holding and disposing of land and other property, of granting and taking leases of land and other property, and of doing and suffering all such other acts and things as bodies corporate may in law do and suffer.

(2) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Port Authority affixed to any document and shall presume that it was duly affixed.

6. Members of Port Authority. (1) The Port Authority shall consist of nine members ordinarily resident within Queensland, being—

- (a) the Director for the time being of the Department of Harbours and Marine who shall be a member *ex officio*;
- (b) the General Manager for the time being of the Port Authority, who shall be a member *ex officio*;
- (c) one person nominated by the Brisbane Oversea Wharfowners Association on behalf of all owners of wharves in the port, appointed in accordance with the provisions of this Division;
- (d) one person nominated on behalf of businesses engaged in the operation of the port (not being the owner of a wharf in the port), appointed in accordance with the provisions of this Division;
- (e) three persons nominated on behalf of associations representative of and associated with trade or commerce generally, appointed in accordance with the provisions of this Division;
- (f) one person nominated by The South Eastern District Local Government Association on behalf of Brisbane City Council and the contiguous Local Authorities, appointed in accordance with the provisions of this Division;
- (g) one person nominated on behalf of organized labour within Brisbane, appointed in accordance with the provisions of this Division.

(2) The person who immediately before the commencement of this Act holds the appointment, General Manager of the Port of Brisbane Division of the Department of Harbours and Marine shall, on the commencement of this Act, become and be the first General Manager of the Port Authority and shall be deemed to have been appointed to and to be employed in that position by the Authority.

7. Term of appointment of Members. Every member of the Port Authority, other than a member *ex officio*, shall be appointed for a term of three years and, if he is duly nominated for a second or subsequent appointment, shall be eligible for further appointment to membership of the Authority, but in every case, unless his office is sooner vacated as prescribed, his appointment shall be deemed to continue until his successor, duly appointed in accordance with this Act, assumes his office as a member.

8. Minister to request panels of names. (1) At least two months before the appointed day and thereafter at least two months before the expiration of the third year of the term of appointment of the members for the time being of the Port Authority, the Minister shall request, in writing, the associations specified in the first column of the following table to furnish to him a panel or panels of names at least to the number specified in the following table opposite to the reference to those associations within the time limited in the request.

TABLE

| | |
|--|-------|
| Brisbane Oversea Wharfowners Association | three |
| Each association of persons (but not the Brisbane Oversea Wharfowners Association) that, in the Minister's opinion, represents businesses engaged in the operation of the port | three |
| Each association of persons that, in the Minister's opinion, is representative of and associated with trade or commerce generally | three |
| The South Eastern District Local Government Association . . | three |
| Each association of persons that, in the Minister's opinion, represents organized labour within Brisbane | three |

(2) If at any time the Minister fails to comply with subsection (1) within the time limited therein he may at any later time issue his request in writing therein prescribed and such issue and all action taken thereon as prescribed shall be deemed to be sufficient compliance with this Act.

(3) If at any time default is made in furnishing as requested by the Minister a panel of names or the panel or panels of names furnished is or are, in the opinion of the Minister, inadequate as to the number or the description or the fitness of persons named therein the Minister may at his discretion nominate a person or persons sufficient as to number or description or fitness to comprise the panel in respect of which default is made or, as the case may be, to make adequate the panel or panels furnished.

The panel as so comprised or made adequate by the Minister shall be deemed to have been furnished by or on behalf of the association to which the Minister's request was directed.

(4) A panel of names furnished by The South Eastern District Local Government Association shall be taken to be inadequate as to the description of persons named therein to the extent that any person named therein is not an elected member of Brisbane City Council or one of the contiguous Local Authorities.

Any panel of names furnished shall be taken to be inadequate as to the fitness of persons named therein to the extent that any person named therein has, at the date of his nomination, attained the age of 70 years unless the Governor in Council has approved of the nomination of that person.

9. Selection of nominees by Minister. (1) The Minister in accordance with subsection (2) shall—

- (a) from the panel of names furnished by the Brisbane Oversea Wharfowners Association, select one person who in his opinion is a fit person to be recommended by him for appointment as a member of the Port Authority;
- (b) from the panel or panels of names furnished by the association or associations of persons that in his opinion represents or represent businesses engaged in the operation of the port,

select one person, not being the owner of a wharf in the port, who in his opinion is a fit person to be recommended by him for appointment as a member of the Port Authority;

- (c) from the panel or panels of names furnished by the association or associations of persons that in his opinion is or are representative of and associated with trade or commerce generally, select three persons who in his opinion are fit persons qualified as prescribed to be recommended by him for appointment as members of the Port Authority;
- (d) from the panel of names furnished by The South Eastern District Local Government Association, select one person who in his opinion is a fit person to be recommended by him for appointment as a member of the Port Authority;
- (e) from the panel or panels of names furnished on behalf of the association or associations of persons that in his opinion represents or represent organized labour within Brisbane, select one person who in his opinion is a fit person to be recommended by him for appointment as a member of the Port Authority.

(2) In making his selection from the nominations and panels referred to in subsection (1) the Minister shall observe the following conditions:—

- (a) a person nominated for appointment who has attained the age of 70 years at the date of his nomination shall not be eligible for selection unless the Governor in Council has approved of his nomination;
- (b) a person named in the panel furnished by The South Eastern District Local Government Association shall not be eligible for selection unless he is also an elected member of Brisbane City Council or one of the contiguous Local Authorities.

(3) Every person who is nominated for appointment as a member of the Port Authority shall, before the Minister makes his selection as prescribed, furnish to the Minister a statutory declaration as to the extent and nature of all proprietary or business interests had by that person that stand to be benefited directly by the operation of the port and from time to time while he is a member of the Authority, if there is any change in such interests, shall furnish to the Minister a further statutory declaration as to the extent and nature of such interests then had by him.

A justice of the peace is hereby authorized to take a statutory declaration for the purposes of this subsection.

For the purposes of this subsection, if a person—

- (a) owns shares (whether beneficially or otherwise) in a body corporate that stands to be benefited directly by the operation of the port; or
- (b) is a member of or the spouse of a member of a firm that stands to be benefited directly by the operation of the port; or
- (c) is a director or employee of a body corporate or is an employee of a firm that, in either case, stands to be benefited directly by the operation of the port,

he shall be taken to thereby have a proprietary or business interest that stands to be benefited directly by the operation of the port and he shall declare the same as prescribed.

10. Appointment of Members. (1) The members of the Port Authority, other than a member *ex officio*, shall be appointed by the Governor

in Council, on the recommendation of the Minister, by notification published in the Gazette.

The term of appointment of persons to be members of the Authority first constituted shall commence on the appointed day.

(2) The Port Authority may be first constituted at any time after the passing of this Act and if in so constituting the Authority the provisions of this Division are complied with the Authority shall be taken to have been thereby validly constituted.

11. Vacating Member's office. (1) A member of the Port Authority, other than a member *ex officio* may, by writing addressed to the Minister, resign his office at any time.

(2) The Governor in Council may remove from office a member of the Port Authority, other than a member *ex officio*, if—

- (a) he is made bankrupt or otherwise takes advantage of the laws relating to bankruptcy;
- (b) he becomes incapable, in the opinion of the Governor in Council, of discharging the duties of his office;
- (c) he is, in the opinion of the Governor in Council, incompetent or unfit to hold his office; or
- (d) he is or becomes a servant of the Port Authority.

(3) A member of the Port Authority shall be deemed to have vacated his office—

- (a) in the event of his resignation, upon the receipt by the Minister of his notice of resignation;
- (b) in the event of his removal, upon the issue by the Minister of notice of his removal;
- (c) in the event of his absence without the Authority's leave first obtained from three consecutive ordinary meetings of the Authority of which notice has been duly given to him.

(4) For the purposes of subsection (3) (c)—

- (a) the non-attendance of a member at the time and place appointed for an ordinary meeting shall not constitute absence from such meeting unless a meeting of the Port Authority at which a quorum is present is actually held on that day;
- (b) the attendance of a member at the time and place appointed for an ordinary meeting shall be deemed to constitute presence at an ordinary meeting notwithstanding that by reason of the lack of a quorum a meeting is not actually held on that day;
- (c) the names of the members who attend at the time and place appointed for an ordinary meeting shall be entered in the minute book provided pursuant to this Act.

12. Casual vacancy in Member's office. (1) A member of the Port Authority, other than a member *ex officio*, shall be taken to have vacated his office—

- (a) if he dies;
- (b) if he resigns his office as prescribed;
- (c) if he is removed from office as prescribed;
- (d) if, being qualified to be a member by reason of his being an elected member of a Local Authority, he ceases to be such an elected member.

(2) If a casual vacancy occurs in the office of a member of the Port Authority, other than a member *ex officio*, during the currency of his term of appointment another person shall be appointed as a member in accordance with section 10, to fill that vacancy.

The appointment of a person appointed to fill a casual vacancy shall continue and be deemed to continue for as long as the appointment of his predecessor had the casual vacancy not occurred.

(3) For the purpose of such appointment the Minister shall select a person who, in his opinion, is a fit person qualified as prescribed (if the case requires it) to be recommended by him for appointment as a member.

13. Chairman and Deputy-Chairman of Port Authority. (1) The Chairman and Deputy-Chairman of the Port Authority shall be appointed from the members of the Authority for the time being (whether members appointed or members *ex officio*) by the Governor in Council by notification published in the Gazette and each shall hold his appointment as such until his office as member of the Authority is vacated or the term of appointment of members, other than a member *ex officio*, current at the material time expires, whichever event first occurs.

(2) When an appointment is made to fill a casual vacancy in the office of a member who was Chairman or Deputy-Chairman of the Port Authority the Governor in Council shall, by notification published in the Gazette, appoint the member of the Authority who shall be the new Chairman or Deputy-Chairman, as the case may be.

14. Executive member of Port Authority; entitlements of employees.

(1) The executive member of the Port Authority shall be the member who holds the appointment, General Manager of the Port Authority.

(2) The Port Authority may institute and maintain a scheme or schemes for the provision of superannuation benefits to its employees and to that end may provide in such manner as it thinks fit for the establishment and maintenance of such funds as it considers necessary or desirable and may contribute to such funds.

(3) A person who immediately prior to his becoming an employee of the Port Authority was an officer of the Public Service of Queensland shall upon and by virtue of his becoming such an employee cease to be such an officer but nevertheless for as long as he continues in the Port Authority's employment in a permanent capacity shall retain and may claim against the Authority in respect of all entitlements as respects leave which have accrued or are accruing to him as an officer of the Public Service of Queensland at the time when he ceases to be an officer and for this purpose his service as such employee and as such officer shall be deemed to be continuous service as an employee of the Port Authority.

(4) A person who immediately prior to his becoming an employee of the Port Authority is a contributor to the State Service Superannuation Fund for as long as he continues in the Authority's employment in a permanent capacity—

- (a) shall retain all entitlements which at the time when he becomes such an employee have accrued or are accruing to him as a contributor under the *Public Service Superannuation Act 1958-1974* or the *State Service Superannuation Act 1972-1974*; and

- (b) shall continue to contribute to that fund and shall be entitled to payments and other benefits therefrom in respect of himself, his widow and any child of his as if he were an officer within the meaning of those Acts or either of them.

(5) In respect of a person who contributes to the State Service Superannuation Fund and is referred to in subsection (4) the Port Authority shall pay to the State Service Superannuation Additional Benefits Fund such sums as would have been payable by the Crown by way of contribution to such last-mentioned fund had the contributor been an employee of the Crown and had been paid salary at the rate paid to him at the material time by the Authority.

Moneys payable by the Port Authority to the State Service Superannuation Additional Benefits Fund and unpaid may be recovered by action in a court of competent jurisdiction by the State Service Superannuation Board constituted under the *State Service Superannuation Act 1972-1974* as a debt due to that Board.

15. Fees and allowances of Members. (1) Each member of the Port Authority, other than the General Manager of the Port Authority, shall be paid such fees and allowances in respect of the discharge of his duties as a member as the Governor in Council approves from time to time.

(2) Each member of the Port Authority shall be paid such expenses as are necessarily incurred by him in the discharge of his duties as a member and as the Port Authority approves.

Division 2—Powers and Functions

16. Principal function of Port Authority. Subject to this Act and to the *Harbours Act 1955-1976* the Port Authority shall manage and control the Port of Brisbane and all harbour works and other works pertaining to that port that are constructed by or are the property of the Port Authority as the Authority considers to be necessary or desirable.

17. General powers etc. of Port Authority. (1) In respect of the Port of Brisbane the Port Authority—

- (a) subject to this Act, shall have the powers, authorities, functions, duties and obligations of a Harbour Board conferred, imposed or provided for by the *Harbours Act 1955-1976* or by any other Act, save such as are conferred, imposed or provided for on or in respect of a particular Harbour Board; and
- (b) the powers, authorities, functions, duties and obligations conferred, imposed or provided for by this Act.

(2) For the purpose of exercising the powers conferred on Harbour Boards by section 72 of the *Harbours Act 1955-1976* the Port Authority may, in addition to exercising any power or authority thereby conferred,

- (a) contract with any person with a view to such person establishing or carrying on the business of a stevedore on behalf of the Authority;
- (b) join with any other person on such terms and conditions as are agreed by them with a view to the Authority and such person jointly establishing or carrying on the business of a stevedore by such means as are agreed from time to time.

(3) The Port Authority may do and cause to be done all such acts and things as are incidental to or necessary for the proper exercise or discharge of its powers, authorities, functions, duties and obligations.

(4) The Port Authority may as it thinks fit—

- (a) appoint committees, either for general or special purposes;
- (b) delegate to a committee power to hold any inquiry specified in the instrument of delegation or refer to a committee any matter of concern to the Authority on such terms of reference as the Authority determines and in either case require the committee to report on its findings to the Authority.

Such a committee may be comprised of such persons, whether members of the Authority or not, as the Port Authority thinks appropriate for the proper discharge of the committee's function and the members of a committee shall be paid such fees and allowances and expenses necessarily incurred in the discharge of their duties as the Authority approves.

(5) The Port Authority may exercise and discharge any power, authority, function, duty and obligation had by it under this Act in respect of land, premises or works situated or to be situated at any place, whether within or outside the limits of the port and whether in proximity to such limits or not, if in the Authority's opinion such exercise or discharge is in connexion with the management, control or use of the port.

18. Application and construction of Harbours Act and other statutory provisions. (1) Subject to this Act, the provisions of the *Harbours Act 1955-1976* or of any other Act that confer or impose powers, authorities, functions, duties or obligations on Harbour Boards generally shall apply so as to confer or impose the same on the Port Authority.

Notwithstanding and in addition to any provision of the *Harbours Act 1955-1976* the Port Authority may fix and vary by its resolution the amount of charges levied or charged by the Authority for use of its plant and equipment (including labour charges in connexion with such use) or for supply of any service, product or commodity (including electricity and water).

If in any case a charge referred to in this subsection is fixed by by-law of the Port Authority or by a by-law deemed pursuant to section 74 to be a by-law of the Authority, and subsequently the Authority fixes that charge by its resolution, such resolution, in so far as it purports to fix that charge, shall have no force or effect until the by-law is duly revoked.

(2) Subject to this Act, the provisions of the *Harbours Act 1955-1976* or of any other Act that—

- (a) regulate the conduct of operations by Harbour Boards generally;
or
- (b) apply to officers and employees of Harbour Boards in the performance of their duties,

shall apply in respect of the conduct of operations of the Port Authority and to officers and employees of the Authority and other persons performing work on behalf of the authority in the performance of their duties.

For the purpose of applying the provisions of the *Harbours Act* 1955–1976 or of any other Act in respect of the conduct of operations of the Authority or the appointment, employment or suspension from office or employment of officers or employees of the Authority the Chairman of the Port Authority shall have and may exercise all the powers and shall be subject to all the obligations of a chairman of a Harbour Board.

(3) A provision of the *Harbours Act* 1955–1976 that is expressed to provide for any matter in relation to the Port of Brisbane or to the Corporation in respect of that port shall be taken to continue to provide for that matter in relation to that port or to the Port Authority unless and until other provision is made for that matter by or under this Act.

(4) A provision of the *Harbours Act* 1955–1976 that in respect of the matter for which it provides is not confined in its application to one or more particular harbours or Harbour Boards shall be taken to continue to provide for that matter in relation to the Port of Brisbane and to the Port Authority and to the members thereof unless and until other provision is made for that matter by or under this Act.

(5) For the purpose of applying any provision of the *Harbours Act* 1955–1976 or of any other Act in accordance with the provisions of this Act a reference in that provision to a Harbour Board or to a Board shall be construed as including the Port Authority.

19. Partial closure of Boat Passage. (1) The Port Authority or the Corporation may, subject to subsection (2), partially close the waters of the Boat Passage within the port, being the passage leading from the Brisbane River mouth to the southern end of Moreton Bay—

- (a) by reclamation of land beneath the waters of the passage that lie between the mainland adjacent to the south bank of the Brisbane River mouth and Fisherman Islands; and
- (b) by construction in such waters of bridges, viaducts, levees, banks and other structures or any combination thereof.

(2) Upon the completion of the partial closure permitted by subsection (1) there shall be access into and through the passage of a width of 30 metres at the least and of a clearance of 3 metres at the least above mean high water spring tide.

(3) Compensation shall not be payable and a claim therefor shall not be made on account of loss of the right of passage occasioned by such closure or by any act or thing done or brought into existence for the purpose of such closure.

20. Assignment of officers etc. to Port Authority. (1) The powers conferred by this section are conferred without prejudice to the capacity of the Port Authority to exercise any power or perform any duty conferred or imposed on it by any provision of the *Harbours Act* 1955–1976 or of this Act with respect to the employment of staff or other persons for the purposes of the Authority's operations.

(2) The Director of the Department of Harbours and Marine may designate and assign such officers and employees of the Department to perform such duties as in the opinion of the Port Authority are required for the exercise and performance of the powers, functions, duties and obligations of the Port Authority.

(3) A person who is required to perform duties on behalf of the Port Authority pursuant to subsection (2) may perform those duties in conjunction with any other duties he is required to perform by reason of his being an officer of the Public Service of Queensland.

(4) Where an officer or employee of the Department of Harbours and Marine is assigned as provided for in subsection (2) the liability to make payments to or on account of such officer or employee, which theretofore was the liability of the Department or of the Crown shall, upon such assignment, become and be the liability of the Port Authority.

Where the officer or employee so assigned performs duties on behalf of the Port Authority in conjunction with other duties performed by him on behalf of the Department of Harbours and Marine the liability aforesaid shall be the liability of the Authority and the Department or, as the case may be, the Crown severally and the extent of the liability had by each of them shall be assessed according to the time which such officer or employee is required to devote to the affairs of the Authority and to the affairs of the Department within the period for which the assessment is being made.

21. Power of delegation. (1) The Port Authority may by writing under its seal either generally or otherwise as provided by the instrument of delegation delegate to any of its members or to any officer or employee of the Authority all or any of its powers, authorities, functions and duties except this power of delegation.

The Port Authority may make such and so many delegations of the same power, authority, function or duty and to such number of persons as it considers necessary or desirable.

(2) A delegation may be made subject to such terms or limitations as the Port Authority thinks fit including a requirement that the delegate shall report to it on the exercise or performance of the delegated power, authority, function or duty.

(3) A power, authority, function or duty so delegated, if exercised or performed by the delegate, shall be exercised or performed in accordance with the instrument of delegation.

(4) A delegation does not prevent or prejudice—

(a) the exercise of a delegated power or authority or the performance of a delegated function or duty by the Port Authority; or

(b) the exercise by the Port Authority of supervision of the carrying out by the delegate of the terms of the delegation to the extent of countermanding the delegate's exercise of a power or authority or performance of a function or duty under the delegation.

(5) A delegation is revocable at the will of the Port Authority.

PART III—FINANCIAL PROVISIONS

Division 1—Funds of Port Authority

22. Funds to be maintained. The Port Authority shall establish and at all times maintain in accordance with this Act the following funds—

- (a) a Harbour Fund;
- (b) a Trust Fund; and
- (c) a Loan Fund,

and shall establish and maintain in accordance with this Act a Graving Dock Fund for as long as the Authority controls the operation of the Cairncross Graving Dockyard.

The funds shall be separate and distinct and a separate bank account shall be kept for each fund.

23. Harbour Fund. (1) The Port Authority shall pay or cause to be paid into the Harbour Fund all moneys arising from—

- (a) harbour dues, including wharfage dues, tonnage dues, mooring fees and crane charges;
- (b) plant hire;
- (c) rentals;
- (d) licence fees;
- (e) sales of sand or water; and
- (f) any source when such moneys are not required by this Act to be paid into any other fund.

(2) Moneys from time to time forming the Harbour Fund shall be applied to—

- (a) expenditure necessarily incurred by the Port Authority in the exercise, performance and discharge of its powers, authorities, functions, duties and obligations save where this Act expressly provides that such expenditure should be charged to any other fund kept by the Port Authority;
- (b) making of advances to meet any deficiency in the Graving Dock Fund;
- (c) payment in accordance with the regulations of moneys to a prescribed fund kept pursuant to section 27.

(3) Moneys forming any Harbour Fund kept in relation to the Port of Brisbane immediately prior to the commencement of this Act shall be paid to the credit of the Harbour Fund established and kept by the Port Authority.

24. Graving Dock Fund. (1) The Port Authority shall pay or cause to be paid into the Graving Dock Fund—

- (a) all moneys received by it on account of dues, hiring charges and charges for labour supplied or services rendered in connexion with the use of the Cairncross Graving Dockyard;
- (b) all advances made from the Harbour Fund to meet any deficiency in the Graving Dock Fund.

(2) Moneys from time to time forming the Graving Dock Fund shall be applied, so far as the same will extend—

- (a) to expenditure necessarily incurred by the Port Authority in connexion with the Cairncross Graving Dockyard and all facilities at that dock;
- (b) in payment in accordance with the regulations of moneys to a prescribed fund kept pursuant to section 27; and
- (c) in payment of principal and of interest and other charges payable in connexion with advances made from the Harbour Fund to meet any deficiency in the Graving Dock Fund.

25. Trust Fund. (1) The Port Authority shall pay or cause to be paid into the Trust Fund all moneys paid to the Authority by way of deposit or in trust for any person.

(2) Moneys from time to time held by the Port Authority by way of deposit or in trust for any person shall be applied to the payment to or for the benefit of that person.

26. Loan Fund. (1) The Port Authority shall pay or cause to be paid into the Loan Fund all moneys received by the Authority by way of loan and subsidy in respect of the works or purposes for which the loan has been authorized.

(2) Moneys borrowed by the Port Authority or paid to the Authority by way of subsidy shall be applied to expenditure necessarily incurred by the Authority in carrying out the works or purposes for which it was authorized to borrow the money or for which the subsidy was paid to it and not otherwise.

27. Other prescribed funds. The Governor in Council may, by regulation made under this Act, prescribe one or more other funds to be established and kept by the Port Authority and the purposes for which such funds are to be applied.

The Port Authority shall establish and maintain all such funds as are so prescribed and shall cause the moneys for the time being forming such a fund to be applied to the purpose prescribed in respect of that fund.

The funds shall be separate and distinct and the manner of banking thereof shall be as prescribed.

28. Investment of funds. (1) The Port Authority may invest moneys which are surplus in any fund kept by the Authority in one or more of the following investments—

- (a) any form of interest bearing deposit with a bank;
- (b) securities guaranteed by the Government of the Commonwealth or of the State;
- (c) with an authorized and approved dealer in the short term money market; or
- (d) other securities approved by the Governor in Council by Order in Council.

Every such security shall be held either by the Port Authority or to the account of the Authority by the Reserve Bank of Australia.

The Port Authority shall obtain and keep a safe custody receipt in respect of every such security held to its account by the Reserve Bank of Australia.

(2) For the purposes of this section the expression "authorized and approved dealer" means a person who—

- (a) is an authorized dealer in the short term money market with established lines of credit with the Reserve Bank of Australia as a lender of last resort; and
- (b) is approved by the Governor in Council by Order in Council.

Division 2—Budgets

29. Duty to frame and adopt budgets. Before 31 August in each year or before such later date as the Minister may on the application of the Authority permit, the Port Authority shall frame and adopt a separate budget for each fund maintained by it other than the Trust Fund for the year commencing on 1 July in that year.

30. Estimates in respect of funds. (1) In framing the budget for each of its funds the Port Authority shall estimate in respect of the year for which the budget is being framed and shall therein show—

- (a) the amounts to be disbursed upon the several works, matters and things to which the fund is applicable; and
- (b) the amounts expected to be received from the several sources of income and other moneys of the Port Authority which income or other moneys are required by this Act to be paid to the fund.

(2) In any budget—

- (a) the estimates of receipts shall be set out, as nearly as may be, separately in accordance with the several sources of receipts required by this section to be shown in the budget;
- (b) the estimates of disbursements required by this section to be shown in the budget shall be set out, as nearly as may be, in accordance with each power, authority, function, duty or obligation of the Port Authority;
- (c) the estimates of receipts and disbursements that relate to common powers, authorities, functions, duties or obligations shall be set out, as nearly as may be, opposite each other.

31. Additional information in budgets. Each budget shall show—

- (a) estimates of receipts and disbursements adopted for the year previous to that for which the budget is framed; and
- (b) actual receipts and disbursements for the year previous to that for which the budget is framed.

32. Treatment of ordinary expenditure, surplus and deficit; unauthorized expenditure. (1) Any disbursement of the Port Authority in any year prior to the adoption of the budget framed for that year is authorized and shall be shown as a disbursement in the budget framed for that year.

(2) If at the end of any year for which a budget is framed there is a surplus or deficit such surplus or deficit shall be carried forward and taken into account in framing the budget for the next following year.

(3) At the close of each year all authorizations of expenditure and votes of money for any item provided for in the budget framed for that year shall lapse but may be re-authorized or re-voted, as the case may be.

(4) If at any time it appears to the Port Authority that there has arisen an emergent, extraordinary or unforeseen circumstance, which requires it to make a disbursement which would entail expenditure in excess of the amount provided for in the applicable budget in relation to expenditure of that class the Port Authority, before making the disbursement or excess disbursement, shall by its resolution approve the making of the disbursement.

(5) If the Port Authority makes a disbursement in contravention of subsection (4), the members of the Authority who consented to the making of the disbursement shall be jointly and severally liable to refund the amount thereof with interest at the rate of eight per centum per annum and the same may be recovered from such members or any of them by action in any court of competent jurisdiction at the suit of the Treasurer who, on recovery of the same, shall pay the amount recovered into the fund concerned but shall be entitled to full costs of suit including costs as between solicitor and client.

Division 3—Borrowings of Port Authority

33. Power to borrow. (1) Subject to this Act, the Port Authority may borrow money—

- (a) from the Treasurer;
- (b) by the sale of debentures or inscribed stock; or
- (c) partly in one and partly in the other of the ways specified in provisions (a) and (b).

(2) Before entering into negotiations to borrow money by the sale of debentures or inscribed stock the Port Authority shall obtain the sanction of the Treasurer authorizing it to enter upon such negotiations and for this purpose shall furnish the Treasurer with such information as he requires.

(3) The Port Authority shall not borrow money pursuant to negotiations sanctioned by the Treasurer unless the authority of the Governor in Council to do so is first obtained.

Such authority, if given, shall be given by way of Order in Council.

The Order in Council shall declare the amount that may be borrowed, the purposes for which the loan is to be borrowed, the currency of the loan, the rate of interest payable thereon, the terms and conditions for the redemption of the loan, whether by yearly, half-yearly or quarterly payments or by payments into a sinking fund and such other conditions as the Governor in Council thinks proper to impose.

(4) The Port Authority shall be a local body under and within the meaning of the *Local Bodies' Loans Guarantee Act 1923-1973*, the provisions whereof shall, subject to such modifications as the Governor in Council prescribes (whether generally or in respect of a particular loan), apply and extend accordingly.

34. Resolution before borrowing. Before proceeding to borrow money the Port Authority shall, at a special meeting called for the purpose, pass a resolution to borrow that money.

35. Application of loan moneys. (1) All moneys borrowed by the Port Authority shall be expended for the purpose for which the Authority was authorized to borrow the same and not otherwise.

(2) If any amount of a loan remains unexpended upon the completion of the purpose for which the loan was borrowed such amount shall be applied as the Treasurer directs.

36. Repayment of Treasury loans. (1) Every loan advanced by the Treasurer under this Act shall be liquidated by the payment to the Treasurer by the Port Authority on the first days of January and July in every year of such instalments of principal and interest at the prescribed rate as will permit the loan to be wholly redeemed within the prescribed period of the loan and such instalments shall continue to be payable until all the moneys advanced from time to time by the Treasurer by way of that loan, together with the interest, accrued thereon, have been so paid.

The Treasurer may at any time make any adjustment that he considers necessary to be made with respect to the period of any loan or the calculation of interest thereon or with respect to any other matter requiring adjustment.

(2) When and so often as all or part of moneys from time to time due and payable by the Port Authority to the Treasurer in respect of a loan advanced by the Treasurer to the Port Authority remain unpaid after the expiration of three months from the date when such moneys or part are due and payable, or if the Treasurer pays any money under a guarantee given by him, in relation to moneys borrowed by the Port Authority under the authority of this Act the Treasurer may, by notification published in the Gazette, appoint a receiver to collect on his behalf and to pay to the Treasury all or any moneys from time to time due and owing to the Port Authority to the amount stated in such notification.

The Treasurer may—

- (a) make all such orders and give all such directions with respect to the powers and duties of the receiver and his management of the Port Authority's affairs as the Treasurer thinks proper and judicial notice shall be taken of such orders and directions;
- (b) make and levy such harbour dues as he considers needful (whether or not he appoints a receiver as hereinbefore provided) and for the purpose of levying such dues and the recovery thereof he shall have all the powers, authorities, jurisdiction and remedies of the Port Authority in that behalf.

(3) Upon his appointment a receiver shall from the date specified in his notification of appointment be the only person legally entitled to receive the revenues of the Port Authority and shall be deemed to that extent and for that purpose to be a public accountant within the meaning of the *Audit Act 1874-1968*.

(4) A receiver may be appointed under this section either in respect of the general revenue of the Port Authority or in respect of specified revenue.

37. Debentures and stock. (1) All debentures and inscribed stock issued under the authority of this Act—

- (a) shall, subject to this Act, be issued in such series or sold in such amounts or parcels at such times and places in or outside the State and in such manner as the Port Authority thinks fit;

- (b) shall, with interest thereon, be a charge on the revenues of the Port Authority subject to any prior debentures or stock issued according to law;
- (c) shall bear interest at the rate and be redeemable at such date or dates and at such place or places in or outside the State as prescribed in the Order in Council referred to in section 33 (3);
- (d) may, in the case of debentures with the consent of the holder, or, in the case of inscribed stock, with the consent of the registered owner, be paid off at any time previous to the due date thereof at not more than the amount of the principal remaining unpaid at the time or, with the consent of the Governor in Council, at a premium with interest thereon to the date of payment only.

(2) Interest secured by debentures or inscribed stock shall be payable at such times and at such place or places in or outside the State as prescribed in the Order in Council referred to in section 33 (3).

(3) Every debenture issued under the authority of this Act—

- (a) shall be sealed with the seal of the Port Authority and signed by the chairman and by the General Manager of the Authority and when so sealed and signed shall be taken to have been duly issued;
- (b) shall be numbered consecutively so that no two debentures in one and the same series shall at any time bear the same number;
- (c) shall have set forth therein the places and times at which the principal and interest are payable.

(4) A debenture issued under the authority of this Act may, at the option of the lender, have annexed for every payment to grow due thereon (whether of principal or interest or principal and interest) a coupon and such debenture and coupon shall (unless it is otherwise prescribed in the Order in Council whereby the loan was authorized) be transferable by delivery and payment to any person in possession of such debenture and coupon of the sum named therein shall discharge the Port Authority from all liability in respect of that debenture and coupon.

When a debenture or coupon is not transferable by delivery that fact shall be expressly stated on the face thereof.

(5) In the case of a debenture issued under the authority of this Act with coupons the holder of such a coupon, whether the same be separated from the debenture or not, shall be entitled to receive payment from the Port Authority of the sum named therein upon presentation on or after the due date for payment thereof at the place where the same is expressed to be made payable.

(6) In the case of a debenture issued under the authority of this Act without coupons the lender or, in the event of a transfer of such debenture, the transferee for the time being shall, subject to this subsection, be entitled to receive payments from the Port Authority in respect of principal or interest or both in accordance with the terms and conditions of such debenture.

A transferee in respect of whom the Port Authority has not been given notice as prescribed shall not be entitled to receive and the Authority shall not be liable to make to such a transferee any payment in respect

of any debenture issued without coupons except under attachment by process of law and then only to the extent of moneys due and payable to such transferee under the debenture and unpaid by the Authority to the lender or a prior transferee.

The entitlement of a transferee in respect of whom the Port Authority has been given notice as prescribed to receive any payment in respect of a debenture issued without coupons shall be subject to any payment which, having become due and payable under such debenture before the authority was given such notice, was made by it to the lender or a prior transferee.

In this subsection the expression "notice as prescribed" means a notice in writing signed by the transferor and transferee and verified to the satisfaction of the Port Authority.

(7) A lender of money to the Port Authority may agree to accept a standard form of debenture but shall not be bound so to do.

38. Brokerage. (1) The Port Authority may pay moneys by way of brokerage in respect of the making, procuring, negotiating or obtaining the loan of any money, which the Governor in Council has authorized it to borrow:

Provided that no moneys shall be paid by way of brokerage in respect of the loan of any moneys unless the Treasurer has approved the payment of brokerage, which approval may be given by the Treasurer subject to such terms and conditions as he thinks fit.

(2) Section 14 of the *Money Lenders Act* 1916-1973 shall not apply or extend to brokerage which the Port Authority is authorized by this section to pay and which brokerage has been approved by the Treasurer and is agreed to be paid by the Authority subject to the terms and conditions (if any) imposed by the Treasurer.

39. (1) Loan to be authorized investment. Unless expressly forbidden by the instrument (if any) creating the trust, an investment by a trustee of trust funds in a loan raised under the authority of this Act shall be and be deemed to be an authorized investment by the trustee within the meaning of the *Trusts Act* 1973.

(2) **Notice of trusts not to be received.** The Port Authority or any agent of the Authority shall not receive and shall be deemed to have not received notice of any trust express, implied or constructive in relation to any debentures issued or stock inscribed under the authority of this Act and the Port Authority or any agent of the Authority shall not be bound to see to the execution of any trust to which any such debenture or stock may be subject.

(3) **Lender not bound to enquire as to validity of security.** A person who lends money to the Port Authority and receives in consideration therefor any debentures duly sealed and signed as prescribed or the Authority's certificate as to inscription of stock in his name shall not be bound to enquire whether the borrowing of the money was in fact duly authorized or into the application of the money so lent and he shall not be in any way responsible for the non-application or misapplication thereof.

40. Remedies of debenture holder. (1) If the Port Authority makes default in making a payment whether of principal or interest to the holder of any debenture or coupon issued by it or to the owner of stock inscribed by it under the authority of this Act—

- (a) the holder or registered owner may make application to and procure all necessary orders and directions from the Supreme Court for the appointment of a receiver and such court shall have jurisdiction to make all such orders for the appointment of a receiver and for his removal and the appointment of another in his place as may be necessary and to make any orders and give any directions which such court considers proper; or
- (b) the person to whom such payment should have been made may recover the amount in respect of which default has been made as a debt by action against the Authority in a court of competent jurisdiction.

(2) A receiver appointed under subsection (1) shall be deemed to be an officer of the court and shall act under its direction and may be appointed in respect of the general revenue of the Port Authority or in respect of specified revenue.

41. Remuneration of receiver. A receiver appointed by the Treasurer pursuant to section 36 shall be entitled to such remuneration, by way of commission, fees or otherwise, as the Treasurer orders.

A receiver appointed by the Supreme Court pursuant to section 40 shall be entitled to such remuneration, by way of commission, fees or otherwise, as the court orders.

The commission or remuneration of a receiver shall be payable out of the revenue of the Port Authority in respect of which he was appointed as receiver.

42. Powers and duties of receiver. A receiver whether appointed by the Treasurer or the Supreme Court may collect all the revenue payable to the Port Authority in respect of which he was appointed as receiver and, for the purpose of enforcing his right to such revenue, he shall be deemed to be the Port Authority and may exercise all the powers of the Authority.

A receiver shall pay and apply all moneys received by him in the course of his receivership as follows:—

- (a) Firstly, in payment of the costs, charges and expenses of collection and of his commission and remuneration;
- (b) Secondly, if he was appointed by the Treasurer, in payment of the amount due and payable to the Treasurer including any money paid by the Treasurer under a guarantee given by the Treasurer in relation to moneys borrowed by the Port Authority under the authority of this Act together with interest on such amount at such rate as is specified by the Treasurer or, if he was appointed by the Supreme Court upon the application of a holder of any debenture or coupon or an owner of any inscribed stock, in payment subject to any order of the court to such holder or owner or to and amongst the holders or owners of debentures or coupons or stock of the

same series as such holder or owner or to the holders or owners of debentures or coupons or stock generally in such order of priority as the court thinks fit the amount due and payable to such holder or owner or, as the case may be, holders or owners;

- (c) Thirdly, in payment of the residue of such moneys to the Port Authority.

43. Regulations relating to loans. (1) The power conferred on the Governor in Council by section 76 to make regulations includes power to make regulations relating to the raising and repayment of loans under the authority of this Act and, without limiting the generality of the foregoing power—

- (a) providing for the establishment of a registry for the inscription of stock, prescribing the form of and the manner of issuing debentures or inscribing stock, providing for the keeping and inspection of and the taking of copies of or extracts from the register of debentures or stock ledgers and providing for lost or defaced debentures or coupons or stock certificates and the destruction of discharged debentures or coupons or stock certificates;
- (b) prescribing matters relating to the raising of loans outside the State;
- (c) providing for sinking funds and other methods for the repayment of moneys borrowed, providing for and appointing trustees of a debt redemption fund with respect thereto and prescribing the powers, functions and duties of such trustees and regulating and controlling all or any matters with respect to such debt redemption funds, trustees, sinking funds or other methods aforesaid.

(2) Until regulations are made in respect of the matters specified in subsection (1) the regulations made under subsection (2) of section 110 of the *Harbours Act 1955-1976* so far as the same can be applied shall apply in respect of borrowings of the Port Authority under the authority of this Act and subsection (3) of that section shall have application to such borrowings and to the authorization of the same as it is expressed to have to borrowings by Harbour Boards and to the authorization of the same.

44. Illegal borrowing. (1) A person who lends money to the Port Authority otherwise than in accordance with this Act or some other Act shall have no remedy or right whatsoever to recover money from the Authority in respect of that loan.

(2) If the Port Authority borrows money which it is not lawfully authorized under this Act or some other Act to borrow all the members of the Authority who have consented to the borrowing of such money shall be jointly and severally liable to repay the same and to pay all interest thereon to the person from whom the same was borrowed and the same may be recovered from them or any of them as money lent by such person to such members or, as the case may be, member by action at the suit of the Treasurer in any court of competent jurisdiction.

(3) If any moneys are appropriated from any fund for the purpose of repaying money so borrowed or of paying interest thereon the members of the Port Authority who consented to the misappropriation

of such moneys for that purpose shall be jointly and severally liable to refund the same with interest at the rate of eight per centum per annum and the same may be recovered from such members or any of them by action in any court of competent jurisdiction at the suit of the Treasurer who, on recovery of the same, shall pay the amount recovered into the fund concerned but shall be entitled to full costs of suit including costs as between solicitor and client.

(4) The provisions of this section shall be construed so as not to prejudice the operation of the provisions of section 39 (3).

45. Advance by way of overdraft. The Port Authority may obtain temporary financial accommodation by way of advance from any bank by way of overdraft on its Harbour Fund.

The Port Authority shall not, during any financial year, suffer the amount of its overdraft on its Harbour Fund to exceed—

- (a) the amount of revenue of the Authority during the last financial year, which revenue could, under this Act, be paid to the credit of its Harbour Fund; or
- (b) an amount for the time being fixed by the Governor in Council by Order in Council (he being hereby empowered so to do),

whichever amount is the less.

Division 4—Accounts and Audit

46. Books of accounts to be kept. The Port Authority shall accurately keep such books of account and records of its receipts and expenditure as the Auditor-General requires from time to time.

47. Statement of account of funds. The General Manager of the Port Authority shall submit to each ordinary meeting of the Authority a statement of account of each of its funds for the period since the last preceding such meeting which period terminates on the last day of the month last preceding the month in which the ordinary meeting is held.

48. Annual accounts of Port Authority. (1) Upon the expiration of each financial year the Port Authority shall in respect of that year cause its accounts to be balanced and cause to be truly prepared—

- (a) an annual statement of receipts and disbursements in respect of each of the funds kept by the Authority in the same form as is used for framing the respective budgets for those funds;
- (b) an annual statement of receipts and disbursements in respect of the Trust Fund;
- (c) a statement of loan liabilities specifying—
 - (i) the amount of each loan;
 - (ii) the date when each loan was borrowed;
 - (iii) the purposes for which each loan was borrowed;
 - (iv) the currency of each loan;
 - (v) the annual charge for interest and redemption in respect of each loan;
 - (vi) the amount of arrears (if any) in payments for interest and redemption at the end of the year in question in respect of each loan;

- (vii) the amount outstanding at the end of the year in question in respect of each loan.
 - (d) a statement of contracts in writing and under seal entered into by the Port Authority during the year in question;
 - (e) a statement of debts due by or to the Port Authority at the close of the year in question;
 - (f) an annual income and expenditure account in respect of each of them the Harbour Fund and the Graving Dock Fund; and
 - (g) a balance sheet at the close of the year in question in respect of each of them the Harbour Fund and the Graving Dock Fund.
- (2) Forthwith upon completion of the preparation of the statements, accounts and balance sheets specified in subsection (1)—
- (a) the Port Authority shall lay the same and the accounts of the Authority balanced as aforesaid (accompanied by proper vouchers in support thereof and all books, papers, writings and records of the Authority relating thereto) before the Auditor appointed under this Act to examine the accounts of the Authority;
 - (b) the Port Authority shall cause the same to be printed and shall cause a printed copy thereof to be lodged with the Minister and a further printed copy thereof to be held available for inspection at its office.
- (3) Forthwith upon completion of the audit of the Port Authority's accounts by the auditor appointed under this Act the Authority shall cause to be published in a newspaper circulating in the City of Brisbane a notice that the statements, accounts and balance sheets specified in subsection (1) are open for inspection at its office and that copies thereof may be obtained upon payment of the fee fixed by the Authority.
- (4) Any person may at all reasonable times inspect the printed copy of the statements, accounts and balance sheets held available for inspection at the Port Authority's office and upon payment of the fee for the time being fixed for the purpose by resolution of the Authority shall be entitled to be furnished by the Authority with a printed copy thereof.
- (5) The statements, accounts and balance sheets audited by the auditor appointed under this Act together with the auditor's report thereon shall be produced at the first ordinary meeting of the Port Authority held after the completion of the audit by such auditor or at some adjournment thereof.

49. Audit. (1) The accounts of the Port Authority shall be audited at least once in each year by the person or persons appointed pursuant to this section.

(2) The Auditor-General may appoint a person who holds or persons each of whom holds a certificate of registration as a public accountant under the *Public Accountants Registration Act 1946-1975* or an officer or officers of the Department of the Auditor-General to be the auditor or auditors for the Port Authority.

The remuneration payable by the Port Authority in respect of each audit shall be as fixed by the Auditor-General.

- (3) The auditor or auditors appointed under this section—
- (a) shall examine the books and accounts of the Port Authority and, forthwith upon completion of the audit, shall report to the Auditor-General the result thereof;
 - (b) shall have, in respect of the books and accounts of the Port Authority, the subject of the audit, and of all books, papers, writings, vouchers and records of the Authority relating thereto such powers as are prescribed by the regulations.

The Auditor-General shall, in respect of the matters and things aforesaid have all the powers conferred on him by the *Audit Act* 1874–1968.

(4) The report of the auditor made to the Auditor-General shall be made available through the Treasurer to the Minister as soon as is practicable.

Division 5—Proceedings and Business of Port Authority

50. Meetings of the Port Authority. (1) The Port Authority shall hold its first meeting within one month after the appointed day at such time and place as the Chairman of the Authority appoints.

(2) The Port Authority shall, by its resolution, appoint the times and places at which its meetings will be held and shall hold its meetings as so resolved from time to time.

51. Presiding at meetings. The Chairman of the Port Authority shall preside at every meeting of the Authority at which he is present and, in his absence, the Deputy-Chairman of the Port Authority shall so preside, if he is present.

If both the Chairman and Deputy-Chairman are absent from any meeting the members of the Authority who are present, if they constitute a quorum, may appoint one of their number to act as chairman of the meeting and such appointee may preside at the meeting and exercise the powers and functions of the Chairman.

52. Quorum at meetings. The quorum of the Port Authority shall consist of a majority of the number of members of the Authority for the time being holding office.

53. Notice of meetings. Notice of every meeting or adjourned meeting, other than a meeting adjourned to a later hour of the same day on which such meeting was appointed to be held, shall be in writing and shall be given to each member of the Port Authority at least seven days prior to the date appointed for such meeting:

Provided that in circumstances which in the opinion of the Chairman of the Port Authority or of two other members of the Authority constitute an emergency the Chairman or, as the case may be, such two members may upon notice to all the members call a meeting of the Port Authority and the same may be validly held notwithstanding that the notice given is for less than the time prescribed by the preceding paragraph for a notice of meeting.

A notice of a meeting or an adjourned meeting may be given to a member by prepaid post letter addressed to his place of business or place of residence last known to the Chairman.

54. Adjournment of meetings. The members present at a meeting of the Port Authority may adjourn the meeting from time to time.

If a quorum is not present at a meeting within fifteen minutes after the time appointed for the meeting to commence the member or members present or the majority of them if more than two are present, or the General Manager of the Port Authority if the members present are equally divided on the issue, may adjourn such meeting to any time not later than fourteen days from the date of such adjournment.

No provision of the preceding paragraph shall be construed to prevent the adjournment of a meeting to a later hour of the same day on which such meeting was appointed to be held.

55. Conduct of Port Authority's affairs. (1) The Port Authority shall exercise or perform a power, authority, function, duty or obligation by majority vote of its members present and voting at the meeting at which such exercise or performance is to occur.

A member who, being present at a meeting and entitled to vote, abstains from voting shall be deemed to have voted in the negative.

The person who is duly presiding at a meeting, if he is entitled to vote, shall have a deliberative vote and, in the event of an equality of votes, a casting vote.

(2) The Port Authority shall cause to be recorded in a book provided for the purpose (in this Act called the minute book), kept by the secretary to the Authority under the superintendence of the Chairman of the Authority—

- (a) particulars of all proceedings of the Authority;
- (b) the names of the members present at each meeting of the Authority;
- (c) the names of all members voting on any question before the Authority on which a division is called.

Every entry in the minute book shall be signed at the meeting of the Authority next following the meeting at which the proceedings to which the entry relates were taken, by the Chairman of the Authority or other person who duly presides at such next following meeting and by the secretary.

(3) Every entry in the minute book purporting to be signed as prescribed and every writing purporting to be a copy of or extract from such an entry (purporting to be signed by the Chairman of the Port Authority and sealed with the seal of the Authority) shall upon its production in any proceeding be evidence, and in the absence of evidence to the contrary conclusive evidence, of the matters contained therein without further proof of the regularity of the meeting to which the entry relates or of any other matter referred to therein.

56. Custody of seal; authentication of documents. (1) The common seal of the Port Authority shall be in the custody of the General Manager of the Port Authority.

(2) The common seal shall not be affixed to a document except under the authority of a resolution of the Port Authority and shall be affixed by the person who has custody of the seal in accordance with this Act.

(3) Except where it is by this Act otherwise prescribed, a document made or issued by the Port Authority for the purposes of this Act shall be sufficiently authenticated if it is made or, as the case may be, signed by the General Manager of the Port Authority.

57. Validity of proceedings. An act or proceeding of the Port Authority shall not be invalidated or in any way prejudiced by reason only of the fact that at the time such act was done or proceeding taken there were vacancies in the membership of the Port Authority not exceeding one-half of the total number of members for the time being required to constitute the Authority or that all the members for the time being holding office were not present at the meeting at which such act or proceeding was done or authorized or that there is a defect in the qualification, membership or appointment of any one or more of the members who joined in doing such act or taking such proceeding or in authorizing such act or proceeding or of any combination of such facts.

58. Disability on participation in business of Port Authority. (1) If a member of the Port Authority has any pecuniary interest, direct or indirect, in any contract or proposed contract or other matter and is present at a meeting of the Authority at which the contract or proposed contract or other matter is to be considered he shall, at the meeting and as soon as practicable after its commencement, disclose the fact of his interest, shall withdraw from the meeting and shall not participate in the consideration of or vote on any question with respect to the contract, proposed contract or other matter.

This subsection does not apply to an interest which a member may have in common with the public.

(2) For the purposes of this section a person shall, subject to this subsection, be taken to have an indirect pecuniary interest in a contract or a proposed contract or other matter if—

- (a) he or a nominee of his is a member of a body corporate with which the contract is made or is proposed to be made or which has a direct pecuniary interest in the other matter under consideration; or
- (b) he is a partner or an employee of a person with whom the contract is made or is proposed to be made or who has a direct pecuniary interest in the other matter under consideration:

Provided that—

- (i) this subsection does not apply to membership of or employment under any public body;
- (ii) a member of a body corporate shall not, by reason only of his membership, be taken to have an interest such as is referred to in this subsection if he has no beneficial interest in any shares or stock of that body corporate.

In the case of spouses living together the interest of one spouse shall, if it is known to the other, be deemed for the purposes of this subsection to be also the interest of that other spouse.

(3) A general notice given in writing to the General Manager of the Port Authority by a member of the Authority to the effect that he or his spouse is a member or an employee of a specified body corporate, or that he or his spouse is a partner or an employee of a specified person shall, unless and until the notice is withdrawn, be deemed to be a sufficient disclosure of his interest in any contract, proposed contract or other matter made, proposed to be made or relating to that body corporate or person which may become the subject of consideration by the Port Authority after the date of the notice.

The General Manager of the Port Authority shall record in a book to be kept for the purpose particulars of every disclosure made and of every notice given under this subsection and the book shall be open at all reasonable times to the inspection of any member of the Authority.

(4) The Minister, subject to such conditions as he thinks fit to impose, may remove as respects any member of the Authority any disability imposed by this section whenever the number of members so disabled at any time would in his opinion be such as to impede the conduct of business of the Port Authority or if, in any other case, it appears to the Minister desirable that the disability should be removed.

(5) A member of the Authority who has a pecuniary interest in any contract, proposed contract or other matter as prescribed by this section and who fails to comply with subsection (1) commits an offence against this Act unless he proves that he did not know that the contract, proposed contract or other matter was the subject for consideration at the meeting in question of the Port Authority.

In addition to any other penalty he may incur on account thereof, upon conviction of an offence defined in this subsection the member's office as a member of the Port Authority shall thereby become vacant and such vacancy may be filled as a casual vacancy pursuant to section 12.

PART IV—PORT OF BRISBANE

59. Port defined. (1) The Port of Brisbane is that area defined in the Schedule.

(2) The Governor in Council may, by Order in Council, vary the limits of the Port of Brisbane in such manner as he thinks fit by amending the area for the time being defined in the Schedule.

(3) The Schedule shall be amended as provided for by the Governor in Council and the area defined therein as so amended shall become and be the Port of Brisbane for the time being.

60. Harbours Act applies to port. The port as defined for the time being is a harbour within the meaning of the *Harbours Act* 1955–1976.

The provisions of that Act, which apply to harbours generally, shall apply to the port.

PART V—ASSETS AND LIABILITIES OF PORT AUTHORITY

Division 1—*Transfer of Assets and Liabilities*

61. Vesting of assets. (1) Subject to section 63, upon the appointed day—

- (a) all personal property of the Corporation, other than the dredger “Sir Thomas Hiley”, held by it at that date for the purposes of the port shall, by force of this Act, be divested from the Corporation and be vested in the Port Authority;
- (b) the estate, right, title and interest of the Corporation in all land held by it at that date for the purposes of the port shall, by force of this Act, be divested from the Corporation and be vested in the Port Authority;
- (c) all choses in action, the property of the Corporation, which relate or are referable to the operation of the port shall, by force of this Act, be divested from the Corporation and be vested in the Port Authority.

(2) Where personal property vested in the Port Authority under subsection (1) consists of moneys standing to the credit of any fund or account maintained by the Corporation for any purpose connected with the port, such moneys shall be transferred from each such fund or account to the appropriate fund or account maintained by the Port Authority for a corresponding purpose connected with the port.

62. Assignment of liabilities. Subject to section 63, upon the appointed day the Port Authority shall, by force of this Act, become and be liable in respect of each of the liabilities and obligations had or incurred by the Corporation in relation to the port or its operation, other than a liability or obligation had or incurred by the Corporation by reason of its ownership or use of the dredger “Sir Thomas Hiley” and the Corporation shall thereupon cease to be liable in respect of each of those liabilities and obligations in respect of which the Port Authority shall become and be liable.

63. Enforcement of accrued claims. A vesting of any property pursuant to section 61 and an assignment of any liability pursuant to section 62 shall not prejudice the making or enforcement by the Corporation against any person or by any person against the Corporation of any claim, liquidated or unliquidated, that arose or was made before the appointed day.

64. Securing property to Port Authority. (1) Upon the request of the Port Authority—

- (a) all such documents of title and documents evidencing ownership of property vested in the Authority pursuant to section 61 as are in the possession or control of the Corporation shall be surrendered to the Authority;
- (b) all transfers of right, title or interest and other documents that are required by the Authority with a view to its being recorded in any registry as proprietor, lessee or owner of property vested in the Authority pursuant to section 61 shall be duly made;
- (c) all such acts and steps as are required by the Authority to be done or taken with a view to securing to it property vested in it pursuant to section 61 shall be done and taken by or on behalf of the Corporation.

(2) Where property vested in the Port Authority pursuant to section 61 consists of a chose in action, the publication in the Gazette of the appointment of the proclaimed date shall be sufficient notice to all persons of the passing of the property.

65. Privity of contract. Where—

property (being a chose in action) vested in the Port Authority pursuant to section 61, or

a liability or obligation in respect of which the Port Authority becomes liable pursuant to section 62

arises by reason of a contract or agreement made between the Corporation and any person then, for the purpose of enforcing by or against the Authority such chose in action or liability or obligation it shall be deemed that such contract or agreement was made between the Authority and that person.

66. Duties and fees not payable. No duties or fees shall be charged or be payable in respect of the transfer of any property pursuant to section 61 or in respect of the assignment of any liability or obligation pursuant to section 62 or in respect of any document evidencing or securing the same.

67. Negotiations on "Sir Thomas Hiley". (1) The Port Authority, the Corporation and the Treasurer shall enter into negotiations concerning the ownership and future use of the dredger "Sir Thomas Hiley".

Upon the completion of such negotiations the Governor in Council may, by Order in Council, make such provision and give such directions as in his opinion are calculated to give effect to the agreements made in such negotiations and such Order in Council shall be complied with by all persons concerned.

(2) If adequate agreement is not reached in the negotiations entered into under subsection (1) the ownership and future use of the dredger together with the rights of all persons in relation thereto shall be determined by the Governor in Council by Order in Council.

All courts and persons shall give effect to the provisions of an Order in Council made under this subsection.

Division 2—Liability for Compensation

68. Compensation tribunal. (1) There shall be constituted from time to time as the occasion demands a tribunal to be called the Port of Brisbane Compensation Reference Tribunal.

(2) Save where the Governor in Council otherwise provides pursuant to subsection (3) the tribunal shall be constituted by a Judge of the Supreme Court, sitting alone, who shall be designated for the purpose at the request of the General Manager of the Port Authority by the Chief Justice or other Judge of the Supreme Court who at the material time performs the functions of the Chief Justice.

(3) If in the opinion of the Governor in Council a claim for compensation that is to be referred to the tribunal is such as to involve a question of special knowledge or skill he may, on the recommendation of the Minister, by Order in Council—

- (a) appoint one or more persons, to be called assessors, who appear to him to possess the qualifications necessary to provide that special knowledge or skill; and

(b) order that for the purpose of hearing and determining that claim the tribunal shall be constituted by a Judge of the Supreme Court and the assessor or assessors appointed, whereupon the tribunal shall, for that purpose, be constituted as so ordered and the Judge of the Supreme Court shall be chairman thereof.

69. Jurisdiction of tribunal. The Port of Brisbane Compensation Reference Tribunal shall have jurisdiction to hear and determine every claim for compensation, being a claim provided for by section 70 and referred to the tribunal by the Port Authority.

No court or tribunal other than the tribunal constituted under this Act shall have jurisdiction to hear or determine a claim for compensation for loss or damage specified in section 70.

70. Claim for compensation. (1) If—

- (a) the Port Authority owes a duty to any person, whether in contract or otherwise, to keep any part of the Brisbane River dredged to a particular depth; and
- (b) that person suffers loss or damage by reason of the Port Authority ceasing to keep that part of the river dredged to the particular depth,

that person may claim from the Port Authority compensation for such loss or damage in accordance with this Act and not otherwise.

(2) Every such claim shall be—

- (a) addressed to and lodged with the General Manager of the Port Authority; and
- (b) accompanied by such particulars as the General Manager may require.

When he has received such a claim and particulars sufficient to allow the merit of the claim to be assessed the General Manager shall bring the claim before a meeting of the Port Authority.

(3) If the Port Authority does not agree to the payment of the amount of compensation so claimed it may enter into negotiations with the claimant as to the amount of compensation to be paid and if as a result of such negotiations agreement is not reached it may, of its own motion, and shall, on the request of the claimant, refer the claim to the tribunal for hearing and determination.

The Port Authority shall cause written notification to be given to a claimant whose claim has been so referred of the date, time and place when and where the claim will be heard.

71. Proceedings before tribunal. (1) Such rules of court may be made as are deemed necessary or desirable or convenient for regulating the conduct of proceedings before the tribunal as if such rules were rules of court for regulating the procedure and practice of the Supreme Court.

(2) Where in connexion with a proceeding before the tribunal or an order (including an order for costs) made by the tribunal there arises any matter that is not regulated by rules made to regulate the conduct of such proceedings the Rules of the Supreme Court shall apply to such matter with all adaptations necessary to give effect thereto and in particular—

a claim referred to the tribunal shall be taken to be an action before the Supreme Court at Brisbane; and

a reference therein (however expressed) to the issue of a writ of summons shall be taken to be a reference to the referral of a claim to the tribunal.

- (3) For the purpose of any proceeding before the tribunal—
- (a) the claimant and the Port Authority shall be entitled to appear and be heard by counsel, solicitor or agent duly authorized;
 - (b) the Judge of the Supreme Court who constitutes the tribunal, either alone or with assessors, may exercise all such powers and authorities as he might exercise were he exercising the jurisdiction of the Supreme Court;
 - (c) the assessors shall have power to advise but not to adjudicate on a claim before the tribunal.

72. Incidents of tribunal's order. (1) The determination and order of the tribunal upon a claim for compensation referred to it shall be final and conclusive.

(2) By its order the tribunal may reject the claim for compensation or may order compensation to be paid to the claimant or other person who appears to it to be entitled thereto in such amount as it thinks just.

The order of the tribunal shall be given effect to and may be enforced as an order made in the Supreme Court for payment of money.

(3) The tribunal may award costs in a proceeding before it according to the scale of costs in the Supreme Court on such basis as the tribunal orders.

73. Fees and allowances of assessors. Persons who sit as assessors on any claim for compensation referred to the tribunal shall be entitled to such fees and allowances as the Governor in Council approves from time to time.

PART VI—GENERAL PROVISIONS

74. Corporation relieved of harbour functions for Brisbane. (1) Upon the appointed day the Corporation shall cease to have and perform in relation to the Port of Brisbane the powers, authorities, functions and duties conferred or imposed upon Harbour Boards by the *Harbours Act 1955-1976*.

(2) By-laws made by the Corporation in relation to the Port of Brisbane and subsisting at the appointed day shall be deemed to be by-laws made by the Port Authority and shall continue to apply in respect of the port until they are duly revoked or varied by the Authority.

75. Regulations. (1) The Governor in Council may by regulations prescribe—

- (a) with respect to all matters for which he is empowered to so prescribe by the *Harbours Act 1955-1976*;
- (b) with respect to all matters required or permitted by this Act to be prescribed and for which no other mode of prescription is provided; and
- (c) with respect to all matters which, in his opinion, are necessary or convenient for the proper administration of this Act or the proper exercise or performance by the Port Authority of its powers, authorities, functions and duties or to achieve the objects and purposes of this Act.

(2) Until a regulation is made under this Act with respect to any matter a regulation made under the *Harbours Act* 1955-1976 with respect to that matter, having application in relation to harbours generally or to the Port of Brisbane in particular or to Harbour Boards generally or to the Corporation in particular and subsisting at the appointed day shall apply in relation to the Port of Brisbane or to the Port Authority and shall be deemed to have been made under this Act.

76. General offence provision. (1) A person who contravenes or fails to comply with any provision of this Act or with any direction given to him under the authority of this Act or of the *Harbours Act* 1955-1976 commits an offence against this Act.

Where a contravention or failure to comply constitutes an offence against this Act and an offence against the *Harbours Act* 1955-1976 the offender may be proceeded against under this Act or under that Act but he shall not be liable to be twice punished for the one offence.

(2) Proceedings in respect of offences against this Act shall be taken by way of summary proceedings under the *Justices Act* 1886-1975 on the complaint of the General Manager of the Port Authority or of some person authorized in that behalf by writing under the hand of the General Manager or the seal of the Authority.

Such proceedings may be commenced at any time within twelve months after the commission of the offence or within six months after the commission of the offence comes to the knowledge of the complainant, whichever period is the later to expire.

(3) A person convicted of an offence against this Act for which a specific penalty is not otherwise prescribed is liable to a penalty not exceeding \$1 000.

Any penalty to which a person is liable upon his conviction for an offence against this Act shall be in addition to any forfeiture incurred by him under this Act on account of that offence.

Where a penalty to which a person is liable for an offence against this Act is expressed to be a minimum penalty, the penalty to be imposed in respect of that offence shall not be reduced below that minimum, the provisions of any Act to the contrary notwithstanding.

The adjudgment or payment of a penalty under this Act shall not relieve any person from the payment of harbour dues or other moneys payable to the Port Authority under this Act or the *Harbours Act* 1955-1976.

77. Annual Report. As soon as is practicable after the expiration of its financial year the Port Authority shall furnish to the Minister a report on its operations throughout that year.

The Minister shall lay the report before the Legislative Assembly.

SCHEDULE

[s. 59]

PORT OF BRISBANE

The area within the boundaries as follows:—

Commencing at high water mark at the eastern extremity of the headland known as Caloundra Head in the State of Queensland and bounded thence by a line bearing generally south easterly to high water mark at the northern extremity of the point on Moreton Island known as North Point and thence

by the high water mark generally in a westerly and southerly direction along the northern and western foreshores of that island to the high water mark at the point known as Reeders Point on the southern extremity of that island and thence by a line across the passage of water known as South Passage to the high water mark at the northern extremity of North Stradbroke Island and thence by the high water mark generally in a westerly and southerly direction along the western foreshore of that island to the high water mark at the southern extremity of the eastern side of Swan Bay and thence by a line across the passage of water known as Jumpinpin to the high water mark at the northern extremity of South Stradbroke Island and thence by the high water mark generally in a southerly direction along the western foreshore of that island to the high water mark at its southern extremity and thence by a line across the passage of water known as Southport Bar to the high water mark at the northern extremity of the mainland known as The Spit and thence by the high water mark generally in a southerly, westerly and northerly direction along the western foreshore of The Spit and the eastern foreshore of the mainland of the State of Queensland back to the point of commencement;

together with all navigable rivers flowing into or tributary to the waters within that area and the banks and foreshores of all such rivers to the distance that they are navigable.